



## MEMORANDUM

October 9, 2020

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

**FROM:** Elaine Forbes  
Executive Director 

**SUBJECT:** Request 60-day extension of (1) a Memorandum of Understanding with the San Francisco Office of Economic and Workforce Development for use of Pier 29 as a central location to accept deliveries of Personal Protective Equipment and its subsequent distribution to San Francisco nonprofits and (2) the deferral of rent for such use as it supports City's public health response to the COVID-19 crisis.

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution No. 20-46

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### **EXECUTIVE SUMMARY**

Since Mayor London Breed issued a declaration of emergency on February 25, 2020, the City and County of San Francisco (the "City") has been engaged in an escalating battle to slow the spread of the virus that causes Novel Coronavirus 2019 Disease ("COVID-19"). COVID-19 continues to be an ongoing pandemic. A key part of that response is the use of City property to support this effort.

At its meeting on August 11, 2020 the Port Commission approved the deferral of rent under a Memorandum of Understanding ("MOU") with the City's Office of Economic and Workforce Development ("OEWD") for the use of Pier 29 for 30 days. The approved MOU included a deferral of rent for the COVID-19 response use which will either be fully or partially reimbursed when the City receives disaster relief cost recovery and a limitation of 30 days on the potential holdover period, should distribution take longer than anticipated.

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For the reasons set forth below the distribution effort has taken longer than the allotted 30-day term and 30-day holdover period. Accordingly, Port staff is returning to the Port Commission with a request to authorize an amendment of the MOU for Pier 29 for an additional 60 days, through December 10, 2020, along with a corresponding extension of the deferral of rent. As before, Port businesses are eligible to receive PPE; however, OEWD will ask for the same considerations applicable to other city applicants including demonstration of business need, heavy demand, and inability to procure PPE independently.

Port staff recommends that the Port Commission approve the 60-day extension of the MOU and the deferral of approximately \$247,500 in additional rent (for a total of \$495,000 over the combined 120-day term), and that the Port account for the rent deferral to be able to recover relief funds reimbursing disaster recovery costs, should those funds become available.

### **Strategic Objectives**

Port staff has determined that this use will support the goals of the Port's Strategic Plan as follows:

- **Equity** - This use will advance equity and public benefit by providing space to OEWD to provide PPE at no cost to essential workers, small businesses, and San Francisco nonprofits for further distribution within San Francisco.
- **Resiliency** – This use will enhance the City's response to the COVID-19 pandemic.
- **Stability** – Port staff will take steps to seek reimbursement for the amounts deferred.

### **Background**

*The following Background summary was provided in the staff report for this item at the August 11, 2020 Port Commission meeting:*

During the COVID-19 pandemic, the need for PPE has become critical to protect the community from the spread of COVID-19. The City's Stay-In-Place orders have made it difficult for small businesses, and San Francisco nonprofits to acquire PPE from traditional sources at reasonable costs.

OEWD is working to cover this gap by ordering PPE from the CalOES at no cost. OEWD has ordered approximately 1.5 million face masks, 600,000 face shields and 21,000 gallons of hand sanitizer. The approximately 98,000 square feet of securable indoor space in the Pier 29 shed and bulkhead is well-suited for distribution of this PPE.

Nonprofits that serve the small business community will make appointments to pick up PPE at Pier 29 that will be distributed to their service areas. There is an emphasis on

servicing small businesses that are in high need of PPE and in neighborhoods that have disproportionately been impacted by COVID-19. This Pier 29 MOU is helpful to the City's COVID 19 efforts as it will put PPE into the hands of essential workers, small businesses with limited resources, and in communities that may lack access to PPE.

Port staff concluded that the Port Commission-approved Small Public Special Event rate of \$4,125 per day (comprised of the daily set up fee plus the daily event fee of \$2,750) is consistent for this activity. The total rent for the 30-day period is \$127,750. The MOU allows one additional 30-day holdover period and rent will accrue at the rate of \$4,125 per day. Under the MOU, OEWD is responsible for paying all utilities including rubbish removal and janitorial services.

Pier 29 is under license to Pacific Cruise Ship Terminals, LLC ("Licensee") for special events but there are no events scheduled during the term of the MOU (including any holdover period) and the Licensee has not objected to using Pier 29 and the adjacent driveway and parking area between Pier 27 and Pier 29 for this use.

### **Logistics**

OEWD plans to operate the facility weekdays between 8:00 AM and 5:00 PM, Monday through Friday. Trucks will deliver approximately 600 pallets of PPE during the term of the MOU on a route intended to minimize traffic congestion on the Embarcadero and will not exceed weight limits at Pier 29.

Recipients of the PPE will make appointments to pick up PPE at Pier 29. OEWD will schedule appointments to keep vehicular congestion to a minimum. If, in the Port's sole discretion, the use creates unacceptable congestion, the MOU has a provision that requires the OEWD to implement traffic mitigation measures.

### **Factors Driving the Request for Extension**

While the underlying facts in the "Background" section above continue to apply, certain assumptions proved too optimistic in terms of completing distribution in the originally approved timeframe. OEWD reports that contrary to its prior expectation summarized above, the PPE was delivered over a two-week period instead of all at once. Once the PPE did arrive, OEWD found that it takes longer than anticipated to organize the PPE into smaller packages suitable for distribution. Therefore, the distribution is moving more slowly than OEWD initially anticipated with approximately 700,000 pieces distributed (of 2.1 million total – not including hand sanitizer) as of September 30, 2020.

### **Staff Analysis**

Under the non-exclusive License L-16290 (the "Pier 29 License"), the Port receives 50% of the gross revenue for periodic special events at Pier 29. There is no base rent otherwise payable for the premises. Since the Licensee has no events scheduled during the term of the MOU (including the proposed extension period) the Port is not losing revenue. Therefore, the Licensee has no objection to OEWD's use of Pier 29 for the term of the MOU.

OEWD's use and plan has been approved by Port's Real Estate and Development and Planning and Environment staff. The San Francisco Fire Department has also approved

the use and established a pallet distribution plan to reduce the fire risk. The plan is also consistent with the load limits provided by Port Engineering.

**RECOMMENDATION**

Port staff recommends that the MOU be extended and that rent for the COVID-19 response use for Pier 29 be deferred. This amount will either be fully or partially reimbursed when the City receives disaster relief cost recovery funds, should such funds be available. Port staff recommends approval of the attached resolution for the reasons described above.

Prepared by: Don Kavanagh  
Property Manager

For: Michael Martin  
Deputy Director, Real Estate and  
Development

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

**RESOLUTION NO. 20-46**

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of the City and County of San Francisco; and
- WHEREAS, On February 25, 2020, Mayor London Breed issued the Proclamation by the Mayor Declaring the Existence of a Local Emergency (as supplemented, the “Mayor’s Emergency Declaration”) under Sections 8550 et seq. of the California Government Code, Section 3.100(14) 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 the virus that causes Novel Coronavirus 2019 Disease (“COVID-19”); and
- WHEREAS, During the COVID-19 pandemic, the need for Personal Protective Equipment has grown as the State of California and the City of San Francisco have both mandated the use of PPE, including face masks, as a major element to slow the spread of COVID-19; and
- WHEREAS, The San Francisco Office of Workforce and Economic Development (“OEWD”) in coordination with the California Office of Emergency Services is proposing to operate a distribution warehouse to facilitate the delivery of PPE to essential workers, small businesses, and San Francisco nonprofits; and
- WHEREAS, OEWD will incur substantial expenses in operating the distribution program and has requested the opportunity to use the Pier 29 Shed and Bulkhead without paying rent; and
- WHEREAS, Pacific Cruise Ship Terminals, LLC is the licensee (“Licensee”) at Pier 29 for periodic special events under License L-16290 (the “Pier 29 License”) and has no events scheduled for the term of the MOU; and
- WHEREAS, After consultation, staff of the Port and the Licensee agreed to allow for OEWD’s use and the Port’s deferral of collection of rent from OEWD for the Pier 29 Shed and Bulkhead; and
- WHEREAS, At it’s August 11, 2020 meeting the Port Commission approved of the Executive Director, or her designee, waiving rent due and payable by

OEWD under the MOU for the Pier 29 Shed and Bulkhead to Port for uses at the Pier 29 Shed and Bulkhead directly related to PPE warehouse and distribution activities, with such deferral not to exceed 60-days from the commencement of the MOU; and

WHEREAS, Under various state and federal relief programs, the Port may be eligible for disaster relief funds in reimbursement of the rent that is waived for these urgent public health-related activities; and

WHEREAS, Port staff will track the deferred rent for the use of the Pier 29 Shed and Bulkhead for purposes of filing a subsequent claim for reimbursement from available relief sources, should they become available; now, therefore be it

RESOLVED, That the Port Commission hereby authorizes the Executive Director, or her designee, to amend the MOU for the Pier 29 Shed and Bulkhead to Port for uses at the Pier 29 Shed and Bulkhead directly related to PPE warehouse and distribution activities, to extend the term and extend the deferral of rent, with such extension and deferral not to exceed a total of 120-days from the commencement of the MOU; and be it further

RESOLVED, That the Port Commission directs staff to track and account for all rent directly related to the COVID-19 pandemic, including the deferred rent due Port under the MOU; and be it further

RESOLVED, That the Port Commission directs staff to apply for and diligently work to obtain disaster relief funds from various state and federal relief programs the Port may be eligible for, in reimbursement of the rent that is deferred for these urgent public health-related activities, including the deferred rent due Port under the MOU.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of October 13, 2020.***

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Secretary