

MEMORANDUM

December 6, 2019

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

FROM: Elaine Forbes
Executive Director

SUBJECT: Request approval of a fee waiver for a revocable license and encroachment permit that allows the Aquarium of the Bay to install 16 sea lion sculptures in public spaces along the waterfront within Port jurisdiction for up to a 9-month period.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution No. 19-47

Executive Summary

The Aquarium of the Bay, a Port tenant at Pier 39, is proposing a Pier 39 anniversary temporary public art installation that includes 16 temporary sea lion sculptures in various public spaces along the length of Port property as shown in Exhibit A. The sea lion sculptures are about 6 feet tall and each is painted by a local artist depicting their message about the sea lions, the Bay, the natural environment or the City. The sculptures would be placed on Port property in late January, concurrent with a national press release and be in place for up to 9 months with a possible 6 month extension. Aquarium of the Bay is looking to provide a new, free reason to visit San Francisco and the waterfront, and communicate an environmental message that is fun and educational.

The Aquarium of the Bay is requesting a license fee waiver for this installation and would enter into a 9-month revocable license on the Port's standard license form.

This Print Covers Calendar Item No. 11B

Strategic Plan Conformity

The proposed sculpture installation supports a key goal of the Port's 2019 - 2023 Strategic Plan.

Evolution: Improve Port open spaces to provide publicly desired amenities and activities.

Project Description

In January 1990, just after the Loma Prieta Earthquake in October 1989, sea lions began appearing at PIER 39s West Marina. At the time the West Marina was primarily boats and when the sea lions arrived they were not welcomed by all. Shortly after the sea lions arrived, Good Morning America did a live broadcast with (then) Anchor – Ron Reagan Jr (son of President Ronald Reagan) <https://www.youtube.com/watch?v=YKKLEomOpmY&t=156s>. After Good Morning America's broadcast, the sea lions became famous and tourists flocked to visit them. PIER 39 moved the boats from the West Marina to the East Marina and set up KDock where the sea lions are today. The sea lions are free to come and go as they please, but they stay possibly because there is a strong supply of Herring in the West Marina, it is sheltered from predators, and they have a sunny place to live. Aquarium of the Bay (part of bay.org) operates the Sea Lion Center at KDock for PIER 39.

Aquarium of the Bay is working with PIER 39 on the 30th anniversary of the sea lions arrival at the Pier and had 30 full sized sea lion statues fabricated. They then held a contest for local artists to paint them and received submittal from over 140 artists. A selection committee with representatives from PIER 39, San Francisco Travel, Port of San Francisco, San Francisco Department of the Environment, Golden Gate National Parks Conservancy, and Aquarium of the Bay selected the top 30 artist designs. Painting of the sculptures began in June 2019 in a warehouse in Sausalito and is nearly complete.

Each sea lion statue will have a plaque on the front with a QR code that is scannable by any smart phone. To access, you open the photo app of your phone and scan the QR code. A webpage will open and you will hear a verbal message about the particular statue, a bit about the artist, and an environmental message. Aquarium of the Bay is working to make this available in seven languages.

In addition to the 30 full sized statues, The Aquarium has created 3000 mini statues that locals are welcome to paint in the Sea Lion Center at PIER 39. In addition, a STEAM (science, technology, Engineering, Arts, Mathematics) education program is being written around the sea lion statues so school children will be able to walk along San Francisco's Waterfront and see the statues and participate in California's Largest STEAM Program for 2020.

Use of Port Property

Public art generally has enjoyed positive public comments and has attracted more visitors to the waterfront and to other waterfront uses. The Port's current leasing policies adopted by the Port Commission on July 9, 2019 (Resolution 19-24) authorized the

Executive Director to waive Public Art use fees for art installations where (i) there are no other uses for the

space during the term of the license/MOU that would generate rent to the Port; (ii) no uses would be displaced; (iii) the Port does not expend any or only minimal or incidental resources or revenues to support the installation; (iv) there is a direct benefit to the Port in that Public Art enlivens and attracts people to the waterfront. Although the 16 sites are not all located within the Port Commission listed sites, Port staff believes that the proposed sea lion sculptures meet these criteria and will contribute to the public's enjoyment of the waterfront.

For the Sealion sculptures, Aquarium of the Bay would enter into a standard form license with the Port to provide all installation and removal costs, liability insurance, and removal of the sculpture at any time upon 30 days' notice from the Port. Pending completion of the license and an encroachment permit, the Aquarium of Bay would install the sculptures in January, 2020 timed with a national media release.

Permitting & BCDC Review

Aquarium of the Bay is required to submit an approvable Port encroachment permit. The permit requires stamped engineering drawings, proof of liability insurance, compliance with the Port's maintenance and removal requirements, and compliance with the Americans with Disabilities Act for installations in public spaces.

The Port has requested approval from the Bay Conservation and Development Commission for the installations and anticipates that the public art will be found consistent with existing BCDC public access requirements and the intent to activate public spaces that draw people to the Bay's edge.

CEQA Determination

This Pier 39 anniversary temporary public art installation is a special event that complies with provisions of the Port's Special Event Directive 2019-1, issued on January 19, 2019, which received a Categorical Exemption from the San Francisco Planning Department's Environmental Division on January 11, 2019.

Request

Port staff seeks Port Commission authorization for the Port Executive Director to enter into a no-fee license agreement with the Aquarium of the Bay to support the installation 16 sea lion sculptures on Port property for a 9 month period. Port staff also seeks Port Commission approval on the attached resolution to allow additional support for the sea lion installation through Port contribution and waivers as described above.

Prepared by: Randy Quezada,
Communications Director

and

Dan Hodapp,
Senior Waterfront Planner

For: Elaine Forbes,
Executive Director

Exhibits:

- A. Maps showing proposed locations
- B. Images of the sea lion sculptures

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

RESOLUTION NO. 19-47

- WHEREAS, The Aquarium of the Bay is proposing to temporarily locate 16 sea lion sculptures in various public spaces along the length of Port property; and
- WHEREAS, The Aquarium of the Bay is a part of the Bay Institute whose mission is to provide scientific support and tools for decision-making and communication through collaborative efforts.... to assess and improve the health of the waters, wetlands, wildlife and landscapes of San Francisco Bay, the California Delta and beyond; and
- WHEREAS, The Port's public spaces provide suitable sites to display public art; and the Port has no other immediate use for these sites during the term of the license that would generate revenue to the Port; and
- WHEREAS, The Port will negotiate a revocable license agreement with the Aquarium of the Bay on the Port's standard license form allowing the placement, operation, maintenance and removal of the *sea lion* sculptures at the locations shown on Exhibit A, for a 9 month term with a 6 month extension option at the discretion of the Port Executive Director; and
- WHEREAS, The Aquarium of the Bay has sought and Port agrees that the license and permit fees should be waived, as Port is a partner in sponsoring the display of the sculptures; the Port will not expend any trust resources or revenue to support the installation; and the installation provides a benefit to the Public Trust by enlivening the waterfront and attracting people to the waterfront and raising awareness of the waterfront and its public benefits and amenities; and
- WHEREAS, The license will allow a temporary public art installation that is a special event that complies with provisions of the Port's Special Event Directive 2019-1, issued January 19, 2019, which received a Categorical Exemption from the San Francisco Planning Department's Environmental Division on January 11, 2019; now
therefore be it
- RESOLVED, The Port Commission authorizes the Executive Director of the Port or her designee, to enter into a license with The Aquarium of the Bay on the terms described in the Memorandum dated December 5, 2019 for a term of 9 months; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director or her designee to execute the license and any additions, amendments or other modifications thereto, including granting an extension of up to six (6) months in the Executive Director's sole discretion, that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligations or liabilities of the City or Port or materially decrease the benefits to the City or Port, and are necessary or advisable to complete the transactions which the license contemplates and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director or her designee of the license, and any such amendments thereto.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 10, 2019.

Secretary

Sea Lion Sculptures *Fisherman's Wharf to China Basin*

Proposed Public Art Installation
Sponsored By Bay Ecotarium



- A** Hyde Street Harbor Entrance
- B** Pier 45 Shed Entrance
- C** Pier 29 Bulkhead South
- D** Pier 29 Tip
- E** Pier 27 Cruise Terminal Plaza
- F** Pier 7
- G** Harry Bridges Plaza
- H** Pier 28
- I** Brannan Street Wharf (2)

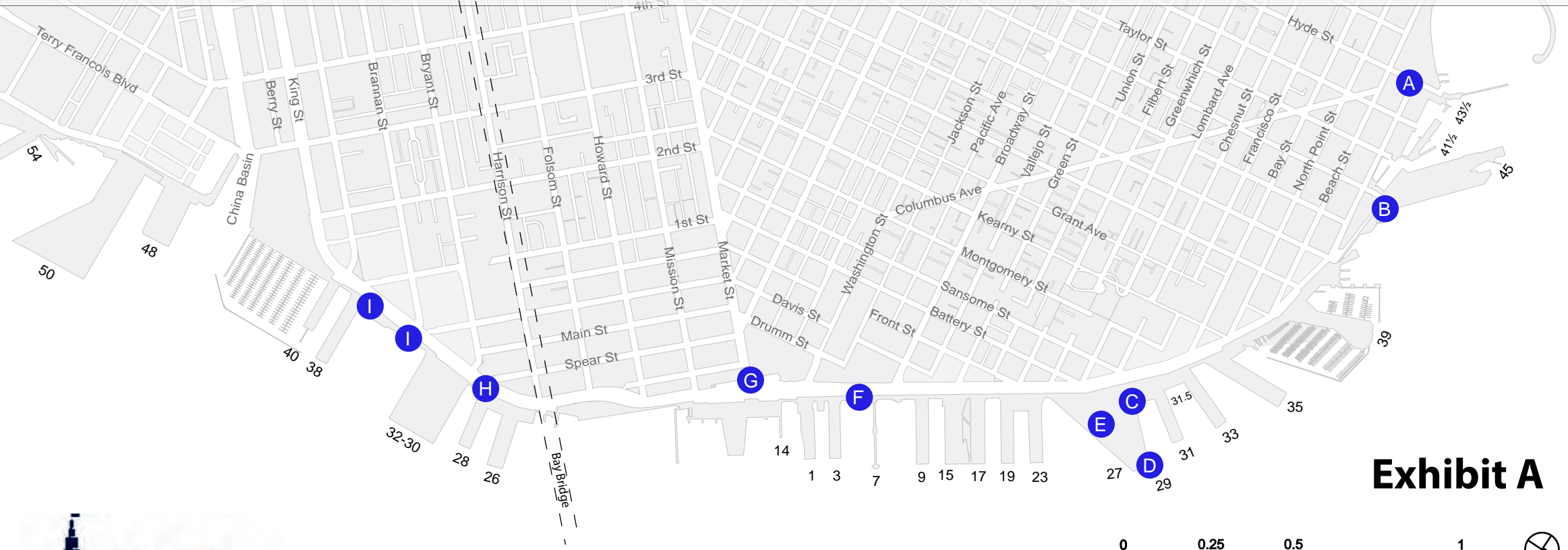


Exhibit A



December 5, 2019



Sea Lion Sculptures *China Basin to Bayview Gateway*

Proposed Public Art Installation

Sponsored By Bay Ecotarium



- J** Pier 48 South
- K** Pier 52 Boat Launch
- L** 20th & Illinois Street
- M** Bayview Gateway (2)
- N** Pier 50

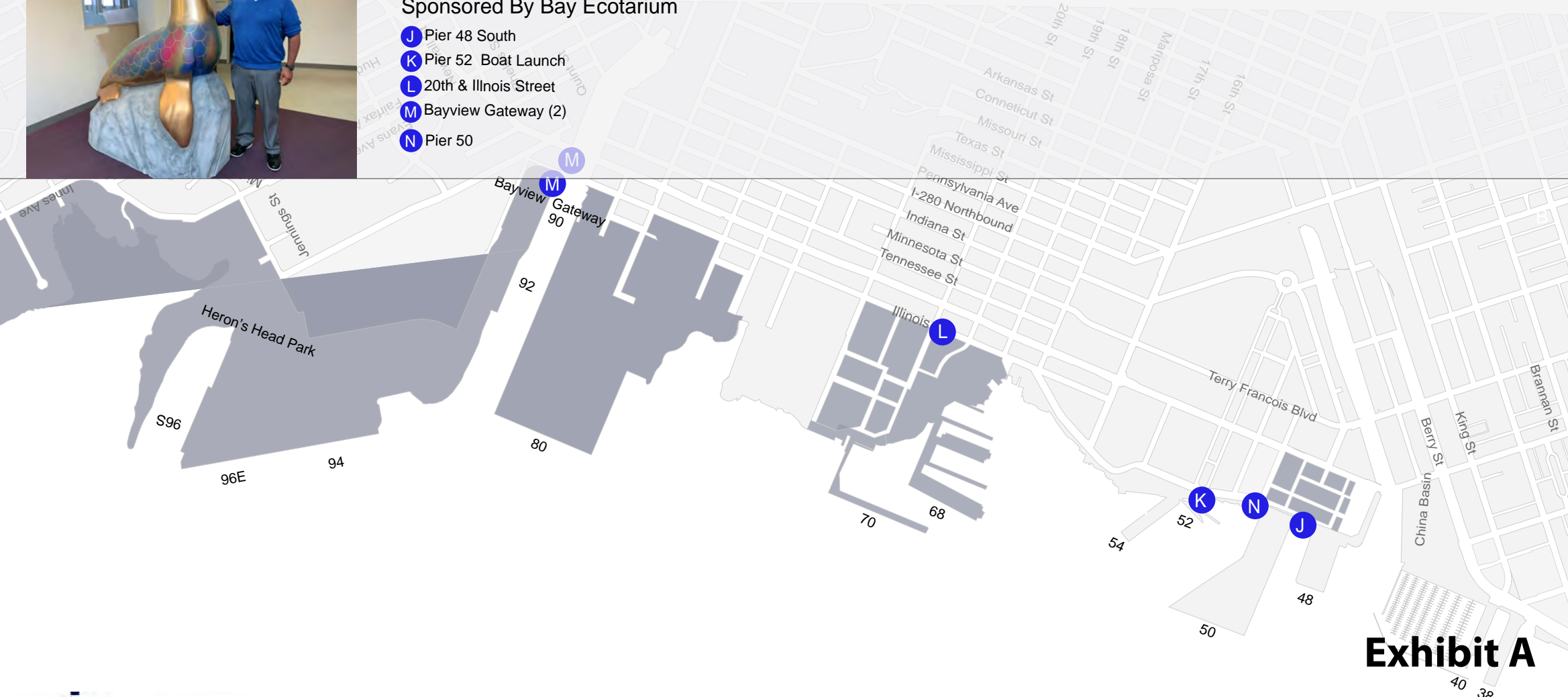


Exhibit A



November 21, 2019



Sample Sea Lion Sculptures



Exhibit B