




MEMORANDUM

January 8, 2021

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

FROM: Elaine Forbes
Executive Director 

SUBJECT: Request an extension to March 31, 2021 of (1) a Memorandum of Understanding with the San Francisco Office of Economic and Workforce Development for use of Pier 29 (generally located at The Embarcadero and Sansome Street) 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 the Attached Resolution No. 21-01

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 [Resolution No. 20-40] 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.

On October 13, 2020, the Commission approved a 60-day extension of the expiration date of the MOU from October 10, 2020 to December 9, 2020 [Resolution No. 20-46].

For the reasons set forth below the distribution effort has taken longer than the allotted 120-day term (including the 60-day extension above). In addition, the reimposition of shelter-in-place restrictions in December due to a spike in cases and hospitalizations prompted OEWD to seek additional term for distribution of these critical supplies. Accordingly, Port staff is returning to the Port Commission with a request to retroactively authorize an amendment of the MOU for Pier 29 to extend the expiration date through March 31, 2021, along with a corresponding retroactive 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, retroactively, the extension of the MOU through March 31, 2021 and the deferral of approximately \$495,000 in additional rent (for a total of \$953,000 through the end of the second extended 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 and October 13, 2020 Port Commission meetings.

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 serving small business 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. The MOU was extended to December 9, 2020 under Resolution 20-46 for the same terms and conditions. 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 Licensee 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. The Port entered an MOU for Pier 29 to be site of the General Laborer Citywide Examination as further described below; Port staff intends to ensure that the two uses can safely coexist within the Pier 29 space during that period.

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.

OEWD has been distributing PPE since August 2020 and has approximately 177 pallets remaining out of the original delivery of 600 pallets.

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. OEWD's efforts to distribute PPE have been hampered primarily due to challenges involved in locating non-profits or other qualified entities to distribute the PPE to end users. The most recent COVID stay-in-place order has also contributed to the delivery delays by reducing staff available to assist.

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.

This extension is conditional on OEWD cooperating with the Port to modify its operations and make space available for the General Laborer Citywide Examination scheduled for January 25, 2021 through January 28, 2021 held by the Office of the City Administrator - Human Resources Department.

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 Assistant Port Director

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

RESOLUTION NO. 21-01

- 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, The Port Commission authorized at its August 11, 2020 and October 13, 2020 meetings, the Executive Director or her designee entering into a Memorandum of Understanding (“MOU”) with the San Francisco Office of Workforce and Economic Development (“OEWD”) for use of the Pier 29 Shed and Bulkhead for the warehousing and distribution of personal protective equipment (“PPE”) to essential workers, small businesses, and San Francisco nonprofits; and
- WHEREAS, OEWD has requested that the term of the MOU be extended to March 31, 2021 to distribute the remaining PPE and that Port continue to waive rent during such additional time; and
- WHEREAS, The General Laborer Citywide Examination is scheduled to take place at Pier 29 during the proposed extended term and that any extension of OEWD’s use of Pier 29 is conditioned on OEWD modifying its operations and making space available for such examination; 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 further amend the MOU with OEWD for the Pier 29 Shed and Bulkhead to retroactively extend the term and extend the deferral of rent, with such extension and deferral not to exceed beyond March 31, 2021; and be it further
- RESOLVED, That any extension of the MOU term and deferral of rent is conditioned on OEWD modifying its operations and making space available for the General Laborer Citywide Examination at Pier 29 during the proposed

extended term; and

RESOLVED, That the Port Commission directs staff to continue 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 January 12, 2021.

Secretary