

MEMORANDUM

February 19, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Kimberly Brandon
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request approval (1) to award the SWL 351 development opportunity at Washington and The Embarcadero to San Francisco Waterfront Partners II LLC and (2) to enter into exclusive negotiations to explore a mixed used development project combining SWL 351 with the adjacent privately owned Blocks 168, 171 and 201

DIRECTOR'S RECOMMENDATION: Adopt Attached Resolution

EXECUTIVE SUMMARY

This staff report provides information on the result of the Request for Proposals ("RFP") offered in 2008 to develop SWL 351, currently a surface parking lot, located on The Embarcadero at Washington Street. This report analyzes the qualified and responsive proposal received from San Francisco Waterfront Partners II LLC (SFWP). SFWP has proposed to combine SWL 351 with the adjacent privately owned Golden Gate Tennis and Swim Club (GGTSC) site, for which it has an option to purchase. This proposal would allow the entire block bounded by The Embarcadero, Washington and Drumm Streets to be developed as one 3.2 acre project.

Based on the analysis presented in this report, Port Staff recommends that San Francisco Waterfront Partners II LLC be awarded the opportunity to enter into an Exclusive Negotiation Agreement (ENA) with the Port for development of SWL 351 as part of a larger mixed use project.

This Print Covers Calendar Item No. 11B

BACKGROUND

Seawall Lot (SWL) 351 is a nearly triangular site with a 358-foot frontage along The Embarcadero Roadway with a mere 26-foot frontage on Washington Street. This site was identified in the Waterfront Land Use Plan as a mixed use development opportunity site. On July 8, 2008, the Port Commission authorized issuing a Request for Proposals (RFP) for SWL 351 specifying development and design objectives and minimum financial terms. Extensive analyses of the site were presented in Staff Reports for the February 12, 2008, May 27, 2008, and July 8, 2008 Port Commission meetings.

Two proposals were received on December 19, 2008 from San Francisco Waterfront Partners II LLC (SFWP) and a development team led by Dhaval Panchal. Unfortunately on January 8, 2009, Mr. Panchal's group withdrew its proposal for a 200 room hotel project.

On January 13, 2009, the Port Commission received an informational presentation that included a summary of the outreach process for the RFP and a presentation by SFWP. Public testimony was also received.

SAN FRANCISCO WATERFRONT PARTNERS PROPOSAL

San Francisco Waterfront Partners II LLC is a joint venture between Pacific Waterfront Partners, LLC (PWP) and the California State Teachers Retirement System (CalSTRS). These same entities were the principals in the Piers 1½-3-5 Project completed in 2007.

The proposal includes two 8 story condominium buildings of 84' in height and containing approximately 140-170 residential condominiums as well as ground floor restaurants and retail spaces on the portion of SWL 351 south of Jackson Street. Skidmore, Owings and Merrill is the building architect. The landscape architect for the parks and open space is Peter Walker & Partners. A 48' wide portion of the site will become public open space, along the Jackson Street right-of-way. The portion of the site north of the Jackson Street right-of-way includes a one-story health club building with roof top pools and 4 outdoor courts.

An underground public parking garage with 90 to 250 parking spaces available for waterfront visitors is proposed under the combined site. Additional parking for the residential units will require a potential total subterranean parking facility of 420 spaces. A variant of the proposal includes an additional restaurant facing the proposed park. This optional restaurant and park areas are proposed as Port owned properties subject to the public trust. In exchange for that land, portions of SWL 351 would be transferred to SFWP. In addition to the proposed land swap, ownership of those portions of the underground public parking garage located under the privately owned land would be conveyed to the Port subject to a 66-year ground lease of the garage back to SFWP. The Port would participate in the revenue stream from public parking and the optional restaurant, if built.

The residential condominiums would be sold. The developer would lease the retail and restaurant portions of the project to private operators. The developer or future

transferee would own the private recreation club. The developer would operate the public parking garage and be responsible for all operating costs of the site, including the parks and public areas.

Appendix A provides a summary of the project and financial terms proposed. Drawings for the project were part of the January 13, 2009 Port Commission presentations. More detailed information from SFWP is posted on the Port's project website, www.sfport.com/swl351.

PROPOSAL EVALUATION PROCESS

Port staff, aided by consultants and an evaluation panel, evaluated the SFWP proposal using the criteria provided in the RFP as shown in Table 1. As only one proposal was evaluated, its consistency with each of the RFP criteria was assessed qualitatively rather than using a numeric scoring system.

**Table 1
SWL 351 RFP Evaluation Criteria**

Developer Team Experience, Qualifications, and Financial Capability (30 Points)

- Experience in developing projects of comparable size, land use, visibility and expense, especially for projects located in the San Francisco Bay Area.
- Experience in securing entitlements for projects of comparable size, land use and visibility, including experience in organizing successful community participation and support, especially for projects located in the San Francisco Bay Area.
- Experience of respondent's team members and key personnel.
- The respondent's ability to finance the proposed project.
- The respondent's overall financial track record.

Proposed Development Design and Program (35 Points)

- Consistency of proposed design and use program with the design and development objectives.
- The design and architectural quality and constructability of the proposed design concept for this site.
- The reasonableness and feasibility of the respondent's proposed development concept in achieving the Port's objectives.
- The probability of obtaining approvals for the proposed design, given the physical and legal constraints on development.

Proposed Financial Terms (35 Points)

- The proposed annual rent for the site, which shall not be lower than the specified minimum rent.
- Additional revenues from all participation structures proposed.

The evaluation is discussed below. Supporting documents are provided in the appendices. Keyser Marston Associates (KMA) assisted by Robin Chiang provided a third party analysis of how well the SFWP proposal met the RFP Design and Development Objectives (Appendix B). Lawrence Brown of the Port's finance division reviewed the confidential financial statements and contributed to the financial analysis.

An evaluation panel of parties with experience in real estate economics, land use planning and architecture/urban design reviewed the proposal against the RFP objectives and criteria. This panel, with KMA and Staff, interviewed the SFWP team on January 30, 2009. Appendix C summarizes the panel's findings.

The evaluation panel consisted of:

- **Lisa Zayas-Chien**, Project Manager, Bayview Hunters Point Project Area, San Francisco Redevelopment Agency
- **Kurt Fuchs**, Senior Economist, Office of Economic Analysis, City and County of San Francisco
- **Cathy Merrill**, President, Merrill Morris Partners, a San Francisco based landscape architectural and planning firm. Cathy also serves as chair of the Northeast Waterfront Advisory Group

EVALUATION OF SFWP PROPOSAL

Experience, Qualifications, and Financial Capability

The development team has extensive experience with waterfront development in San Francisco and condominium development worldwide. PWP's principals were the managing partners in the following projects: Piers 1½-3-5, The Watermark, Embarcadero Center, the Pan Pacific (now JW Marriot) Hotel, and Marina Square (Singapore). High quality architects and other professionals are proposed for the project. The evaluation panel noted that PWP has not done a condominium project in San Francisco (although one of its key staff developed the Watermark for another firm and PWP has developed condominiums in other areas.) Overall, the evaluation panel and consultant analysis found that this is a very capable development team with an excellent track record for the type of project proposed.

SFWP is a single purpose development stage company formed with PWP as its managing member with one percent ownership interest and CalSTRS with a ninety-nine percent ownership interest. CalSTRS is a very large and seemingly financially strong pension fund. The total cost of the proposed Project represents only a small percentage of CalSTRS' investment portfolio (only 1.7 percent of its real estate assets and 0.3 percent of net assets). CalSTRS like all financial entities has been affected by recent market events. Though no financial statements are currently available past June 2008, CalSTRS, like all pension funds, invests for the long term, and current market disruptions might not affect its investment strategy or operations.

SFWP's proposed 8 Washington Project has an estimated total development cost of \$346 million. The Project will be financed by a combination of a construction loan and equity investment. Staff expect that this Project will require equity of at least \$87 million to \$121 million (25 to 35 percent of total development costs).

SFWP's proposal includes a letter from CalSTRS to the Port dated October 30, 2008 stating CalSTRS expects to make an equity contribution in the range of \$100 million for the Project and that it understood that a construction loan, construction guarantees, and

lease guarantees may be asked of CalSTRS. In a subsequent conversation with the CalSTRS investment officer, Port Staff confirmed that CalSTRS' investment committee approved a \$100 million investment in this Project with \$14 million expended to date. CalSTRS is actively involved in ongoing review of project direction and feasibility assessments. One of the contributions that CalSTRS brings to the Project is its creditworthiness in securing the predevelopment loan and construction funding. Port Staff's opinion is that CalSTRS has the financial resources and ability to provide the equity and, if needed, construction financing for the Project.

Given that CalSTRS' role is vital to funding the Project, Port Staff recommends that prior to execution of the ENA an updated commitment letter be received from CalSTRS indicating continuing interest in the Project and review of current financial statements.

Proposed Development Design and Program

Beginning with the Waterfront Land Use Plan and its Design and Access Element, Port Staff worked with the community to structure the design and development objectives in the RFP. The objectives strive to achieve a high quality project within the constraints of providing a minimum of 90 public parking spaces to serve the waterfront visitors.

The evaluation panel and the KMA analyses found that overall the proposed project is consistent with the Port's design and development objectives. Particular strengths of the project are:

- Reopening Jackson and Pacific Streets as pedestrian rights-of-way
- 90 to 250 waterfront visitor parking spaces to serve the Ferry Building but minimize impacts on The Embarcadero
- Active uses at the corner of Washington and The Embarcadero
- High quality design and materials
- Extensive open space
- Retention and upgrade of the non-conforming private recreational use that has a very loyal current user base

The evaluation panel and consultant analysis observed the project could better address the following objectives:

- To define the north edge of adjacent open space (Sue Bierman Park), new development should acknowledge the massing and street enclosure relationship with the bulkhead buildings across The Embarcadero (e.g., bold forms of similar height, constructed to The Embarcadero edge).
- Primary uses and pedestrian entrances should face The Embarcadero, and incorporate lighting and other amenities to create enlivened street activity.
- Activate and revitalize the waterfront edge during the evenings and weekends to complement the weekday office uses in the adjacent downtown buildings.

- Create an enlivened pedestrian experience along The Embarcadero and Washington Street by considering multiple uses and storefronts on the ground floor and well located public open space on the site.

The design review analysis found that, if compared to restaurants or retail uses, the private club and residential uses bring less of an enlivened pedestrian experience. The proposed design attempts to soften the interface between the public and private parts of the project through location of uses and design elements. An interesting design challenge is how to address the call for “bold forms” in the Port’s objectives with the desire for quality pedestrian experience.

Overall, the conceptual project design and use program meets the objectives of the RFP. Further design refinement will occur as the project moves forward.

Proposed Financial Terms

Starting one year after the commencement of operations of the parking garage, SFWP proposes to pay the greater of (1) a minimum rent of \$500,000 per year or (2) participation rent of 15 percent of the gross parking revenues (after tax) from the 90 public parking spaces and 15 percent of the rent received from the optional restaurant (if it is included in the Project). The minimum rent increases annually between 3 and 5 percent, unless comparable situations in the downtown market indicate differently. SFWP did not expressly state how the annual increases would be evaluated against comparable situations in the downtown market, leaving clarification of this to the lease negotiations.

The project pro forma does not show the Port receiving more than the guaranteed minimum rent (growing at the floor rate of 3 percent per year) for the full 66 years of the project. Staff and consultants identified a number of concerns with this projection – including the potential for higher parking income than shown and for growth in the restaurant rent over time. Staff recommends a thorough evaluation of the project economics and the potential for Port upside participation as part of the negotiation of the business terms of the project.

This project proposes to “swap” development rights on SWL 351 for privately owned portions of the combined 3.2 acre site so that the residential and most of the commercial portions of the final project will not be on Port owned land. After the proposed transfer, the Port would own park areas, the public parking garage, and the optional restaurant, if built. Such an exchange requires concurrence of the State Lands Commission that the proposed exchange serves the mission of the public trust to foster the public’s enjoyment of the waterfront and represents a fair market value transaction. Further policy, land use, and economic analyses will be needed to justify the public trust exchange.

Real estate valuation methodologies recognize a synergistic “assembly value” created by combining multiple parcels so that the value of the whole is greater than the sum of the parts. This may be particularly true here where adding SWL 351 to the privately owned land offers a much greater waterfront frontage. As the Port moves forward with considering this project on the combined sites, a fair market value analysis will be

needed to support the rent terms, which may differ from the rationale used to set the minimum rent for the RFP.

Although the proposal meets the minimum rent requirements of the RFP, the panel and consultant review raised questions as to whether the proposed increases to minimum rent, participation rent terms, and participation in sale or refinance proceeds are fully consistent with the terms of the RFP. The specifics of these deal points will be addressed in the term sheet for the project.

Overall, Staff finds that the financial proposal is responsive to the RFP and provides a sufficient basis for entering into negotiations for the project.

ADVISORY GROUP AND PUBLIC COMMENT

The Port has received substantial public comment on this proposed project. Public testimony was received at the January 13, 2009 Port Commission meeting, discussion ensued at the February 4, 2009 Northeast Waterfront Advisory Group (NEWAG), and 44 emails and letters have been received regarding this property. This section discusses the public comment received and the consideration at the NEWAG meeting on February 4, 2009.

Public Concerns

Appendix D includes the communications received about this project since the receipt of proposal in December 2008. Both in these communications and at the January 13, 2009 meeting, the Port has heard support for the project as well as concerns raised by citizens and neighbors.

Calls for the Port to move forward with the SFWP proposal cite the following reasons:

- High quality developer and design
- Public parking for farmers market and waterfront businesses
- Support for additional housing and restaurants
- Recognition of the extensive publicly accessible open space in the project
- Support for the Port realizing the goals of its capital plan.

There is still a vocal group of citizens that wants no change, or in particular, wants no change to the existing Golden Gateway Tennis and Swim Club. A number of concerns about process have been voiced. Questions continue about whether the Port should wait until the economy improves to undertake this project. Concerns are voiced about how the building heights will impact views and the pedestrian experience.

Citizens have called for an update of the Waterfront Land Use Plan prior to moving forward with the project. Staff notes that on December 9, 2008, the Port Commission heard a presentation that reviewed the status of the Waterfront Land Use Plan and identified areas in need of review. In particular, the area from Broadway to Northpoint Street, the Northeast Waterfront, was identified for further planning to address

transportation, land use, and other planning concerns. Port and City Planning Department Staff have been discussing the best manner in which to undertake this planning effort.

Northeast Waterfront Advisory Group Review

Prior to the receipt of proposals for SWL 351, NEWAG designated several of its members (Alec Bash, Diana Taylor, Carol Parlette, and Arthur Chang) to review the proposals closely and recommend how NEWAG should consider them and provide input to the Port Commission's process. The Committee reviewed the proposal and generated 22 questions. At the February 4, 2009, NEWAG meeting, Port Staff and SFWP partners provided answers to the questions.

Big picture items raised by the NEWAG subcommittee include how this effort relates to open space planning in the area underway by the Planning Department, how height issues will be resolved, what was the status of requirements to retain the club as part of the Golden Gateway project, questions on the feasibility of the project given constraints, and clarifying questions. Staff explained that the open space planning lead by Dean Macris and David Alumbaugh will focus on the current open spaces in the area: Sue Bierman park, Justin Hermann Plaza including the portion between Market and Mission and Harry Bridges Plaza. Initial information about these efforts will be available in April. SFWP provided answers to the other questions. Appendix E includes the questions and the response prepared by Port Staff and SFWP to the questions. It also includes response from SFWP to additional questions raised at the NEWAG meeting.

NEWAG members had a very brief discussion and then opened the conversation to public questions and concerns. Public comment received at the February 4, 2009 meeting was lively and is shown in Table 2 below. Including a brief presentation by SFWP, the SWL 351 discussion at the February 4, 2009 meeting lasted for almost two hours. NEWAG members asked for more time to consider their recommendation to the Port Commission and suggested there be a NEWAG meeting in March to further discuss this item.

On February 19, 2009, the Port Commission received a letter (see Appendix F) from Supervisor David Chiu calling for a planning process to consider the community concerns regarding this project and the potential for development on other Port surface parking lots along The Embarcadero. In other areas of the City, the Planning Department has successfully lead brief, focused community planning processes that resolved concerns regarding new development. The Port welcomes the Planning Department involvement in such a planning effort for its seawall lots between Washington and North Point Streets.

Port staff acknowledges the need to work further with the community to refine the project. SFWP has also indicated its interest in addressing concerns. At a March 2009 meeting of NEWAG, Staff would like to engage the community in a discussion of how to structure a successful planning effort to refine the proposed development project on the 3.2 acre site.

Table 2

Summary of Public Comment at February 4, 2009 NEWAG Meeting

Open space/ Amenities/Recreation

- Park is a bait and switch to remove public trust from SWL 351
- Loss to 600-700 kids using tennis courts in the summer
- Need a comparison of amount of open air recreation space currently to the future open air recreation space.
- GGTSC is not an exclusive private club: any one can join; nonmembers and guests attend
- 100% of the existing recreation must be replaced
- Pool users pitted against tennis players

Scale/Massing

- Density is great
- Creates a wall from the pedestrian perspective on west side of Embarcadero
- Tennis courts are a wall now
- Need open pedestrian circulation on west side of Embarcadero/ No buildings
- Remove wretched parking lots
- Can we reduce height?
- Concerns about 84 feet

Uses/Parking

- Parking supports the farmers market
- Why have egress on Washington which will bring traffic into the neighborhood put on The Embarcadero
- Challenge need for parking: where else in the city can you find parking?
- Look to bring uses to project support farmer's market
- More parking increases congestion and traffic. Is all the parking needed?
- Block 202/203 garage was too expensive. Why will this work
- Exploratorium EIR shows surplus of parking
- Mixed use is great
- Retain the public trust
- Price of housing/second homes will not support retail
- Retain public zoning

Process

- Need more time
- Coordinate with WETA expansion and Exploratorium technical study on parking
- Focus on SWL 351 only not GGWTSC site/ Why combine 351 with GGTSC?
- Why tie up SW 351 rather than lease parking from Embarcadero Center and develop SWL 351 later?
- Not enough material provided for review
- What investigation has been undertaken of funding of project
- When will public trust requirements be analyzed?
- Is the lack of response to RFP due to feasibility of project?
- Work with the proposal in hand
- Need moratorium on development until the WLUP is reviewed

EXCLUSIVE NEGOTIATIONS PROCESS

The Port Commission, under its powers, and the terms of the RFP, has the sole discretion to award the development opportunity. Upon the Port Commission's award, Port staff and SFWP would negotiate the terms of an Exclusive Negotiation Agreement ("ENA"). As called for in the RFP, the ENA will contain time and performance benchmarks, including provisions for payment of liquidated damages and termination for non-performance, and provide for the developer to fund the Port's costs associated with project planning and review. The ENA will set forth the Port's commitment to not enter negotiations concerning the Site with any other party (other than for parking use) during the exclusive negotiation period.

During the period of exclusive negotiations, the following events are anticipated:

- Review and refinement of the proposed development project to respond to Port and public concerns.
- A lease and related documents for the lease and development of the site in a final form approved by the City Attorney's Office will be negotiated incorporating specific terms, including the Port's and developer's respective responsibilities, the economic parameters, development standards and requirements, and a performance schedule.
- The developer will complete its due diligence review of the site, finalize financial projections and complete preliminary site plans, including elevations and renderings for the site.
- The developer will secure financial commitments for the proposed project from lenders and/or equity sources and preliminary sublease commitments from proposed anchor tenants.
- The developer, with the Port's cooperation, will complete the project approval processes and any required environmental review.

The ENA is the agreement between the parties governing how the required agreements will be negotiated. It specifies time frames and milestones for Port Commission, Planning Commission and Board of Supervisors review and approval. It will also specify negotiation fees and recovery for Port project costs. Entering into negotiations is not an approval of the project, nor does it commit either party to the project. As outlined in the RFP and the SFWP proposal, numerous policy actions must be taken for this project.

If the Port Commission chooses to award this opportunity to SFWP, Port staff recommends entering into an ENA for a nine month period with two possible extensions of six months each. The initial nine months will allow time for additional community planning and development and publication of an environmental impact report considering the Project and possible alternatives.

In addition to the standard terms of a Port development project ENA, this ENA will address the following milestones for project review:

1. Engage in a **planning process** to respond to continuing community concerns about height and massing. This process will consider the entire 3.2 acre site.
2. Development of a **term sheet** for review and approval by the Port Commission.

That term sheet will include at a minimum the following terms:

- Guaranteed minimum rent (\$500,000 per year), annual increases, percentage rent and Port participation in sale and financing proceeds must be set at fair market value and must comply with the terms indicated in the RFP.
 - The developer will be responsible for all development and operating costs of the project and any land exchange or lease agreement will include provisions to ensure the Port has no ongoing costs from this project in perpetuity.
 - Port interest in the land will not be subordinated to any debt or claim.
 - The transaction documents should include specific requirements for creating and retaining public parks, open space, active recreation and public parking as permanent conditions of the project.
3. **Public trust analysis** to consider the proposed transaction structure.
- Evaluation of the fair market value of SWL 351.
 - Consideration of a hotel use in the project to further the enjoyment of visitors to the waterfront and reinforce the success of the Ferry Building waterfront.
 - Review of parks, open space, and private recreation uses planned for the project to consider conformity with public trust. Consideration of requiring commitments from the developer to recreational programs and activities that are open to the public on a day use basis in both the indoor and outdoor spaces.

To verify that underlying premises of the SFWP proposal are still valid, the Port shall require and evaluate the following items prior to entering into the ENA:

- The most recent financial statements from SFWP, PWP, and CalSTRS.
- A current letter from CalSTRS indicating continuing commitment to the Project.
- A copy of the purchase contract or option agreement with Golden Gateway Center, a California limited partnership, the owner of the Golden Gateway Tennis and Swim Club site.
- A copy of the appraisal of SWL 351 that is referenced in the proposal.

RECOMMENDATION

Based on the assessment of the proposal using the RFP evaluation criteria, Port staff recommends that the Port Commission (1) award the SWL 351 development opportunity to San Francisco Waterfront Partners II LLC and (2) enter into exclusive negotiations to explore a mixed used development project combining SWL 351 with the adjacent site.

The attached resolution authorizes the Executive Director to enter into an ENA with SFWP that meets the terms stated above.

Prepared by: Kathleen Diohep, Project Manager
Jonathan Stern, Assistant Deputy Director, Waterfront Development
Lawrence Brown, Financial Analyst

For: Byron Rhett, Deputy Director, Planning & Development

Appendices

- A. Summary of SFWP Proposal
- B. Keyser Marston Associates Evaluation
- C. Evaluation Panel Summary
- D. Public Comments
- E. Responses to Clarifying Questions – NEWAG, Public, and Port
- F. Letter from Supervisor Chiu

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 09-12**

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port jurisdiction; and
- WHEREAS, The Port owns an approximately 27,937 square foot parcel at Seawall Lot 351 (SWL 351), located at Washington and The Embarcadero, which provides short-term parking to serve visitors to the waterfront; and
- WHEREAS, The Waterfront Land Use Plan included a development standard for SWL 351 to “Explore the possibility of obtaining economic value from Seawall Lot 351 by combining it with the adjacent Golden Gateway residential site [8 Washington Street] to provide expanded opportunities for mixed residential and commercial development;” and
- WHEREAS, The Port Commission held informational hearings on April 11, 2006, December 11, 2007, February 12, 2008, and May 27, 2008 on this opportunity; Staff conducted a public outreach workshop on April 14, 2008; and the Northeast Waterfront Advisory Group discussed policy options for this project on April 2, 2008 and provided input to the design and development objectives on June 4, 2008; and
- WHEREAS, On July 8, 2008, the Port Commission by Resolution No. 08-45 authorized and directed Port staff to issue a request for proposals for SWL 351 to achieve certain development objectives building upon the direction in the Waterfront Land Use Plan for the site; and
- WHEREAS, Pursuant to the RFP issued on November 10, 2008, two parties submitted timely proposals to the Port: San Francisco Waterfront Partners II LLC; and a development group lead by Dhaval Panchal (who later withdrew its proposal); and
- WHEREAS, Port staff convened an evaluation review panel of three persons with experience in real estate economics, land use planning and architecture/urban design to review the proposal against the RFP objectives and criteria and contracted with Keyser Marston Associates, Inc. (KMA) do a similar review; and
- WHEREAS, The evaluation panel, Port Staff, and its consultants (KMA) found that SFWP has the qualifications to undertake the project proposed, the proposed project complies with the development objectives identified in the RFP, and that the proposed financial terms meet the RFP terms as originally issued; and
- WHEREAS, The Port Commission has reviewed and evaluated the summary and analyses prepared by Port staff, the evaluation panel and KMA of the

SFWP proposal, has reviewed the Port staff recommendations set forth in the Staff Report accompanying this resolution, has considered the public testimony on January 13, 2009 and February 24, 2009 on this matter given to the Port Commission, and has determined that the proposal by San Francisco Waterfront Partners II LLC meets the requirements set out in the RFP and achieves the Port's objectives for SWL 351; now therefore be it

RESOLVED, That the Port Commission hereby awards to San Francisco Waterfront Partners II LLC the opportunity to enter into an Exclusive Negotiation Agreement (ENA) to explore including SWL 351 in a mixed use development project in combination with the adjacent site, and authorizes and directs the Executive Director of the Port, or her designee, to enter into an ENA consistent with the terms in the Staff Report accompanying this resolution and in such form as approved by the City Attorney, with the understanding that the final terms and conditions of any development agreement, lease or other transaction documents negotiated between the Port and San Francisco Waterfront Partners II LLC during the exclusive negotiation period will be subject to the approval of the Port Commission; and be it further

RESOLVED, That the Port Commission reserves the right, if negotiations with San Francisco Waterfront Partners II LLC are unsuccessful and do not lead to approval of a development agreement, lease and related documents to undertake other efforts including, but not limited to, issuing a new request for proposals, at the Port Commission's sole discretion; and be it further

RESOLVED, That entering into the ENA does not commit the Port Commission to approval of a final lease or related documents and that the Port Commission shall not take any discretionary actions committing it to the project until it has reviewed and considered environmental documentation prepared in compliance with the California Environmental Quality Act (CEQA); and be it further

RESOLVED, That the Port Commission hereby authorizes the Executive Director of the Port, or her designee, to waive or extend the times established in the ENA for performance specific objectives under the ENA including, without limitation, the right to condition such waiver or extension on additional performance objectives or other conditions required by the Port Commission in its sole discretion, provided that the extension does not extend the term of the ENA.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of February 24, 2009.

Secretary

Appendix A
Summary of San Francisco Waterfront Partners II LLC Proposal

Developer	<p>A partnership between Pacific Waterfront Partners, LLC (PWP) and the California State Teachers Retirement System (CalSTRS). PWP's principals were the managing partners in the following projects: Piers 1½-3-5, The Watermark, Embarcadero Center, the Pan Pacific (now JW Marriot) Hotel, and Marina Square (Singapore). Skidmore, Owings and Merrill are the architects on the SFWP team.</p>
Project Proposed	<p>An 8 story condominium building of 84 feet in height and containing approximately 70-85 residential condominiums as well as ground floor restaurants and retail spaces on the southern portion of SWL 351. A 48 feet wide portion of SWL 351 will be opened up as part of a new public open space, the Jackson Street Commons. The portion of SWL 351 north of the Jackson Street right-of-way has a one story health club building with roof top pools.</p> <p>Portions of the two buildings will extend onto land not owned by the Port by combining SWL 351 with the adjacent 2.5 acre Golden Gateway Tennis and Swim Club site that SFWP has an option to purchase. An additional 8 story residential condominium building with 70-85 units, underground residential parking, a rebuilt tennis and swim club with 4 outdoor courts, two swimming pools and 12,000 square foot fitness center, and public open space are proposed on the privately owned site.</p> <p>An underground public parking garage with 90 to 250 parking spaces available for waterfront visitors is proposed under the combined site. A variant of the developer's proposal includes an additional restaurant facing a newly created park. Both park areas and this optional restaurant would become Port owned properties.</p>
Recreation Club	<p>Golden Gateway Tennis and Swim Club to be rebuilt and transferred back to Golden Gateway Center.</p>
Club to include 4 outdoor tennis courts (reduced from 9 currently). Two roof top pools and a 12,000 square foot fitness building.	
Financial Terms	<p>Minimum Base rental payment to Port of \$500,000 per year starting one year after commencement of parking garage operations.</p> <p>Participation Rent, the Port receives the greater of the Minimum Base Rent or 15% of parking garage gross receipts (net of parking taxes) and 15% of the optional restaurant rent, if built.</p> <p>Construction period rent of \$60,000 per year.</p> <p>Base Rent would be adjusted by CPI annually with the minimum range of 3% and maximum of 5% at each adjustment unless comparable situations in the downtown market indicate differently.</p>

In year 30 and every 10 years thereafter, rent is adjusted to fair market value.

At the time of a sale or refinance by developer, Port may elect to either "cash-out" its participation interest in the lease from net proceeds of sale or refinance and forego future percentage rent, or continue to receive percentage rent.

Under the ground lease and related transactional documents, the developer would assume all financial risks for development, entitlements, construction, maintenance/repairs, and operation of the project.

Financial Terms
Larger Garage

250 car public garage option changes several financial terms
Base rent is \$120,000 per year; CPI collared at 2% to 4%.

Port receives ownership of 90 spaces of garage only.

Port receives greater of base rent or 15% of gross receipts from the Port's share of the Public Garage (net of parking taxes) plus 15% of gross rent received for the optional restaurant, if built.

Management Plan

The residential condominiums would be sold. The developer (or future transferee) would secure tenants for the retail and restaurant portions of the project. The developer or future transferee would own the private recreation club. The developer would operate the public parking garage and would be responsible for all operating costs of the site including the parks and public access areas.

Transaction

Complex land swap where portions of SWL 351 would be exchanged for portions of the current Golden Gateway Tennis and Swim Club site. The land exchanged into the public trust and the remaining portions of SWL 351 would be owned by the Port and would provide public serving open space or visitor serving commercial uses.

In addition to the land swap, ownership of the public parking garage would be conveyed to the Port subject to a 66 year ground lease to SFWP. The Port would participate in the revenue stream from public parking. In the proposed variant structure, ownership of the additional 4,000 to 5,000 square foot restaurant would be conveyed to the Port subject to a ground lease to SFWP.

Appendix C – Evaluation Panel Review

SWL 351 Evaluation Criteria	Finding (Total of 3 Panel Members)	Comments (by Panel Members)
<p>Developer Team Experience, Qualifications, and Financial Capability:</p> <p>Experience in developing projects of comparable size, land use, visibility and expense, especially for projects located in the SF Bay Area.</p>	Qualified (3 panel members)	Specific Port and waterfront experience seems particularly valuable and positive Extensive experience locally and other locales, similar to proposed projects
Experience in securing entitlements for projects of comparable size, land use and visibility, including experience in organizing successful community participation and support, especially for projects located in the SF Bay Area	Qualified (2 panel members) Partially Qualified (1 panel member)	First residential condo for developer. Architect well versed in San Francisco
Experience of respondent's team members and key personnel.	Qualified (3)	
Demonstrated commitment to using local business enterprises in the proposed team and in past projects.	Qualified (1) Mostly Qualified (1) Partially Qualified (1)	Not enough information provided to determine strength of commitment
The respondent's ability to finance the proposed project.	Qualified (2) Partially Qualified (1)	Financially, an ambitious project.
The respondent's overall financial track record.	Qualified (3)	CalSTRS Commitment/qualified partner
<p>Proposed Development Design and Program:</p> <ul style="list-style-type: none"> • Overall Character 	Consistent (2) Mostly Consistent (1)	Overall – seems to address all the various design/program requirements well
<ul style="list-style-type: none"> • Height and Massing 	Consistent (2) Mostly Consistent (1)	
<ul style="list-style-type: none"> • Reconnect the City with the Waterfront 	Consistent (3)	Very well
<ul style="list-style-type: none"> • Meet Standards for Green Buildings, Water Quality, and Local/Small Business Contracting 	Consistent (3)	
<ul style="list-style-type: none"> • Development program objectives 	Consistent (3)	Looks like a good design compromise (height/ open space), high quality design solution
<ul style="list-style-type: none"> • The design and architectural quality and constructability of the proposed design concept for this Site 	Consistent (3)	
<ul style="list-style-type: none"> • The reasonableness and feasibility of the respondent's proposed development concept in achieving the Port's objectives. 	Can Meet Objectives (3)	
<ul style="list-style-type: none"> • The probability of obtaining approvals for the proposed design, given the physical and legal constraints on development 	Can Obtain Approvals (3)	
<p>Proposed Financial Terms:</p> <ul style="list-style-type: none"> • Proposed annual rent for the Site, which shall not be lower than the specified minimum rent. 	Meets Minimum (2) Rent Represents Fair Market Value (1)	
<ul style="list-style-type: none"> • Additional revenues from all participation structures proposed. 	Reasonable Participation (3)	More Upside? Percentage rent to cover other uses i.e. other retail, athletic club

SWL 351 Evaluation Criteria	Evaluation Rubric Used
Developer Team Experience, Qualifications, and Financial Capability: Experience in developing projects of comparable size, land use, visibility and expense, especially for projects located in the SF Bay Area.	Qualified -- Partially Qualified -- Not Qualified
Experience in securing entitlements for projects of comparable size, land use and visibility, including experience in organizing successful community participation and support, especially for projects located in the SF Bay Area	Qualified -- Partially Qualified -- Not Qualified)
Experience of respondent's team members and key personnel.	Qualified -- Partially Qualified -- Not Qualified
Demonstrated commitment to using local business enterprises in the proposed team and in past projects.	Qualified -- Partially Qualified -- Not Qualified
The respondent's ability to finance the proposed project.	Qualified -- Partially Qualified -- Not Qualified)
The respondent's overall financial track record.	Qualified -- Partially Qualified -- Not Qualified
Proposed Development Design and Program:	
<ul style="list-style-type: none"> • Overall Character 	Consistent – Partially Consistent – Not Consistent
<ul style="list-style-type: none"> • Height and Massing 	Consistent – Partially Consistent – Not Consistent)
<ul style="list-style-type: none"> • Reconnect the City with the Waterfront 	Consistent – Partially Consistent – Not Consistent
<ul style="list-style-type: none"> • Meet Standards for Green Buildings, Water Quality, and Local/Small Business Contracting 	Consistent – Partially Consistent – Not Consistent
<ul style="list-style-type: none"> • Development program objectives 	Consistent – Partially Consistent – Not Consistent
<ul style="list-style-type: none"> • The design and architectural quality and constructability of the proposed design concept for this Site 	Consistent – Partially Consistent – Not Consistent
<ul style="list-style-type: none"> • The reasonableness and feasibility of the respondent's proposed development concept in achieving the Port's objectives. 	Can Meet Objectives – Partially Meet Objectives – Not Feasible/Reasonable
<ul style="list-style-type: none"> • The probability of obtaining approvals for the proposed design, given the physical and legal constraints on development 	Can Obtain Approvals
Proposed Financial Terms:	
<ul style="list-style-type: none"> • Proposed annual rent for the Site, which shall not be lower than the specified minimum rent. 	Meets Minimum -- Rent Represents Fair Market Value
<ul style="list-style-type: none"> • Additional revenues from all participation structures proposed. 	Reasonable Participation

Note: In some cases a panelist chose both Qualified and Partially Qualified or Consistent and Partially Consistent which was summarized as “Mostly Qualified”. Panelists were instructed to add written comments or offer other characterization of their findings, e.g. “does not meet minimum rent”.