



MEMORANDUM

October 3, 2013

TO: MEMBERS, PORT COMMISSION
Hon. Doreen Woo Ho, President
Hon. Kimberly Brandon, Vice President
Hon. Willie Adams
Hon. Leslie Katz
Hon. Mel Murphy

FROM: Monique Moyer *M Moyer*
Executive Director

SUBJECT: Request **Approval of a Mutual Termination Agreement** with Literacy for Environmental Justice, for Lease No. L-13816, for the EcoCenter at Heron's Head Park, located at Jennings Street and Cargo Way, subject to Board of Supervisors approval

DIRECTOR'S RECOMMENDATION: APPROVE RESOLUTION

EXECUTIVE SUMMARY

Port staff is seeking authorization from the Port Commission to execute a Mutual Termination Agreement with Literacy for Environmental Justice ("LEJ"), a California corporation. LEJ has requested to terminate its Lease No. L-13816 ("Lease") prior to its specified termination date of December 6, 2017, subject to Board of Supervisors approval.

BACKGROUND

Heron's Head Park is a 22-acre open space owned and operated by the Port of San Francisco (the "Port") dedicated to wetland and wildlife habitat and passive recreation (see Exhibit A – Site Location). The EcoCenter is an approximately 2,300 square foot building within Heron's Head Park. It is comprised of a single open meeting room, adjacent wastewater treatment room, two restrooms, and two very small office and utility rooms.

LEJ, a non-profit organization in the Bayview-Hunters Point neighborhood, has leased the footprint of land beneath the EcoCenter and surrounding 6,058 square-foot non-

THIS PRINT COVERS CALENDAR ITEM NO. 7A

exclusive outdoor license area (see Exhibit B and B-1 – Site Plan for Lease No. L-13816) since 2007. The Lease and a subsequent addendum revising certain construction requirements were approved by Port Commission Resolution Nos. 05-64 and 07-63 and Board of Supervisors Resolution Nos. 60-06 and 553-07.

The Port and LEJ also entered into other agreements related to the Lease, including License No. 14831 for installation of a potable water supply line ("License"), an Agreement Protecting the Public Interest in Certain Improvements and Development dated July 16, 2008 with the Port and California State Coastal Conservancy, and a Letter Agreement Regarding Mayor's Office of Housing Division of Community Development Funding for Improvements at The EcoCenter at Heron's Head Park dated February 16, 2010 with the Port and the Mayor's Office of Housing, Division of Community Development.

LEJ secured funds, permits, licenses and approvals required for construction, and completed construction in 2010. Since opening the EcoCenter, LEJ has experienced financial and staffing setbacks and is unable to operate, maintain and program the facility. LEJ approached the Port seeking to terminate its Lease and License for the EcoCenter. Both parties desire to terminate the Lease and License so that the Port may seek a new tenant to operate the EcoCenter and achieve the public benefit originally intended.

Port staff requested and received Port Commission authorization on September 24, 2013 to issue a Request for Proposals seeking qualified entities to lease the EcoCenter, contingent upon termination of the subject Lease and License. The proposal solicitation process is underway.

MUTUAL TERMINATION AGREEMENT

The Mutual Termination Agreement transfers ownership of the EcoCenter building and all site improvements to the Port. The Port retains the Security Deposit, Capital Improvement Fee, and Removal Fee, a total of \$68,000. LEJ agrees to cooperate with the Port and third party funders in any matter relating to the termination. The Mutual Termination Agreement will also specify that each party will release the other from obligations and liability related to the Lease, License or related agreements, except for LEJ's indemnification obligations and any other obligation that expressly survive termination.

RECOMMENDATION

Port staff recommends that the Port Commission approve the attached resolution authorizing staff to execute a Mutual Termination Agreement between the Port of San Francisco and Literacy for Environmental Justice, subject to approval by the Board of Supervisors of the City and County of San Francisco under Charter section 9.118.

Prepared by: Carol Bach, Environmental & Regulatory Affairs Manager
Planning & Development Division

Jeff Bauer, Senior Leasing Manager
Real Estate Division

For: Byron Rhett, Deputy Director
Planning & Development Division

Susan Reynolds, Deputy Director
Real Estate Division


Exhibit A: Site Location, The EcoCenter at Heron's Head Park
Exhibit B: Site Plan for Lease L--13816

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

RESOLUTION NO. 13-39

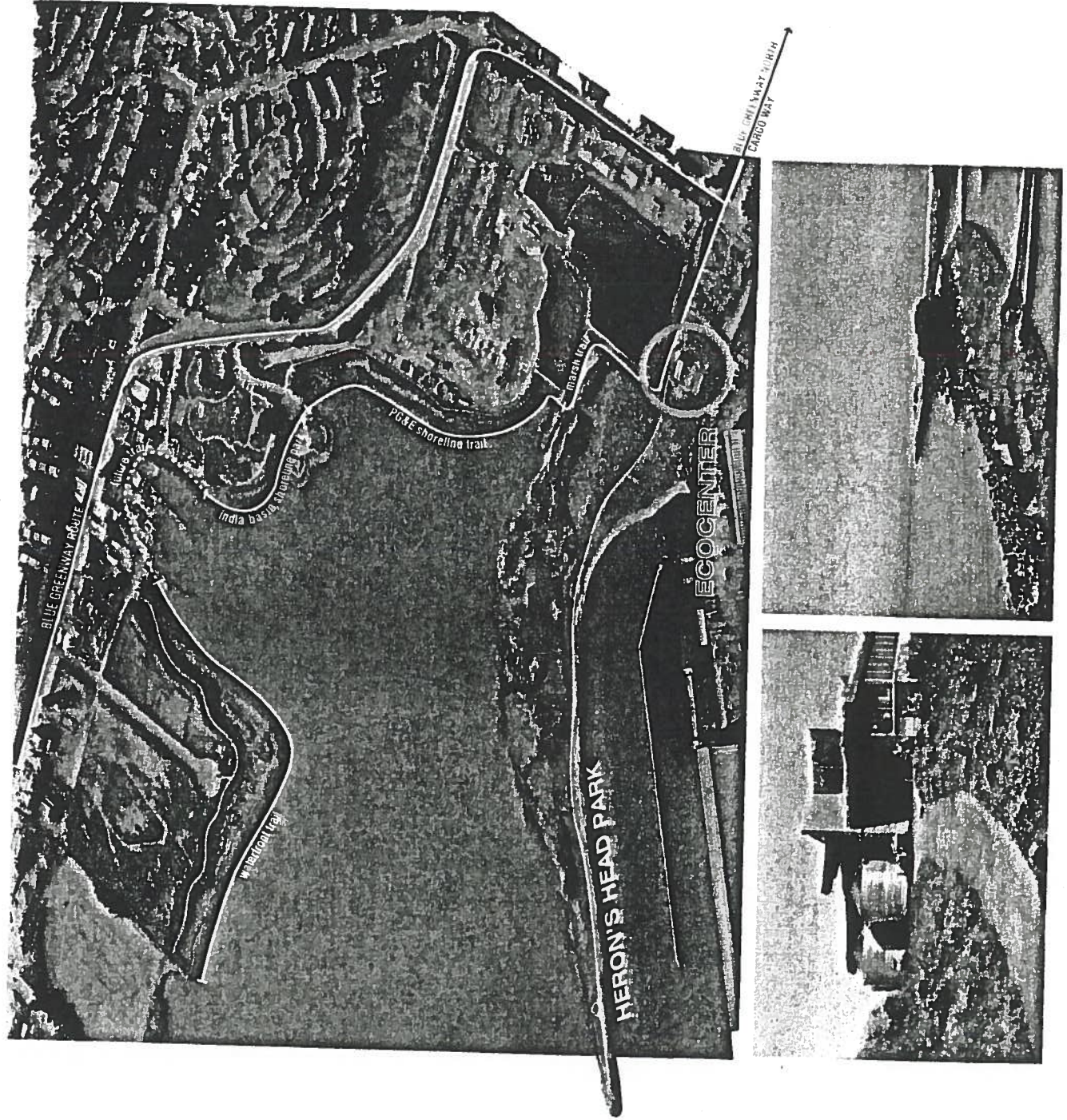
- WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control lands within Port jurisdiction; and
- WHEREAS, Port tenant, Literacy for Environmental Justice (LEJ), seeks termination of its Lease No. L-13816 for the 2,292 square-foot building located within the Port's Heron's Head Park, known as "the EcoCenter at Heron's Head Park" (the "EcoCenter") and the surrounding 6,058 non-exclusive license area, and License No. 14831 for installation of a potable water supply line to the EcoCenter; and
- WHEREAS, Both the Port and LEJ desire to terminate the Lease and License to enable the Port to lease the EcoCenter to a new tenant; and
- WHEREAS, Port staff has requested Port Commission authorization to execute a Mutual Termination Agreement with LEJ under which the Port would assume ownership of the EcoCenter and retain related deposits and fees and the parties would obtain a mutual release of claims, except for LEJ's indemnification obligations and any other provisions of the lease that expressly survive termination; now, therefore, be it
- RESOLVED, That the Port Commission authorizes staff to execute a Mutual Termination Agreement with LEJ in accordance with the terms set forth in this Memorandum to the Port Commission dated September 27, 2013 and substantially in the form on file with the Commission Secretary, and to seek final approval of the City and County of San Francisco Board of Supervisors in accordance with Charter section 9.118.

I hereby certify that the Port Commission at its meeting of October 8, 2013 adopted the foregoing Resolution.

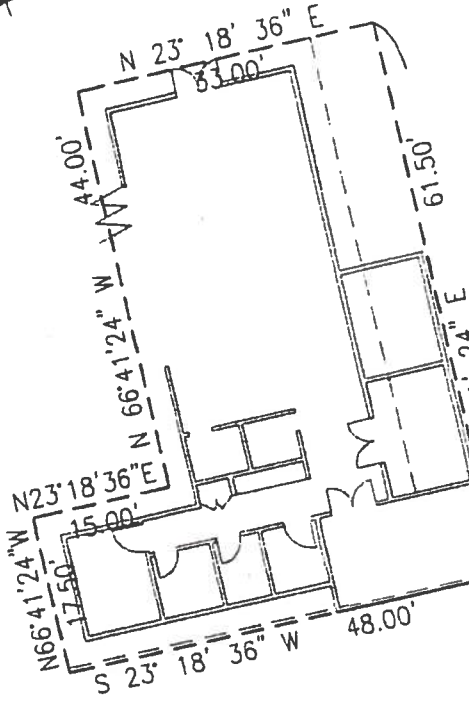


Secretary

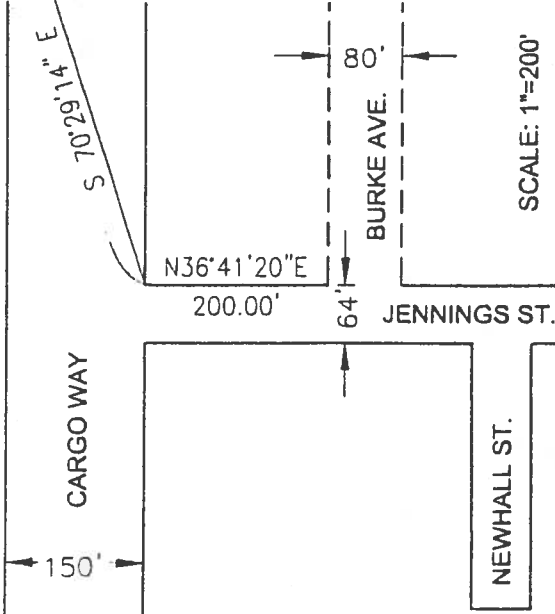
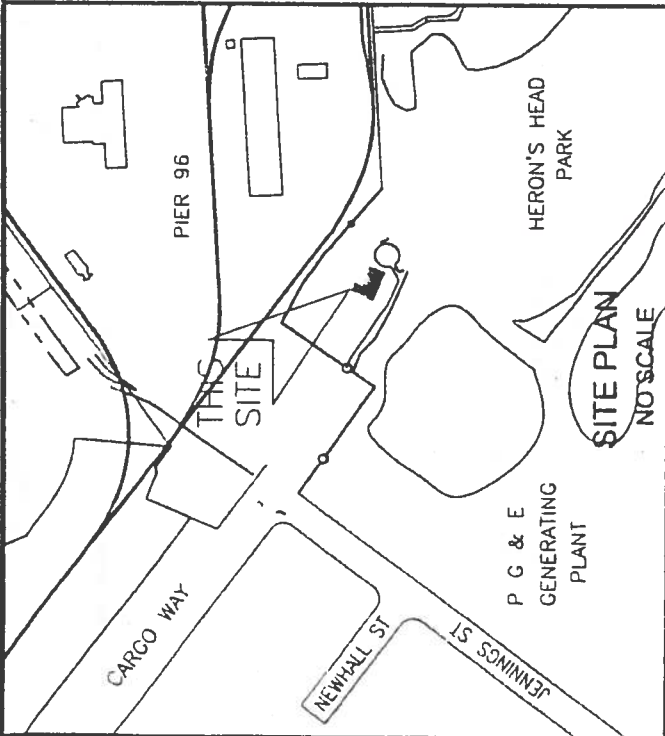
Exhibit A. Site Location, The EcoCenter at Heron's Head Park



LIVING CLASSROOM
AT HERON'S HEAD PARK
AREA = 2,292 Sq Ft



LEASE AREA
SCALE: 1"=20'



SCALE: 1"=200'

EXHIBIT B

INITIALS: PORT: _____ TENANT: _____ DATE: _____

DRAWN BY: ECC, AMH	DATE: JULY 07, 2005
CHECKED BY: M. LOZOVY	SCALE: AS SHOWN
PLACE CODE NO.	SHEET NO. 1
1980-00	

TENANT
LITERACY FOR ENVIRONMENTAL JUSTICE

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

LEASE NO.
L-13816

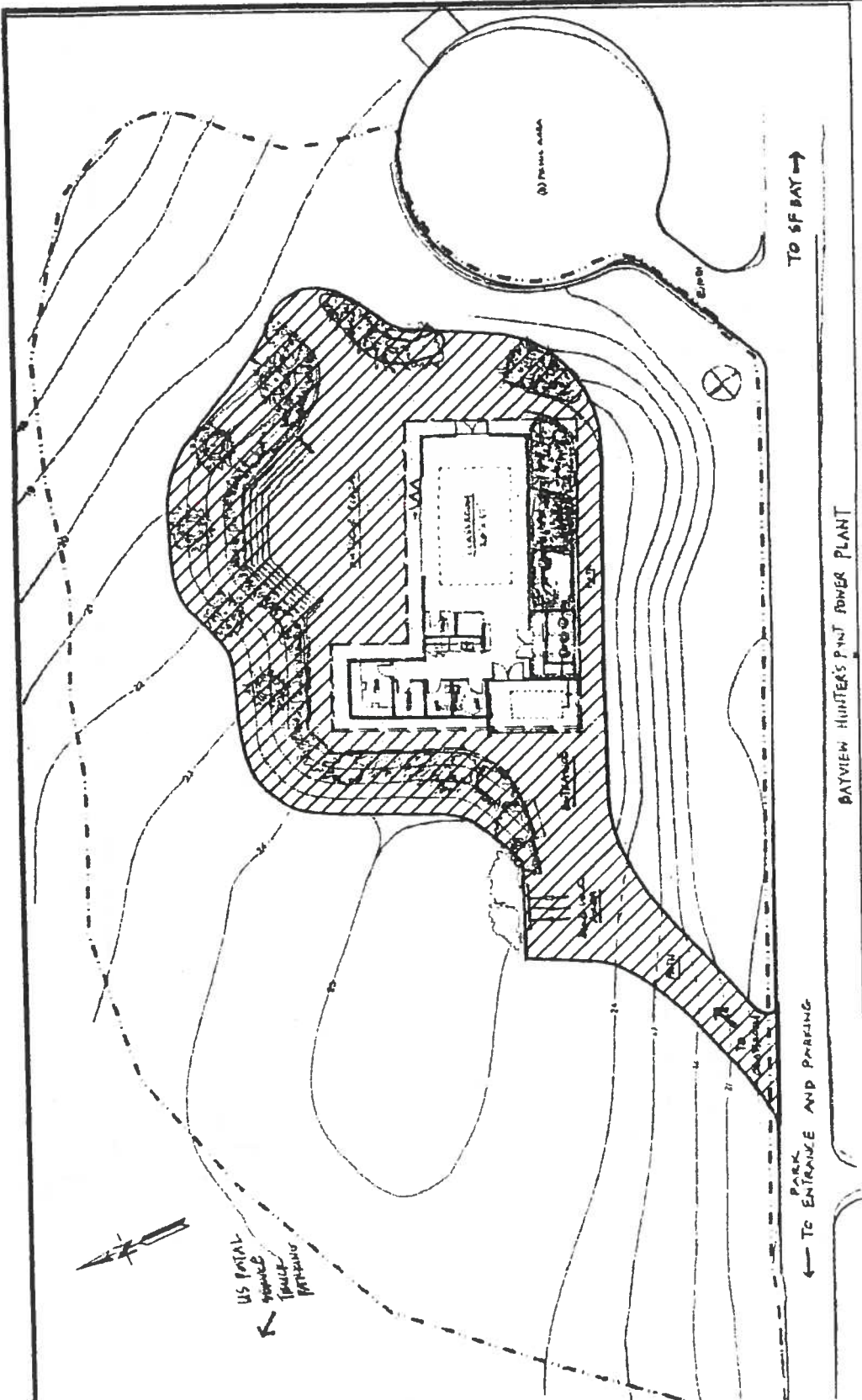



EXHIBIT B-1

NON-EXCLUSIVE LICENSE
 AREA ≈ 6,058 SQ. FT.
 (NOT INCLUDING FLOOR PLAN AREA)

SCALE: 1" = 30'

INITIALS: PORT: _____ TENANT: _____ DATE: _____

LEASE NO. L-13816	 SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT	LITERACY FOR ENVIRONMENTAL JUSTICE	
		DRAWN BY: ECC, AMN CHECKED BY: M. LOZDOWY PLACE CODE NO.	DATE: JULY 07, 2005 SCALE: AS SHOWN 1980-00	SHEET NO. 2 OF 2 SHEETS