



MEMORANDUM

September 10, 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 approval of Memorandum of Understanding No. M-16811 (“MOU”) with the City’s Recreation and Park Department for rent-free use of Port property consisting of submerged lands beneath a dock located at 502 and 504 Jefferson Street at the foot of Tonquin Street in Aquatic Park

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution No. 21-37

EXECUTIVE SUMMARY

In March 2020, the Port Commission approved Lease No. L- 16661 with the Dolphin Swimming and Boating Club (“Dolphin Club”) for use of Port submerged lands beneath its boat dock at its facility located at 502 and 504 Jefferson Street in Aquatic Park which is under lease with the San Francisco Recreation and Park Department (“RPD”). At that time, staff advised that because the area in Port jurisdiction is small relative to the rest of the facility, the ultimate goal of Port, RPD and the Dolphin Club is to have a single consolidated RPD-Dolphin Club lease that incorporates the Port lands. In order to accomplish this, today’s item seeks approval of an MOU that leases the Port lands to RPD. RPD would in turn sublease the Port lands to the Dolphin Club so that RPD would be the Dolphin Club’s sole landlord under the new lease. This is similar to the manner in which Port and RPD manage the neighboring South End Rowing Club clubhouse and dock.

As more fully described below, RPD and Port staff have negotiated a MOU that would replace the Port/Dolphin Club lease and allow RPD to sublease the Port lands to the Dolphin Club for recreational purposes. The proposed MOU Premises are comprised of 1,459 square feet of submerged land (which underlie the dock behind the RPD building

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leased to Dolphin Club) and the MOU initial term is 25 years, with a 24-year extension option. In lieu of paying a use fee under the MOU, RPD shall ensure that the Premises are available for public use on the days the clubhouse is open and shall be responsible for maintenance and liability of the Premises, among other key terms described below.

The consolidated RPD-Dolphin Club lease and MOU with the Port were approved by the Recreation and Park Commission (see June 17, 2021 meeting, Consent Calendar, items 5(e) and (f)¹) and, pending Port Commission action, will be presented to the Board of Supervisors for approval.

STRATEGIC OBJECTIVE

The proposed MOU supports the Strategic Plan goals of Evolution by ensuring the improvement, operation and public accessibility of a publicly-desired water recreation amenity.

BACKGROUND

The Dolphin Club is a California non-profit organization incorporated for the purpose of providing facilities for rowing and swimming and to engage in such other athletic and social activities as may be beneficial to the health and well-being of its members. Since the 1930s, the Dolphin Club has operated a clubhouse and office at 502 and 504 Jefferson Street as a tenant of RPD. RPD owns the clubhouse building, the underlying land and a portion of a launching dock facility. In 1993, staff of the Port and RPD determined that a portion of the dock and submerged land used by the Dolphin Club is within the Port's jurisdiction. The Port/City jurisdictional line bisects the dock and Port has jurisdiction over the bayward portion and submerged lands. The current RPD/Dolphin Club lease expires on June 30, 2028.

On March 10, 2020, by Resolution 20-15, the Port Commission approved a market rate lease (Lease No. L-16661) and a settlement agreement with the Dolphin Club to resolve its past use of Port submerged lands. The current Port/Dolphin Club Lease expires on June 30, 2028, coterminous with the current DRP/Dolphin Club lease. The March 2020 Port Commission action also set the stage for an anticipated Port/RPD/Dolphin Club transaction that would include early termination of both of the current Port and RPD leases with the Dolphin Club to be replaced with a Port/RPD MOU and comprehensive RPD/Dolphin Club Lease so that RPD would be the overall landlord entity for the Dolphin Club on a long-term basis while still protecting the Port's proprietary interests, conditioned on the Dolphin Club's continued operation as a water recreation asset, providing public access to the water on the days when the facility is open to the public under the primary RPD/Dolphin Club lease. The Dolphin Club is in good standing.

RPD and the Dolphin Club have now negotiated a new 25-year lease with one 24-year option for the clubhouse and dock. Port staff and RPD wish to enter into the negotiated

¹Link to RPD's Commission agenda here: [061721-commission \(sfrecpark.org\)](https://www.sfrecpark.org/061721-commission)

MOU covering the existing Port Lease area which allows a sublease of the premises to the Dolphin Club.

At its June 17, 2021 meeting, by its Resolution No. 2106-006, the Recreation and Park Commission approved the MOU on the terms described below. At that same meeting, by its Resolution No. 2106-006, the Recreation and Park Commission also recommended that the Board of Supervisors approve a new lease with the Dolphin Club that includes the Port premises for a 25-year term with one 24-year option. RPD staff advises that their plan is to introduce the Dolphin Club lease for consideration at the Board of Supervisors in October. Pending Board of Supervisors approval, the MOU, new RPD/Dolphin Club lease and mutual termination of the Port/Dolphin Club Lease L-16661 will become effective on the same date.

TERMS OF THE MEMORANDUM OF UNDERSTANDING

The proposed MOU includes the following terms:

1. **Premises**. The premises consists of approximately 1,459 square feet of submerged lands within Port's jurisdiction near the intersection of Jefferson and Tonquin Street as shown on the attached Attachment A.
2. **Effective Date**. The effective date of the MOU will be upon full execution of the MOU and a lease between the RPD and the Dolphin Club that grants the Dolphin Club a sublease for the premises as outlined in Attachment B.
3. **Term**. Coterminous with the new RPD/Dolphin Club lease: initial term of twenty-five (25) years with a 24-year option
4. **Fees**. In lieu of paying a use fee and as a material consideration for the Port entering into the MOU, RPD shall ensure that the Premises are available for public use on the days the clubhouse is open to the public under the terms of the RPD/Dolphin Club lease. Hours for public access are currently Monday, Wednesday and Friday between the hours of 8:00 am and 5:00 pm ("Summer Season") and between 9:00 am and 6:00 pm from November 1 to April 30 ("Winter Season").
5. **Sublease**. The MOU provides Port's consent to the anticipated sublease between RPD and the Dolphin Club, subject to all of the terms and conditions of the MOU. A sublease to any other party will require Port's written consent.
6. **Maintenance and Repairs**. At RPD's sole cost and expense.
7. **Damages**. RPD shall require each clubhouse tenant and licensee and any agent, contractor or subcontractor using the Port premises to protect Port from liability and to obtain adequate insurance coverage.

RECOMMENDATION

Port staff recommends that the Port Commission approve the attached resolution authorizing the Executive Director to execute Memorandum of Understanding No. M- 16811 between the Port of San Francisco and the San Francisco Recreation and Park Department for the premises and terms described herein and to mutually terminate Lease No. L-16661 effective on the same date.

Prepared by: Kimberley Beal, Senior Property Manager
Real Estate and Development

For: Rebecca Benassini, Deputy Director
Real Estate and Development

Attachments:

- A. Exhibit A – Location Map
- B. Proposed Memorandum of Understanding between the Port and the San Francisco Recreation and Park Department

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

RESOLUTION NO. 21-37

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, since the 1930s, the San Francisco Recreation and Park Department (“RPD has leased the clubhouse building, launching dock and submerged lands located at 502 and 504 Jefferson Street (“the RPD Lease”) to the Dolphin Swimming and Boating Club (the “Dolphin Club”); and

WHEREAS, in 1993 staff of the Port and RPD determined that a portion of the dock and submerged land used by the Dolphin Club is within the Port’s jurisdiction and at its meeting on March 10, 2020, by Resolution 20-15, the Port Commission approved a settlement agreement with the Dolphin Club that addressed the Dolphin Club’s past use of Port’s submerged and a lease for the Port lands, Port Lease No. L-16661, expiring on June 30, 2028; and

WHEREAS, The Port lease and settlement agreement set the stage for an anticipated Port-RPD-Dolphin Club transaction that would include termination of both of the current Port and RPD leases with the Dolphin Club to be replaced with a Port/RPD MOU and comprehensive RPD/Dolphin Club Lease so that RPD would be the overall landlord entity for the Dolphin Club on a long term basis while still protecting the Port’s proprietary interests, conditioned on the Dolphin Club’s continued operation as a water recreation asset, providing public access to the water on the days when the facility is open to the public under the primary RPD/Dolphin Club lease; and

WHEREAS, on June 17, 2021, the Recreation and Park Commission authorized a new RPD/ Dolphin Club lease for up to 49 years and a Memorandum of Understanding with the Port (“the MOU”); subject to approval of the MOU by the Port Commission and approval of the RPD/ Dolphin Club lease by the Board of Supervisors; and

RESOLVED, that the Port Commission hereby approves MOU No. M-16811 with RPD and authorizes the Executive Director or her designee to terminate the current Port/Dolphin Club lease and replace it with the MOU and to prepare and execute all other appropriate documentation that in consultation with the City Attorney, she determines necessary or appropriate to implement this Resolution, in such form as approved by the City Attorney’s office, such determination to be conclusively evidenced by the execution and delivery by the Executive Director, or her designee, of such documents; and be it further

RESOLVED, that the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the MOU that the Executive

Director, in consultation with the City Attorney, determines to be in the best interest of the Port, do not materially increase the obligations or liabilities of the Port, and are necessary or advisable to complete the transactions which this Resolution contemplates and effectuate the purposes and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of such documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 14, 2021.

Secretary

Attachment A: Location Map

