

MEMORANDUM

May 10, 2019

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

FROM: Elaine Forbes
Executive Director

SUBJECT: Request approval of Consent to Sublease between Blue and Gold Fleet, L.P. and Open Top Sightseeing San Francisco, LLC., for a month to month term to operate a ticket booth and office space totaling approximately 715 square feet located at Pier 41 on the Embarcadero near the foot of Powell Street. (Resolution No. 19-18)

DIRECTOR'S RECOMMENDATION: Approve Resolution No. 19-18

EXECUTIVE SUMMARY

Blue & Gold Fleet, LP ("Blue & Gold" or "Tenant") Lease No. L-9183 ("Lease") is primarily for maritime operations that also includes ancillary retail tenancies in which the Port participates through percentage rent. The Lease allows subleasing however explicitly requires the consent of the Port Commission for any sublease. The Tenant is required to provide specific information to enable the Port to evaluate proposed subleases and prospective subtenants. Blue & Gold has submitted such information along with and relating to an executed sublease agreement with a subtenant, Open Top Sightseeing San Francisco, LLC. (dba Big Bus San Francisco), subject to Port Commission consent to the sublease agreement. Port staff recommends that the Port Commission provide its consent to the sublease agreement as proposed, as it is in compliance with the Lease and will benefit the Port as described below.

This Print Covers Calendar Item No. 9B

BACKGROUND

The Port and Harbor Carriers, Inc., a California corporation entered into the Lease for a term of forty (40) years commencing on May 1, 1975 and expiring on March 31, 2015. Harbor Carriers Inc. changed its name to Red and White Fleet, Inc. and subsequently assigned its rights under the Lease to Blue & Gold on June 23, 1997.

Blue & Gold is a premier provider of ferry and water excursion services, offering 30, 60 or 90-minute tours on the San Francisco Bay. The company also provides regular ferry service to the San Francisco Ferry Building, Alameda, Angel Island, Oakland, Sausalito, Tiburon, South San Francisco and Vallejo and holds an exclusive contract with the Water Emergency Transportation Authority to provide marine operations for all San Francisco Bay Ferry services.

Blue & Gold Fleet carries approximately 4 million passengers annually, with approximately 1 million of those passengers landing or departing through the Pier 41 terminal. It operates a fleet of 21 vessels and completes over 50,000 landings annually.

The current site consists of a two-story terminal building built in 1981. The building is approximately 14,900 sf on two levels with ancillary retail and Blue & Gold Fleet maritime services located on the first level and offices (primarily occupied by Blue & Gold Fleet) located on the second level. Since the lease expiration, Blue & Gold has been on a month to month lease with Port's consent while it formulates a potential redevelopment plan for the site. In June 2016, the Port increased the percentage rent to fair market value, including the retail rents implicated by the proposed sublease.

STRATEGIC OBJECTIVE

Approval of this item will further the Stability objective of the Port's Strategic Plan: Increase annual revenues to \$125 million through a real estate portfolio that maximizes value and income to the Port.

PROPOSED SUBLEASE

Subtenant: Open Top Sightseeing San Francisco, LLC.

Subleased Premises:

Parcel A: Approximately 295 square feet, known as the Ticket Booth

Parcel B: Approximately 280 square feet, known as the Office Space

Parcel locations, sizes and shapes are shown on ***Exhibit A*** attached hereto.

Permitted Use:

Parcel A: Retail sale of tickets for motor vehicle tours, sightseeing bus tours and bundled tickets.

Parcel B: Office and storage use in connection with the ticket booth operations.

Term: Month to Month

Rent: Subtenant shall pay to Tenant minimum monthly rent of \$12,000.00 and percentage rent equal to 18% of the gross receipts each month.

CEQA

The proposed sublease is for an existing use and is considered “not a project” under the California Environmental Quality Act (“CEQA”), accordingly, no CEQA review is required.

BCDC Permit

Tenant is in full compliance with the San Francisco Bay Conservation and Development Commission (“BCDC”) permit No. 18-76 Amendment No. 10. The proposed sublease does not involve improvements and does not affect the existing BCDC permit.

FINANCIAL ANALYSIS

Port receives the greater of the minimum monthly rent or a percentage of all gross receipts derived from each calendar month from the Tenant. Currently, Blue and Gold’s minimum monthly rent is \$32,646 with percentage rent payable as set forth below:

Category	Description
Passenger Embarking and Debarking	Gross Sales @ 7.5%
Food and Beverage / Retail sales	Gross Sales @ 8.5%
Land Tour Sales	Gross Sales @ 10%

For each month Tenant pays the Port base rent or percentage rent, whichever is greater. If the proposed Sublease receives the Port Commission’s consent, the Port will participate in the sublease revenues noted above at the land tour sales participation rate of 10%. The Subtenant will pay Blue & Gold a minimum of \$12,000 per month or 18% of gross sales. All sublease income is then paid to the Port through Blue & Gold’s percentage rent provision. The space is currently vacant and therefore will increase the Port’s revenues. Tenant’s annualized rent due to Port for fiscal year 2018 was approximately \$802,254.00. Except for the months of December 2017 and February 2018, Tenant’s gross receipts exceeded the minimum monthly rent.

Blue and Gold has been a Port tenant for over twenty-one years and is a tenant in good standing.

CONCLUSION

Port staff has reviewed the proposed sublease and required specific information, including but not limited to, financial statements, balance sheets, legal ownership, and business and credit references. In conclusion, Port staff believes that the proposed subtenant meets the Lease requirements and Port standard practice.

Port staff has drafted the Consent to Sublease and it has been reviewed by the City Attorney's Office. The Subtenant shall be bound by all of the terms, covenants, conditions, provision and agreements of the Lease.

RECOMMENDATION

Port staff recommends that the Port Commission: adopt the attached Resolution approving (1) consent to the proposed Sublease under Lease No. L-9183; and (2) authorize the Executive Director or her designee to execute the Consent to Sublease.

Prepared by: Vicky Lee
Property Manager

Jay Edwards
Senior Property Manager

For: Michael Martin, Deputy Director
Real Estate and Development

Attachments:

Exhibit A - Location map

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

RESOLUTION NO. 19-18

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

WHEREAS, in 1975, the Port executed Lease No. L-9183 for real property at Pier 41, located on the Embarcadero near the foot of Powell Street, which Lease is currently held by Blue and Gold Fleet, L.P. as tenant (“Lease”); and

WHEREAS, the Lease commenced on May 1, 1975, and expired on March 31, 2015 and is on a month to month tenancy with Port consent; and

WHEREAS, Blue and Gold Fleet, L.P. has proposed to sublet a portion of its interest in the Lease to Open Top Sightseeing San Francisco, LLC; and

WHEREAS, the Lease subjects any transfer of the Lease including, without limitation, the proposed sublease by Blue and Gold Fleet, L.P. to Open Top Sightseeing San Francisco, LLC to the consent of the Port Commission; and

WHEREAS, the proposed sublease is for an existing use and is considered “not a project” under the California Environmental Quality Act (“CEQA”); and

WHEREAS, Blue and Gold Fleet, L.P. is a tenant in good standing and Open Top Sightseeing San Francisco, LLC has the financial wherewithal and can otherwise meet the obligations of the Lease; now, therefore, be it

RESOLVED, that the San Francisco Port Commission hereby consents to the Sublease by Blue and Gold Fleet, L.P. of a portion of Lease No. L-9183 to Open Top Sightseeing San Francisco, LLC on the terms and conditions described in the Memorandum to the Port Commission dated May 14, 2019 and authorizes the Executive Director to execute the Consent documents (“the Consent”); and be it further

RESOLVED, that the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Consent that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the Port, do not materially increase the obligations or liabilities of the City or Port and are necessary or advisable to complete the transactions which the Consent contemplates and effectuate the purpose and intent of this Resolution, such action to be conclusively evidenced by the execution and delivery by the Executive Director of the Consent, and any such amendments thereto.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 14, 2019.

Secretary