



MEMORANDUM

September 9, 2022

TO: MEMBERS, PORT COMMISSION
Hon. Willie Adams, President
Hon. Kimberly Brandon, Vice President
Hon. John Burton
Hon. Gail Gilman
Hon. Steven Lee

FROM: Elaine Forbes 
Executive Director

SUBJECT: Request approval of a Rent Forgiveness Agreement for China Basin Ballpark Company, LLC, Lease No. L-16410, under which (i) Port will forgive past due base rent for the period March 1, 2020, through April 30, 2021, totaling \$523,133.81; and (ii) Port will waive late fees, interest, and attorneys' fees.

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution No. 22-45

EXECUTIVE SUMMARY

A Port tenant, China Basin Ballpark Company, LLC (CBBC) leases Pier 48 for ballpark parking and special events. CBBC has consistently paid percentage rent under Lease L-16410 (Lease) but did not make base rent payments from March 2020 through January 21, 2021. The total base rent due for this period is \$523,133.81. See Attachment 1 for the details of the balance due. During the period, the CBBC generated no revenue from the site because of the drastically diminished demand for parking and special events while the COVID-19 pandemic halted in-person attendance at baseball games and all nearby in-person events. Because of these economic effects and consistent with forgiveness provided to other parking lot operations in the Port's portfolio, Staff proposes that the past due rent for the Lease be forgiven.

STRATEGIC OBJECTIVE

The proposed settlement supports meeting the Strategic Plan's Stability Objective by keeping a rent-paying tenant in place for the remainder of the Lease term (approximately 6 years).

BACKGROUND

The Port implemented a rent forgiveness plan for tenants impacted by the COVID-19 health emergency. A subset of Port tenants, namely the Port's parking lot operators, were eligible to participate in a rent forgiveness plan approved by the Port Commission and the Board of Supervisors, whereby base rents for the period between 3/1/2020 to 4/30/2021 (Forgiveness Period) are forgiven, acknowledging that parking demand during the Forgiveness Period was severely reduced. The forgiveness program was designed to keep parking operators out of default due to lack of rent payment during the most impactful months of COVID-19.

CBBC has an agreement with a parking lot operator to manage the parking operations. At Pier 48. With the limited number of ballgames and special events during the pandemic, parking demand at Pier 48 was severely reduced during the Forgiveness Period. However, since this facility is not leased directly to a parking lot operator, it does not technically qualify for the rent forgiveness plan previously approved by the Port Commission on August 10, 2021 (Resolution No. 21-33).

RECOMMENDATION

In recognition of:

- (1) the near elimination of special events during the pandemic; and
- (2) the significant decrease in parking demand with fans not allowed at the ballpark (Oracle Park), and commuters not driving into their offices during the forgiveness period; and
- (3) the Giants' continued payment of rent for its other major lease at the Port (Oracle Park), despite COVID-19 health restrictions severely impacting the ability to hold games and events at Oracle Park; and
- (4) the Lease's sole permissible uses being parking and special events;

Staff proposes that the past due rent be forgiven, consistent with forgiveness provided to many other parking lot operations in the Port's portfolio.

Staff notes that the forgiveness of rent is of considerable value to both parties and is intended to improve the financial feasibility of the Lease and preserve CBBC's ability to continue operations at the facility, while at the same time meeting the Port's goals, including protecting Port revenue streams and assets. The proposed forgiveness aligns

Port's and CBBC's interest in promoting a shared prosperity partnership and is in the best interest of the Port's financial health.

Port staff recommends that the Port Commission approve the attached resolution authorizing staff to execute a Rent Forgiveness Agreement with the terms as outlined in this memorandum.

Prepared by: Phil Williamson, Senior Project Manager
Joshua Keene, Assistant Deputy Director
Real Estate and Development

For: Rebecca Benassini, Deputy Director
Real Estate and Development

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

RESOLUTION NO. 22-45

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 entered into Lease No. L-16410 dated August 15, 2018 (Lease) with China Basin Ballpark Company, LLC (CBBC) for the entirety of Pier 48 for ballpark parking and special event uses; and.

WHEREAS, CBBC has an outstanding balance under the Lease as set forth in the staff memorandum accompanying this resolution; and

WHEREAS, The Port and CBBC have reached an agreement on the terms of a rent forgiveness agreement as described in the staff memorandum accompanying this resolution, copy of which is on file with the Port Commission Secretary (“Rent Forgiveness Agreement”); and

WHEREAS, Under the proposed Rent Forgiveness Agreement, (i) Port will forgive past due base rent for the period March 1, 2020, through April 30, 2021, totaling \$523,133.81; and (ii) Port will waive late fees, interest, and attorneys’ fees; and

WHEREAS, The parties now wish to settle their dispute in a manner that allows CBBC to continue its occupancy of Pier 48 with the intention of avoiding protracted disputes, uncertainties, and litigation; and now therefor be it

RESOLVED, That the Port Commission hereby approves the Rent Forgiveness Agreement and authorizes the Executive Director or her designee to execute the Rent Forgiveness Agreement in substantially the same form on file with the Port Commission Secretary; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Rent Forgiveness Agreement that the Executive Director, in consultation with the City Attorney, determines, when taken as a whole, are in the best interest of the Port, do not materially increase the obligations or liabilities of the City of the Port, and are necessary or advisable to complete the transactions which this Resolution contemplates and effectuate the purpose 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 13, 2022.

Secretary

Attachment 1
CBBC Payment and Balance History Lease #L-16410

China Basin Ballpark Company LLC
Balance as of 08/23/22

Contract # L-16410
March, 2020 to April 2021

Item	Customer ID	Entry Type	Days Late	Due	Late Charge	Item Balance	Payment	Late Charge	Balance	Description
2008845	1000001374	IN	869	4/6/2020	IN	166,250.01			166,250.01	Rent - Parking-Parcel A: Shed A parking/special events
2008845	1000001374	OC	722	8/31/2020	PRT			26,281.21	26,281.21	
2100113	1000001374	IN	778	7/6/2020	IN	166,250.01			166,250.01	Rent - Parking-Parcel A: Shed A parking/special events
2100113	1000001374	OC	722	8/31/2020	PRT			26,281.21	26,281.21	
2102569	1000001374	IN	686	10/6/2020	IN	8,750.01			8,750.01	Rent - Parking-Parcel A: Shed A parking/special events
2102569	1000001374	OC	661	10/31/2020	PRT			1,383.28	1,383.28	
2107430	1000001374	IN	514	3/27/2021	IN	88,610.04			88,610.04	Miscellaneous Billing-Parking Rent- Pier 48 Add'l Min, Rent for April to June 2020 (High season) Due to shed B expansion.
2107430	1000001374	OC	510	3/31/2021	PRT			11,919.88	11,919.88	
2107431	1000001374	IN	514	3/27/2021	IN	88,610.04			88,610.04	Miscellaneous Billing - Parking Rent - Pier 48 Add'l min. Rent for July to Sept 2020 (High Season) due to shed B expansion.
2107431	1000001374	OC	510	3/31/2021	PRT			11,919.88	11,919.88	
2107432	1000001374	IN	514	3/27/2021	IN	4663.69	-4663.68		0.01	Miscellaneous Billing - Parking Rent - Pier 48 Add'l min. Rent for Oct to Dec 2020 (Low Season) due to shed B expansion.
2107432	1000001374	OC	510	3/31/2021	PRT			5.11	5.11	
2107433	1000001374	IN	514	3/27/2021	IN	4,663.69			4,663.69	Miscellaneous Billing - Parking Rent - Pier 48 Add'l Min. Rent for Jan to Mar 2021 (Low Season) due to shed B expansion.
2107433	1000001374	OC	510	3/31/2021	PRT			627.36	627.36	
						527,797.49	-4,663.68			
Totals						523,133.81		78,417.93		
Total Balance									601,551.74	