




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 Consent to Sublease between Blue and Gold Fleet, L.P. and VP San Francisco, LLC., for a month-to-month term to operate a retail shop located at Pier 41 on the Embarcadero near the foot of Powell Street

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution No. 21-36

EXECUTIVE SUMMARY

Blue & Gold Fleet, LP ("Blue & Gold" or "Tenant") is the tenant under Lease No. L-9183 ("Lease"). The Lease is primarily for maritime operations that also include ancillary retail tenancies in which the Port participates through percentage rent. While much of the Leased premises are occupied by Blue & Gold, an approximately 1,350 square foot retail area has been vacant since February 29, 2020. Tenant has negotiated a sublease with a new retail merchandise subtenant to fill the space.

The Lease allows subleasing, however, unlike more recently drafted leases, it explicitly requires the Port Commission's consent 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 (the "Sublease") with a subtenant, VP San Francisco, LLC. ("Subtenant"). The Lease specifies that Port consent to the sublease so long as Tenant provides at least forty-five (45) days prior written notice of the desired Transfer and proposed subtenant's completed legal and financial information. There are

several grounds under which Port may reasonably withhold consent, including a use inconsistent with the terms of the Lease, uses which could result in hazardous materials release, or a Subtenant in poor financial condition, among others. Staff have not found any reasonable conditions to support withholding consent.

Based on the Port staff and City Attorney review of the sublease document, it is consistent with the standards and requirements as outlined above including indemnification, additional insured and coverage, financial conditions, default and do not increase the risk to the Port.

Port staff recommends that the Port Commission provide its consent to the Sublease as proposed, as it is in compliance with the Lease and will benefit the Port as the Port participates in 8.5% of the sublease revenues which will be collected by the Tenant under the sublease, as described below. The Port's share of the minimum rent under the sublease is \$531.25 per month.

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 wholly owned subsidiary of Pier 39 L.P. and operates under a separate lease on the adjacent Pier 41. Blue & Gold prepared schematic designs for a new Maritime terminal with visitor supporting retail and public amenities in preparation for a potential long-term renewal of the premises in mid-2018. Due to rapidly increasing construction costs the project was financially unfeasible at the time. Port staff anticipates re-engaging renewal discussions after the impacts of COVID are fully assessed and can devote the necessary staff time to reassess any proposed project improvements and terms of renewal.

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 square feet 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.

STRAGIC OBJECTIVE

Stability: Approval of this item will further the Stability objective of the Port’s Strategic Plan by increasing annual revenues through a real estate portfolio that maximizes value and income to the Port.

PROPOSED SUBLEASE

Subtenant: VP San Francisco, LLC.

Subleased Premises: Approximately 1,350 square feet; parcel locations, sizes and shapes are depicted in Figure 1 below.

Permitted Use: For the sale at retail of a curated selection of California and San Francisco souvenir apparel and related merchandise and accessories.

Term: Month-to-Month

Rent: Subtenant shall pay to Tenant minimum monthly rent of \$6,250.00 and percentage rent equal to 12% of the gross receipts each month, less minimum monthly rent. The minimum monthly rent shall be subject to adjustment based on The Consumer Price Index on January 1, 2022, and on each January 1st thereafter.

Figure 1. Location of Subleased Space Indicated in Photo Below



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%

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 Food and Beverage / retail sales participation rate of 8.5%. The Subtenant will pay Blue & Gold minimum monthly rent and will pay 12% of the gross receipt each month less minimum monthly rent. A share of the sublease income is then paid to the Port through Blue & Gold’s percentage rent provision. The space is currently vacant; the previous subtenant was SF Kites, who vacated in year 2020. Consent to this sublease, therefore, will increase the Port’s revenues. Tenant’s annualized rent due to Port for fiscal year 2020 was approximately \$606,068.00. Except for the months of November 2019, December 2019 and February 2020 to June 2020, Tenant’s gross receipts exceeded the minimum monthly rent.

Blue and Gold Fleet has been a long-term Port tenant and is 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 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: Rebecca Benassini, Deputy Director
Real Estate and Development

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

RESOLUTION NO. 21-36

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 VP 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 VP San Francisco, LLC (the “Sublease”) 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 VP San Francisco, LLC has the financial wherewithal and can otherwise meet the obligations of the Sublease; 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 VP San Francisco, LLC on the terms and conditions described in the Memorandum to the Port Commission dated September 14, 2021 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 September 14, 2021

Secretary