




MEMORANDUM

July 7, 2023

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

FROM: Elaine Forbes
Executive Director 

SUBJECT: Request approval of Consent to Sublease (“Sublease”) between Blue and Gold Fleet, L.P. and Worldwide Foods LLC, dba Cousins Maine Lobster (“Subtenant”), under a month-to-month term to operate a café area, retail space, and mini food cart all totaling approximately 1,824 square feet located at Pier 41 on the Embarcadero near the foot of Powell Street.

DIRECTOR’S RECOMMENDATION: Approve the Attached Resolution No. 23-33

EXECUTIVE SUMMARY

Blue & Gold Fleet, LP (“Blue & Gold” or “Tenant”) under Lease No. L-9183 (“Lease”) performs both maritime operations and provides ancillary retail tenancies in the premises commonly known as Pier 41 (“Premises”). The Lease allows the Tenant to sublease all or a portion of its Premises subject to Port Commission consent.

The Lease requires the Tenant to provide specific information about the Subtenant to enable Port staff to evaluate the proposed sublease, including financials, organizational structure, and creditworthiness among others. The Tenant submitted the required information along with an executed Sublease agreement with its proposed Subtenant. Port staff evaluated the information provided by the Tenant and the Sublease and recommends that the Port Commission consent to the Sublease as proposed.

STRATEGIC OBJECTIVE

Stability:

Approval of this item will further the Stability goal of the Port's Strategic Plan by increasing annual revenues and activating an area that is currently unused.

BACKGROUND

Blue & Gold Fleet is a privately owned company that provides ferry services in the San Francisco Bay Area. It operates the San Francisco Bay Ferry commuter ferry system under contract with Water Emergency Transportation Authority ("WETA"). Blue & Gold also operates tourist and excursion services under its own brand from Pier 41, with midday ferry service to Sausalito and a variety of excursion and tourist routes including Angel Island and Tiburon. The company is the Bay Area's largest ferry transportation provider and carries approximately 4 million passengers annually.

The Port initially entered into a lease with Harbor Carriers, Inc. for a term of 40 years commencing on May 1, 1975. On June 23, 1997, Harbor Carriers Inc. changed its name to Red and White Fleet, Inc. and subsequently assigned its rights under the Lease to the Tenant. The Lease expired on March 31, 2015, and since the lease expiration, the Tenant has been subject to a month-to-month tenancy with the Port's consent.

The Lease Premises consists of a two-story terminal building built in 1981. The building has approximately 14,900 square feet on two floors. Maritime services facilities and small retail spaces are on the first floor and Blue & Gold's offices are on the second floor. Most of the first-floor retail spaces are vacant and the Subtenant will activate some of the vacancies.

Blue & Gold pays the Port the greater minimum monthly rent of \$32,646 or percentage rent based on monthly gross revenue for each category below:

<u>Revenue Category</u>	<u>% Rent*</u>
Passenger Embarking and Debarking	7.5%
Food and Beverage / Retail sales	8.5%
Land Tour Sales	10.0%

* Based on Gross Revenue

Blue and Gold has been a Port tenant for more than twenty-six years and is in good standing.

PROPOSED SUBTENANT AND SUBLEASE

Worldwide Foods, LLC., dba Cousins Maine Lobster ("Cousins") began operations in 2012 and appeared on Shark Tank in 2016, receiving funding to expand. They sell primarily seafood from food trucks and have 20 trucks in 13 cities throughout the country. Cousins also is a franchisor and is branching out to physical locations. Cousins supports more than 100 employees. The below balance sheet information shows consistent growth in assets and that

the Subtenant likely can perform under the terms of the Sublease.

Balance Sheet	YE 2020	YE 2021	2022*
Total Assets	\$271,669	\$323,632	\$705,872
Total Liabilities	\$0	\$0	\$0
Equity	\$271,669	\$323,632	\$705,872
Cash	\$108,480	\$266,845	\$183,641

* Through August 2022

Subleased Premises

- Parcel A: Approximately 444 square feet, known as the Café Area, with permitted uses of cooking and takeaway window sales.
- Parcel B: Approximately 1,300 square feet, known as the Retail Space, with permitted dining and beverage services.
- Parcel C: Approximately 80 square feet, known as the Cart Space with a permitted mini food truck licensed by the San Francisco Department of Public Health, to be used for cooking and take-away window sales.

See attached **Exhibit A** which shows the parcel locations, sizes, and shapes.

Rent

Subtenant will pay Tenant the greater minimum rent of \$10,000 per month or monthly percentage rent equal to 10% of its gross revenue whichever is higher.

All revenue derived from the Sublease will add to Tenant's Food and Beverage/Retail Gross Sales which the Port participates in at 8.5%. The Sublease will increase the Port's revenues assuming the Tenant achieves sufficient gross revenue to pay the percentage rent.

Term

Month to Month

Port Commission Consent

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, Worldwide Foods LLC, ("Subtenant"). The Lease specifies that the Port consent to the sublease so long as the Tenant provides at least forty-five (45) days prior written notice of the desired Transfer and the proposed subtenant's completed legal and financial information. There are several grounds under which the 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.

BCDC Permit

The 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.

CONCLUSION

Port staff has reviewed the proposed Sublease and required information, including but not limited to financial statements, balance sheets, legal ownership, and business and credit references. Port staff concluded that the proposed Subtenant meets the Lease requirements and Port standard practices. The Subtenant through the Sublease is bound by all the requirements of the Lease.

RECOMMENDATION

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 sublease revenues will be added to the Tenant's Gross Sales reporting and 8.5% percentage rent payment.

Further, 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
Don Kavanagh, Senior Property Manager

For: Kimberley Beal, Acting Deputy Director
Real Estate and Development

Attachment: Exhibit A - Location map

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

RESOLUTION NO. 23-33

- 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 premises to Worldwide Foods, LLC pursuant to a sublease dated May 30, 2023 (the “Sublease”); and
- WHEREAS, the Lease requires the consent of the Port Commission to any transfer of the Lease including, without limitation, the proposed sublease to Worldwide Foods, LLC; and
- WHEREAS, the Sublease is for 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 Worldwide Foods, 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 Worldwide Foods, LLC on the terms and conditions described in the Memorandum to the Port Commission dated July 7, 2023, and authorizes the Executive Director to execute 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 July 11, 2023.

Secretary

Exhibit A

Location Map

