

BOARD of SUPERVISORS



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November 8, 2021

**File No. 211133**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On October 26, 2021, Supervisor Catherine Stefani introduced the following legislation:

**File No. 211133**

**Ordinance approving a lease between the City and County of San Francisco and Dolphin Swimming and Boating Club, a California non-profit corporation, for City property located at 502 and 504 Jefferson Street, with an annual rent of 10% of all gross receipts that are not derived from its annual Dolphin Day and 4% of all gross receipts that are derived from its annual Dolphin Day, for a term of 25 years with an option to extend for 24 years, and general public access requirements; waiving the Administrative Code's market rent determination requirement that otherwise would apply to this lease; and affirming the Planning Department's determination under the California Environmental Quality Act.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

*Brent Jalipa*

By: Brent Jalipa, Assistant Clerk  
Budget and Finance Committee

Attachment

c: Devyani Jain, Environmental Planning  
Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

1 [Lease of City Property - Dolphin Swimming and Boating Club - 502 and 504 Jefferson Street  
2 - Gross Receipts Rent]

3 **Ordinance approving a lease between the City and County of San Francisco and**  
4 **Dolphin Swimming and Boating Club, a California non-profit corporation, for City**  
5 **property located at 502 and 504 Jefferson Street, with an annual rent of 10% of all gross**  
6 **receipts that are not derived from its annual Dolphin Day and 4% of all gross receipts**  
7 **that are derived from its annual Dolphin Day, for a term of 25 years with an option to**  
8 **extend for 24 years, and general public access requirements; waiving the**  
9 **Administrative Code’s market rent determination requirement that otherwise would**  
10 **apply to this lease; and affirming the Planning Department’s determination under the**  
11 **California Environmental Quality Act.**

12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
15 **Board amendment additions** are in double-underlined Arial font.  
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
17 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
18 subsections or parts of tables.

19 Be it ordained by the People of the City and County of San Francisco:

20 Section 1. Background and Findings.

21 (a) The premises at 502 and 504 Jefferson Street (“Original Premises”) at the eastern  
22 portion of Aquatic Park is a recreational swimming and boating clubhouse, dock, and beach,  
23 under the jurisdiction of the Recreation and Park Commission (“Commission”) and managed  
24 by the Recreation and Park Department (“Department”).

25 (b) Under Chapter 88 of the California Statutes of 1923, a copy of which is on file with  
the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, the State of California granted the

1 Original Premises to City for use in conjunction with other City property used as an aquatic  
2 park.

3 (c) Under Charter Section 4.113, the Department is directed to promote and foster a  
4 program providing for organized public recreation of the highest standard.

5 (d) Under a lease dated as of July 1, 1979, as modified by a first amendment dated as  
6 of July 1, 1979 (as amended, the "Original Lease"), a copy of which is on file with the Clerk of  
7 the Board of Supervisors in File No. \_\_\_\_\_, Dolphin Swimming and Boating Club, a  
8 California non-profit corporation ("Tenant"), leases the Original Premises for use as a non-  
9 profit recreational swimming- and boating-oriented recreational club.

10 (e) The Original Lease expires June 30, 2028. The Tenant and the Department have  
11 negotiated a new 25-year lease ("New Lease"), a copy of which is on file with the Clerk of the  
12 Board of Supervisors in File No. \_\_\_\_\_, for the Original Premises and a portion of  
13 adjacent submerged lands (the "Dock Area") under the jurisdiction of the Port Commission  
14 ("Port") on which the clubhouse dock extends from the Original Premises, as described in a  
15 Memorandum of Understanding between the Commission and the Port dated as of  
16 \_\_\_\_\_, 2021 ("MOU"), a copy of which is on file with the Clerk of the Board of  
17 Supervisors in File No. \_\_\_\_\_.

18 (f) To ensure the Original Premises are available to the general public for aquatic  
19 recreational purposes, and to further a public purpose, the New Lease requires the Tenant to  
20 allow certain public access to the Original Premises and the Dock Area (together, the  
21 "Premises") for a daily use fee, make its membership open to the general public on a first-  
22 come, first-served basis subject to reasonable limitations, and to obtain the Commission's  
23 prior approval of any changes to the Tenant's bylaws, membership policies, public access  
24 fees, or dues.

25 ///

1 (g) The proposed gross receipts rent for the New Lease reflects Tenant’s public  
2 access and repair and maintenance obligations for the Premises.

3 (h) On June 17, 2021, the Commission adopted Resolution No. 2106-005 to  
4 recommend that the Board of Supervisors approve the New Lease. A copy of said Resolution  
5 is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

6 Section 2. Waiver of Administrative Code Requirement for Market Rent Determination.

7 (a) The New Lease requires an annual rent of 10% of all gross receipts that are not  
8 derived from its annual Dolphin Day and 4% of all gross receipts that are derived from its  
9 annual Dolphin Day. Because the Premises can only be used for aquatic recreational  
10 purposes, and the New Lease requires Tenant to provide general public access, it is not  
11 appropriate to determine the Market Rent, as defined in Administrative Code Section 23.2, of  
12 the Premises.

13 (b) Accordingly, the Market Rent determination requirement in Administrative Code  
14 Section 23.30 is hereby waived for the New Lease.

15 Section 3. Environmental Findings.

16 The Planning Department has determined that the actions contemplated in this  
17 ordinance comply with the California Environmental Quality Act (California Public Resources  
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
19 Supervisors in File No. \_\_\_\_\_. The Board affirms this determination.

20 Section 4. Approval of New Lease.

21 (a) The Department’s General Manager is authorized to execute and deliver the New  
22 Lease, to perform all acts required of the City under the New Lease, and to enter into  
23 amendments or other modifications to the New Lease (including, without limitation, attaching  
24 and modifying its exhibits) that the General Manager, in consultation with the City Attorney,  
25 determines are in the best interest of the City, do not materially decrease the City’s benefits,



**LEGISLATIVE DIGEST**

[Lease of City Property - Dolphin Swimming and Boating Club - 502 and 504 Jefferson Street - Gross Receipts Rent]]

**Ordinance approving a lease between the City and County of San Francisco and Dolphin Swimming and Boating Club, a California non-profit corporation, for City property at 502 and 504 Jefferson Street, with an annual rent of 10% of all gross receipts that are not derived from its annual Dolphin Day and 4% of all gross receipts that are derived from its annual Dolphin Day, a term of 25 years, an option to extend for 24 years, and general public access requirements; waiving the Administrative Code’s market rent determination requirement that otherwise would apply to this lease; and affirming the Planning Department’s determination under the California Environmental Quality.**

Existing Law

Under San Francisco Administrative Code Section 23.30, leases that require the approval of the Board of Supervisors must have a determination of Market Rent (as defined in San Francisco Administrative Code Section 23.2) based on available and relevant data.

Amendments to Current Law

If adopted, the proposed ordinance would authorize the lease of City property at 502 and 504 Jefferson Street (“Premises”) to Dolphin Swimming and Boating Club (“Tenant”) without a Market Rent determination.

Background Information

The Tenant currently leases the Premises under a lease that is scheduled to terminate on June 30, 2028. The Tenant is planning substantial improvements to the Premises (subject to City’s approval of the final designs, plans and specifications for them as required in the Lease) and would like a lease term that matches the useful life of those anticipated improvements. Because the Premises can only be used for aquatic recreational purposes and the new lease requires the Tenant to provide general public access to the Premises, there is not available and relevant data to determine the Market Rent of the lease.

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# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Stefani

Subject:

Lease of City Property – Dolphin Swimming and Boating Club – 502 and 504 Jefferson Street – Gross Receipts Rent

The text is listed:

Ordinance approving a lease between the City and County of San Francisco and Dolphin Swimming and Boating Club, a California non-profit corporation, for City property at 502 and 504 Jefferson Street, with an annual rent of 10% of all gross receipts that are not derived from its annual Dolphin Day and 4% of all gross receipts that are derived from its annual Dolphin Day, a term of 25 years, an option to extend for 24 years, and general public access requirements; waiving the Administrative Code's market rent determination requirement that otherwise would apply to this lease; and affirming the Planning Department's determination under the California Environmental Quality.

Signature of Sponsoring Supervisor: /s/ Catherine Stefani

For Clerk's Use Only