

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. 211133, 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. 211133, 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. 211133, for the Original Premises and a portion of adjacent
13 submerged lands (the "Dock Area") under the jurisdiction of the Port Commission ("Port") on
14 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 September 20, 2021 ("MOU"), a copy of which is on file with the Clerk of the Board of
17 Supervisors in File No. 211133.

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.

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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. 211133.

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. 211133. 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,

1 do not materially increase the City’s obligations or liabilities, do not authorize any activities
2 without pursuing all required regulatory and environmental review and approvals, and are
3 necessary or advisable to complete the transactions which the New Lease contemplates and
4 effectuate the purpose and intent of this ordinance.

5 (b) Within 30 days of the New Lease being fully executed by all parties, the
6 Department shall provide the final lease agreement to the Clerk of the Board of Supervisors
7 for inclusion in File No. 211133, the official file for this ordinance.

8 Section 5. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor’s veto of the ordinance.

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13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: /s/
16 CAROL WONG
17 Deputy City Attorney

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