

PERMIT No. 513



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND SOUTHWEST
1220 PACIFIC HIGHWAY
SAN DIEGO, CA 92132-5190

11011
Ser 00/030
March 28, 2013

THE HONORABLE BOARD
OF HARBOR COMMISSIONERS

SUBJECT: ORDER SETTING COMPENSATION UNDER PERMIT NO. 513
WITH THE UNITED STATES OF AMERICA, ACTING THROUGH
THE DEPARTMENT OF THE NAVY, NAVAL ENGINEERING
FACILITIES COMMAND SOUTHWEST

Dear HONORABLE MEMBERS:

I apologize for the time it has taken my staff to negotiate adequate compensation for the payment due under Permit 513. We have reviewed your letter dated 20 December 2012, regarding the proposed compensation rates. The Navy concurs with the proposed compensation for the period of November 26, 2004 through November 25, 2009 at a rate of \$71,345.00 annually for a total of \$356,725.00 for the five-year period. The Navy does not concur with the proposed compensation for the period of November 26, 2009 through November 25, 2014 at a rate of \$86,003.00 annually for a total of \$430,015.00 for the five-year period.

The Navy does not agree that the analysis provided in the appraisal reflects the realities of the economy during this time period. In the appraisal provided by Lea Associates Inc, the appraiser utilized a chart titled Improved Industrial Building Sales Trends (page 20) for the time period 2009 through 2014 to show that the \$86,003 rental estimate was consistent with market trends for industrial land at that time. However, the appraiser did not provide an equivalent chart that analyzed vacant industrial land trends from 2009 through 2014 for comparison. The land chart later provided to the appraiser showed that market changes in building values occurred slightly later than the change in land values, as would be expected in a declining market. As a result, the appraiser's analysis set the market rate for the 5-year period at the market peak for the recent economic cycle based on the building chart whereas use of the land chart would have shown the valuation date

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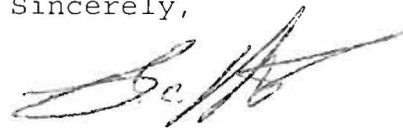
to be lower on the bell-curve resulting in a far lower rental rate estimate for November 2009.

Therefore, the compensation rate of \$86,003.00 proposed by the appraisal report was an overstatement of rental value at that time and is inconsistent with the substantial decline in industrial land values occurring between 2004 and 2009. In actuality, industrial land values decreased from 2004 levels through 2009 and the corresponding rental rate estimate for November 2009 should actually be lower than the November 2004 estimate, not higher, due to declining market conditions within that time period.

The Navy respectfully requests that the Board consider the economic downturn in its evaluation of proposed compensation rates for this time period. A more accurate proposal for the period of November 26, 2009 through November 25, 2010 reflects a rate of \$69,000.00 and for the period of November 26, 2010 through November 25, 2011 reflects a rate of \$72,000.00. For the period of November 26, 2011 through November 25, 2014 the Navy supports setting compensation at a rate of \$74,000.00 annually. The total compensation proposed by the Navy for the five-year period from November 26, 2009 through November 25, 2014 is \$363,000.00.

Your consideration of this request is appreciated, as the Navy faces unprecedented budget cuts while attempting to maintain optimal conditions for our military. The pipeline at issue is mission critical to provide fuel to our Navy ships which stand ready for our country's needs.

Sincerely,



B. C. NEVEL
Captain, CEC, U.S. Navy
Operations Officer
By direction for the
Commanding Officer

ORDER NO.

An Order of the Board of Harbor Commissioners ("Board") of the City of Los Angeles ("City") fixing the compensation to be paid by the UNITED STATES OF AMERICA through SOUTHWEST DIVISION, NAVAL FACILITIES ENGINEERING COMMAND, REAL ESTATE DIVISION, SAN DIEGO ("Government"), pursuant to Permit No. 513 ("Permit"), during the five-year period beginning on November 26, 1999 and ending on November 25, 2004; the five-year period beginning on November 26, 2004 and ending on November 25, 2009; and the five-year period beginning on November 26, 2009 and ending on November 25, 2014.

WHEREAS, the Permit provides the compensation to be paid by the Government shall be subject to readjustment in accordance with the procedures prescribed therein at Section 4(c); and

WHEREAS, the Permit further provides that if an agreement is not reached for the fair market consideration of the subject Premises within forty-five (45) days after the submittal of an appraisal report prepared pursuant to the provisions of Section 4(c), the Board shall have the right to set the fair consideration value of the Premises utilizing evidence including the appraisal report, the Board's adopted policy on rate of return, and any other related factors; and

WHEREAS, more than forty-five (45) days have passed since an appraisal report prepared pursuant to the provisions of Section 4(c) was submitted to the City and the Government; and

WHEREAS, the City and the Government have not reached an agreement for the fair market consideration of the Premises for the relevant five-year time periods; and

WHEREAS, the Board now has the right under the terms of the Permit to set the fair consideration value of the Premises utilizing evidence including the appraisal report, the Board's adopted policy on rate of return, and any other related factors;

NOW, THEREFORE, IT IS HEREBY ORDERED by the Board of Harbor Commissioners of the City of Los Angeles as follows:

Section 1. For the five-year period beginning on November 26, 1999 and ending on November 25, 2004, the Government shall pay to the City as rental for the use of the Premises the lump sum of Three Hundred Eight Thousand Three Hundred Twenty Five Dollars (\$308,325).

Section 2. For the five-year period beginning on November 26, 2004 and ending on November 25, 2009, the Government shall pay to the City as rental for the use of the Premises the lump sum of Three Hundred Fifty Six Thousand Seven Hundred Twenty Five Dollars (\$356,725).

Section 3. For the five-year period beginning on November 26, 2009 and ending on November 25, 2014, the Government shall pay to the City as rental for the use of the Premises the lump sum of Four Hundred Thirty Thousand Fifteen Dollars (\$430,015).

Section 4. This Order shall be retroactive to November 26, 1999 and shall be effective upon execution by the Secretary after approval of the Board.

Section 5. Nothing herein is intended to modify or amend any provision of the Permit; each and every covenant, term and condition of which, as previously amended, shall be and remain in full force and effect.

Section 6. The Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners of the City of Los Angeles.

I HEREBY CERTIFY that the foregoing Order was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting held _____.

JULIE W. HUERTA
Commission Secretary

APPROVED AS TO FORM AND LEGALITY

_____, 2013
CARMEN A. TRUTANICH, City Attorney

By _____
JANET KARKANEN, Deputy