



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: JULY 9, 2014

FROM: REAL ESTATE

**SUBJECT: ORDER NO. _____ - FIRST AMENDMENT TO PERMIT NO. 897
WITH CATALINA CHANNEL EXPRESS, INC.**

SUMMARY:

On January 5, 2012, the Board of Harbor Commissioners (Board) granted Permit No. 897 (Permit) to Catalina Channel Express, Inc. (Catalina) for premises at Berth 95 (Premises). Permit No. 897 authorized Catalina to undertake the construction, operation, and maintenance of a public passenger facility for a 25-year term. The proposed First Amendment to Permit No. 897 (First Amendment) addresses the need to set forth the dimensions of the permit premises, as completed, and adjust the compensation accordingly. A Settlement Agreement and Release of Claims (Settlement Agreement) is being presented to the Board concurrently in Closed Session to settle any and all claims, disputes and controversies associated with the relocation of Catalina as well as those in connection with overpaid percentage rent under the prior permit (Permit No. 768). The compensation set forth in this First Amendment reflects the negotiated settlement amounts.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the proposed First Amendment to Permit No. 897 with Catalina Channel Express, Inc.;
2. Direct the Board Secretary to transmit the First Amendment to Permit No. 897 to the City Council for approval pursuant to Charter Section 606 of the City Charter;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment to Permit No. 897 upon approval by City Council; and
4. Adopt Order No. _____.

DATE: JULY 9, 2014

PAGE 2 OF 4

SUBJECT: FIRST AMENDMENT TO PERMIT NO. 897 WITH CATALINA CHANNEL EXPRESS, INC.

DISCUSSION:

Background and Context - Catalina has been operating the passenger ferry located at Berth 96 to Catalina Island since July 1, 1981 under various entitlements, including a 30-day month-to-month revocable permit from 1981 to 1990 (RP 1467), a five-year permit from 1990-1995 (Permit No. 639), and a ten-year permit from 1995-2005 (Permit No. 768).

The successor permit to Permit No. 768 was not completed prior to its expiration. Catalina was granted holdover status thereafter and continued its occupancy under the same terms and conditions as Permit No. 768.

During the years prior to and after the expiration of Permit No. 768, the adjoining property to the north, held by China Shipping Holding Company, LTD. (China Shipping), began undergoing redevelopment that included expansion of its Berth 100 wharf and backlands southward, to encompass the Premises at Berth 96, which required relocation of Catalina. The need to proceed with the China Shipping expansion in a timely fashion required Catalina to be responsible for all improvements at the new location, including adaptive reuse of an existing City of Los Angeles Harbor Department (Harbor Department) building. Catalina invested approximately five million dollars (\$5,000,000) in effecting its relocation.

Pursuant to Permit No. 897, approved by the Board in 2012, Catalina relocated from its previous facilities at Berth 96 to the new Premises at Berth 95. Modifications to the original plans were necessary for the efficient and safe use of the facility, which required additional land and submerged land areas. As a result of these changes, it is now necessary to amend the Permit in order to account for the changes and adjust the rent accordingly.

The First Amendment compensation schedule takes into account negotiated rates for all parcels, and forgoing percentage rent and Consumer Price Index (CPI) adjustments for an additional period of time, as a condition of the Settlement Agreement.

Proposed Permit Amendment Summary

Premises: The First Amendment to Permit No. 897 (Transmittal 1) updates the Permit Premises (Transmittal 2) to reflect the additional areas noted above. The new Premises map (LAHD Drawing No. 45639-1) will be substituted for the existing Exhibit A.

DATE: JULY 9, 2014

PAGE 3 OF 4

SUBJECT: FIRST AMENDMENT TO PERMIT NO. 897 WITH CATALINA CHANNEL EXPRESS, INC.

Compensation: The additional 19,424 square feet (s.f.) of submerged land area and 1,190 s.f. of land area resulted in a corresponding increase to the Fixed Monthly Compensation as follows:

Permit Year	Period Covered	Fixed Minimum Amount Due
Year 1	July 25, 2012 – July 24, 2013	\$ 5,027/mo
Year 2	July 25, 2013 to November 30, 2013	\$ 5,865/mo
	December 1, 2013 to April 30, 2014	\$ 6,838/mo
	May 1, 2014 to July 24, 2014	\$ 7,777/mo
Year 3	July 25, 2014 – July 24, 2015	\$ 8,753/mo
Year 4	July 25, 2015 – July 24, 2016	\$ 9,730/mo
Years 5-7	July 25, 2016 – July 24, 2019	\$10,707/mo
Years 8-13	July 25, 2019 – July 24, 2024	Reset to Market Rate

In addition to the above, the compensation has been amended to reflect that beginning on July 25, 2023, Catalina will begin to pay the higher of:

- (1) the Fixed Minimum Compensation; or
- (2) Percentage Compensation (percentage of Gross Receipts)

Similarly, beginning in 2023, the Fixed Minimum Compensation will be adjusted by the CPI, adjusted from the year of the last Fixed Minimum Compensation reset. As previously mentioned, this compensation schedule is part of the negotiated terms as more fully described in the Settlement Agreement.

Other Terms and Conditions: All other terms and conditions of the Permit shall remain the same.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Amendment to Permit No. 897 with Catalina to set forth the final permit premises and adjust the compensation accordingly. The relocation of Catalina was included and analyzed in the China Shipping Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR) and the San Pedro Waterfront FEIS/FEIR which were certified on December 8, 2008 and September 29, 2009, respectively. As an administrative activity related to an activity for which the underlying project has previously been evaluated for environmental significance and processed according to the requirements of the California Environmental Quality Act (CEQA), the Director of Environmental Management has determined that the proposed action is exempt from the requirements of CEQA in accordance with Article II Sections 2(f) and 2(i) of the Los Angeles City CEQA Guidelines.

DATE: JULY 9, 2014

PAGE 4 OF 4

SUBJECT: FIRST AMENDMENT TO PERMIT NO. 897 WITH CATALINA CHANNEL EXPRESS, INC.

ECONOMIC BENEFITS:

This Board action will have no employment impact.

FINANCIAL IMPACT:

Consistent with the terms of Permit No. 897, annual compensation is phased over the first five years of the amendment period to reach the full annual market rent of \$128,484 in the fifth year. Compensation is consistent with the Board's policy based on a minimum ten percent rate of return on the 2012 estimated land value of \$22.00 per square foot and the estimated submerged land value of \$7.33 per square foot. As part of the negotiated settlement, Parcels 3 and 6 (submerged land) will accrue no rent until 2019. Additional revenue to the Harbor Department will begin to accrue in 2023, when payment of percentage rent commences.

CITY ATTORNEY:

The proposed First Amendment has been approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

- 1. First Amendment to Permit No. 897
- 2. Site Map



JACK C. HEDGE
Director of Real Estate

FIS Approval: WR (initials)
CA Approval: JB (initials)



DAVID L. MATHEWSON
Interim Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director