



Executive Director's  
Report to the  
Board of Harbor Commissioners

**DATE:** MAY 23, 2024  
**FROM:** WATERFRONT & COMMERCIAL REAL ESTATE  
**SUBJECT:** ORDER NO. \_\_\_\_\_ – RESETTING COMPENSATION UNDER CONCESSION AGREEMENT NO. 791 WITH CALIFORNIA YACHT MARINA-CABRILLO, LLC

**SUMMARY:**

Staff requests approval of an Order resetting compensation under Concession Agreement No. 791 (CA 791) with California Yacht Marina-Cabrillo, LLC (Cal Yacht) for the construction, operation, and maintenance of a facility for a recreational vessel marina and related uses such as vessel dry storage and incidental purposes. CA 791 grants Cal Yacht the right to use City of Los Angeles Harbor Department (Harbor Department) property consisting of 373,777 square feet (s.f.) of land area (8.58 acres) and 1,617,071 s.f. of water area (37.12 acres) located within Phase I of the West Channel Development Area (Berths 27-30).

The proposed Order resetting compensation covers the 10 year period from January 1, 2023, through December 31, 2032, and includes both Fixed Minimum Rent (FMR) and percentage rent. Under the proposed Order, percentage rent rates would remain unchanged, and FMR would increase by \$88,528.06, or 7.5 percent, from \$1,180,374.14 as of December 31, 2022 to \$1,268,902.20 as of January 1, 2023. Thereafter, FMR would increase by the annual change in the Consumer Price Index (CPI), subject to a floor of zero percent.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II, Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve the Order resetting compensation for the period of January 1, 2023, through December 31, 2032, under Concession Agreement 791;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the Order resetting compensation under Concession Agreement 791; and
4. Adopt Resolution No. \_\_\_\_\_ and Order No. \_\_\_\_\_.

**DISCUSSION:**

Background – The proposed Order (Transmittal 1) and Site Map (Transmittal 2) resets compensation for Cal Yacht. CA 791 has a 50-year term that commenced on August 1, 1998, and terminates on December 31, 2047, with compensation resets for every successive 10-year period (consistent with the City Charter at that time). However, Cal

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Yacht's last three compensation resets were for five-year periods from January 1, 2008, through December 31, 2012, under Order 10-7056; January 1, 2013, through December 31, 2017, under Order 13-7139; and January 1, 2018, through December 31, 2022, under Order 17-7229. The tenant requested shorter compensation periods due to concern with the implementation of annual CPI for fixed minimum rent and simultaneous opening of the adjacent Cabrillo Way Marina (developed by the Harbor Department). The Cabrillo Way Marina more than doubled the wet slip capacity of the former marina in the same location and introduced 300+ dry storage spaces that has weakened the demand for wet slips below 40 feet in length. Following stabilization and near 90 percent occupancy rates achieved at Cabrillo Way Marina, Cal Yacht is now requesting to move back to the 10-year compensation reset periods outlined in their permit, which will cover the period from January 1, 2023, through December 31, 2032.

Compensation Reset – The total rental compensation is composed of two components: the FMR subject to annual CPI adjustments and the Percentage Rate (PR). PR is based upon gross receipts for various activities and proposed to remain the same consistent with comparable marinas.

Percentage Rent – Percentage rental rates pertain to various revenue sources with the prominent revenue source being wet slip rent from recreational vessels. Percentage rates for primary revenue sources include 25 percent of recreational vessel berthing, 22.5 percent of newly constructed recreational vessel berthing, 10 percent of locker and storage rentals, and 5 percent of gross receipts from any other activities. Current percentage rental rates are in line with market conditions within the Port of Los Angeles and the larger Southern California marina market and therefore no adjustments are required at this time.

Fixed Minimum Rent - The FMR, as established in 2010 under Order No. 10-7056, uses the Economic Performance Method (EPM) calculation. Utilizing the EPM, FMR will be the greater of the FMR due at the reset date January 1, 2023, or 75 percent of the average annual total rent (FMR and PR) paid in the prior three years as illustrated below.

- I. FMR is 75 percent of the average annual total rent (greater of the FMR or Percentage Rent) owed over the previous three years.

<b>Economic Performance Method FMR + PR (TABLE 1)</b>	
2020 Total Annual Rent	\$ 1,161,853.39
2021 Total Annual Rent	\$ 1,218,850.67
<u>2022 Total Annual Rent</u>	<u>\$ 1,349,068.80</u>
<b>Total 3 year</b>	<b>\$ 3,729,772.86</b>
3 year Average Total Rent	\$ 1,243,257.62
<b>AVERAGE TOTAL RENT (75%)-YEARLY-FMR</b>	<b>\$932,443.22</b>
<b>FMR 2023</b>	<b>\$1,268,902.20</b>

Based upon the above analysis, under the EPM calculation, FMR was determined to be

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\$932,443.22. However, the figure calculated under the EPM calculation is less than the FMR of \$1,268,902.20 determined by applying the CPI increase of 7.5 percent effective January 1, 2023. Therefore, staff has utilized the amount of FMR determined by the application of CPI.

- II. The new FMR is proposed to remain at \$1,268,902.20, adjusted by annual CPI.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is the approval of Order resetting compensation under CA 791, granting Cal Yacht the continued use of Harbor Department property, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

**FINANCIAL IMPACT:**

Approval of the proposed compensation reset Order would result in percentage rent rates remaining unchanged, while the FMR would increase by \$88,528.06, or 7.5 percent, from \$1,180,374.14 as of December 31, 2022 to \$1,268,902.20 as of January 1, 2023. Thereafter, FMR would increase by the annual change in the CPI, subject to a floor of zero percent.

**CITY ATTORNEY:**

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

**TRANSMITTALS:**

- 1. Order
- 2. Site Map

FIS Approval: JS (initials)  
CA Approval: SO (initials)

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Director of Waterfront & Commercial Real Estate

*Dina Aryan-Zahlan*  
MICHAEL DIBERNARDO for  
Deputy Executive Director

APPROVED:

*Erica M. Calhoun* for  
EUGENE D. SEROKA  
Executive Director