



DATE: MARCH 30, 2017

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ - APPROVAL OF ACCESS AGREEMENT TEMPLATE FOR SAN PEDRO PUBLIC MARKET, LLC

SUMMARY:

Staff requests approval of an Access Agreement template and authorization for the Executive Director to grant an Access Agreement in the form provided to San Pedro Public Market, LLC (SPPM) on an as-needed basis for due diligence activities required prior to taking possession and commencement of construction activities on the current Ports O'Call site. During the pre-construction period, SPPM will require non-possessory rights to access the Ports O'Call site to perform work such as surveying, soil testing, and other pre-construction related activities. Specifically, staff requests approval for: (1) an Access Agreement template with no requirement for compensation and (2) Executive Director authorization to grant Access Agreements to SPPM for the purposes stated above on the approved template.

RECOMMENDATION:

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

1. Find that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines as determined by the Director of Environmental Management;
2. Approve the template entitled Access Agreement;
3. Authorize the Executive Director, or designee, to grant Access Agreements on the approved template to San Pedro Public Market, LLC; and
4. Adopt Resolution No. _____.

DISCUSSION:

Background/Context – On May 16, 2016, the Board approved Permit No. 915 (Permit) with SPPM for the redevelopment of the Ports O'Call area. The Los Angeles City Council subsequently approved the Permit at its June 10, 2016, meeting.

At the time the Permit was approved by the Board, placeholders were used for exhibits that were still in the process of being created, including a proposed agreement to access the Ports O'Call site for pre-construction due diligence. The Permit is silent on

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the Executive Director's authority to authorize modifications or additions to exhibits. Therefore, staff is requesting Board approval of an Access Agreement template to allow the Executive Director to issue Access Agreements to SPPM to perform pre-construction due diligence as needed prior to the possessory period of the Permit.

The purpose of the Access Agreement (Transmittal 1) is to provide non-possessory rights in the form of a license to enter and work on the premises during the time periods where the City of Los Angeles Harbor Department is in possession of the premises prior to the possessory period of the Permit. The Access Agreement will be issued for specific activities and specific periods based on Developer requests. The Executive Director, or his designee, is proposed to be authorized to issue Access Agreements. Any Access Agreements that materially deviate from the Access Agreement template or exceed the authority granted to the Executive Director pursuant to the City Charter shall require Board approval.

In conforming to the terms and conditions of the Board approved Permit 915, this Access Agreement deviates from standard Port land use provisions in the following manner:

1. The Access Agreement includes non-standard terms for insurance and indemnification that are identical to the terms in Permit 915 More specifically; Indemnity is separated into two categories: 1) on-site premises and 2) off-site premises. On-site indemnity to the Harbor Department is required, regardless of availability of insurance or its coverage limits, during the term of the Access Agreement. Off-site indemnity to the Harbor Department is required, but limited to the amount of insurance coverage required by the Department..
2. The Access Agreement foregoes rent for the defined limited time period of the investigative and preparatory use of the premises.
3. The Access Agreement foregoes any Tariff No. 4 fees and charges for the defined limited time period of the investigative and preparatory use of the premises.
4. The term of the Access Agreement is of a limited time period sufficient for the investigative and preparatory use of the premises.
5. The permitted uses of the Access Agreement shall reflect the Developer's requested investigative and preparatory work outlined in the Application for Port Project (APP) and conform to any obligations or restrictions that may be required as a result of the approval of the APP specific to the Access Agreement.
6. The Developer, and Developer's consultants, will be responsible for any contamination they cause and not for any pre-existing contamination.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a Resolution authorizing the Executive Director to enter into Access Agreements based on an approved template for pre-construction activities in the Ports O'Call area. The SPPM project was assessed pursuant to CEQA in a May 2016 addendum to the certified San Pedro Waterfront Project Environmental Impact Report. Therefore, as an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements

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of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Executive Director authority to execute the Board approved Access Agreement does not, in and of itself, have a financial impact.

CITY ATTORNEY:

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

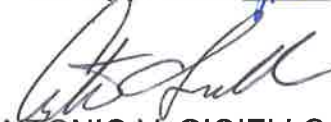
TRANSMITTAL:

1. Access Agreement Template



MICHAEL J. GALVIN
Director of Waterfront & Commercial Real Estate

FIS Approval: MB (initials)
CA Approval: AG (initials)



ANTONIO V. GIOIELLO, P.E.
Deputy Executive Director

APPROVED:



FOR EUGENE D. SEROKA
Executive Director