



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MAY 17, 2017

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ RESETTING COMPENSATION
UNDER PERMIT NO. 520 WITH LA SKY HARBOR, LLC**

SUMMARY:

Staff requests approval of the Order resetting compensation for Permit No. 520 (Permit) with LA Sky Harbor, LLC (LASH). The Permit grants LASH use of approximately 7.52 acres of City of Los Angeles Harbor Department (Harbor Department) land at 2800 Via Cabrillo Marina, San Pedro, California, for the operation of a hotel and incidental purposes. The hotel is currently licensed as the Doubletree by Hilton Hotel San Pedro – Port of Los Angeles (Doubletree). The proposed Order resets compensation for the five-year period effective January 24, 2017, with annual consumer Price Index (CPI) adjustments thereafter through January 23, 2022. Under this Order, the annual fixed minimum rent will increase 25 percent from \$170,724 to \$213,240, with percentage rents for income from various categories remaining the same. The annual fixed minimum rent adjustment will be retroactive to January 24, 2017, and is the financial responsibility of LASH.

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 Order resetting compensation under Permit No. 520 with LA Sky Harbor, LLC for the Period January 24, 2017 through January 23, 2022;
3. Authorize the Board Secretary to attest to the Order resetting compensation; and
4. Adopt Resolution No. _____ and Order No. _____.

SUBJECT: ORDER RESETTING COMPENSATION UNDER PERMIT NO. 520**DISCUSSION:**

Background - The Board approved the Permit, a 50-year agreement, in 1985. It was amended in 1996, extending the term by 11 years, with an expiration date of December 12, 2046. The premises is improved with a 226-room hotel, restaurant, swimming pool, tennis courts, nonexclusive parking, and related commercial facilities. The Doubletree and all site improvements are owned and maintained by LASH. As required by the terms and conditions of the Permit, and in compliance with Section 607 of the City Charter, it is necessary to reset compensation for the five-year period from January 24, 2017 through January 23, 2022 (Transmittal 1).

The compensation reset was delayed due to concurrent negotiations regarding the tenant's reinvestment in the premises. An agreement to separate the unrelated issues took longer than expected, resulting in the proposed compensation being past due. The proposed reset is retroactive to the due date of January 24, 2017.

Since LASH was assigned the Permit, they have been a tenant in good standing pursuant to the requirements set forth in the Port of Los Angeles Waterfront Commercial Leasing Guidelines. Since acquiring the premises (Transmittal 2) in February 2013, LASH has made capital investments to improve the hotel, estimated at approximately \$6.6 million, improved the economic performance from the prior tenant, and made all rental payments to the Harbor Department on a timely basis.

Current Compensation - On December 6, 2012, the Board approved Order No. 12-7117 establishing the compensation for the five-year period from January 24, 2012 to January 23, 2017. Compensation under the Permit is based upon both a fixed minimum rent, plus any percentage of gross receipts (percentage rent) that exceeds the fixed minimum rent. Percentages of gross receipts comprise the cumulative percentage revenue totals from various LASH operations. Fixed minimum rent is currently \$14,227 per month (\$170,724 annually). The current compensation does not include annual CPI escalations; however, during the last three years, LASH consistently exceeded its fixed minimum rent, averaging approximately \$23,693 per month, or \$284,316 annually, thus exceeding the growth of CPI.

Proposed Compensation - The annual fixed minimum rent is proposed to be reset using the Economic Performance Methodology, which establishes minimum rent by applying a 25 percent discount to the past three-year average of total compensation collected. Adjusting the prior year's fixed minimum rent based on the Economic Performance Methodology results in a proposed annual fixed minimum rent of \$213,240. Therefore, it is proposed that effective January 24, 2017, the fixed minimum rent be set at \$17,770 per month. Percentage rent is proposed to remain the same for all categories. The fixed minimum rent shall be adjusted annually for inflation using the November CPI beginning on January 24, 2018.

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		Fixed Minimum Rent Comparison		
	Prior Year's Fixed Minimum Rent	Prior Year's Fixed Minimum Rent adjusted by CPI (1.021%)	75% of Average Annual Rent (\$284,311) paid during past Three Years	Proposed Fixed Minimum Rent effective January 24, 2017
Annual	\$ 170,724	\$ 174,309	\$ 213,240	\$ 213,240
Monthly	\$ 14,227	\$ 14,526	\$ 17,770	\$ 17,770

Proposed 2017 Percentage Rent (No Change)			
PERCENTAGE RENT FOR ROOMS, FOOD & BEVERAGES		PERCENTAGE RENT FOR OTHER REVENUE SOURCES	
\$0 - \$4,999,999	2.0%	Office Rental	10.0%
\$5,000,000 - \$7,499,999	2.5%	Retail Sales	3.0%
\$7,500,000 - \$8,999,999	3.0%	Vessel Insurance Brokerage	10.0%
\$9,000,000 and above	3.5%	Sale of Vessels/Yacht Brokerage	10.0%
		Vending Machine Commission	25.0%
		All Other Revenues	5.0%

Staff requests that the Board approve the proposed Order to set compensation under the Permit for the period of January 24, 2017 through January 23, 2022.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Order resetting compensation under Permit No. 520 with LASH, which is an administrative activity. As such, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of CEQA in accordance with Article II, Section 2(f), of the City of Los Angeles CEQA Guidelines.

FINANCIAL IMPACT:

The proposed Order resetting the fixed minimum rent is effective January 24, 2017 through January 23, 2022. Retroactive to January 24, 2017, the minimum annual amount will increase by 25 percent from \$170,724 to \$213,240, and will adjust annually in line with CPI starting January 2018, with a floor of zero and no ceiling on CPI escalations. Because the tenant's total compensation paid based on percentage of gross receipts has consistently exceeded the fixed minimum amount due, the proposed increase in the fixed minimum compensation is not expected to have a financial impact on the Harbor Department assuming the tenant's business operations continues to perform at least as well as it has in the recent past. LASH will continue to bear operating and maintenance cost responsibilities under their permitted premises.

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CITY ATTORNEY:

The 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: MB (Initials)
CA Approval: gm (Initials)



MICHAEL J. GALVIN
Director of Waterfront & Commercial Real Estate



FOR MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

ES:MD:MG:ER:RV:KS:raw
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