



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: JUNE 5, 2013

FROM: REAL ESTATE

**SUBJECT: ORDER NO. _____ - RESETTING COMPENSATION UNDER
CONCESSION AGREEMENT NO. 521 WITH VIA CABRILLO MARINA
2500, LLC.**

SUMMARY:

Concession Agreement No. 521 (CA 521) is a 50-year agreement which grants Via Cabrillo Marina 2500, LLC, a California Limited Liability Company (Via Cabrillo), use of approximately 39,531 square feet (s.f.) of City of Los Angeles Harbor Department (Harbor Department) land at 2500 Via Cabrillo Marina, San Pedro, for constructing, operating, and maintaining facilities for a convenience restaurant; charter vessel facility; vessel brokerage and insurance; sale of marine hardware and sundry items; rental of marine-related office space; marina-related retail sales; and incidental purposes.

Compensation for the five year period of September 1, 2012 through August 31, 2017 is proposed to start at \$66,526 annually, based on the same rate structure as the previous five-year compensation period, with a similar annual Consumer Price Index for All Items, All Urban Communities for the Los Angeles - Riverside and Orange Counties (CPI-U) adjustments each July 1.

RECOMMENDATION:

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

1. Approve the Order resetting compensation under Concession Agreement No. 521 with Via Cabrillo Marina 2500, LLC., for the five-year period of September 1, 2012 through August 31, 2017;
2. Authorize the Board Secretary to attest to the Order resetting compensation to be paid by Via Cabrillo Marina 2500, LLC., pursuant to Section 1(13) of the First Amendment to Concession Agreement No. 521; and
3. Adopt Order No. _____.

DISCUSSION:

Background/Context – The premises under CA 521, as identified on Harbor Engineering Drawing No. 5-5726 (Transmittal 1), is inclusive of a 39,531 s.f. site, 5,000 s.f. of which is at no charge. The no-charge parcel is accessible to the public and is also utilized by the adjacent Doubletree by Hilton Hotel. Tenant-owned improvements include a three-story office building (25,115 s.f.). See Transmittals 2 and 3.

SUBJECT: PROPOSED COMPENSATION RESET FOR VIA CABRILLO MARINA

Beginning on December 1, 2009, the rent for the five-year period of September 1, 2007 through August 31, 2012 was fixed at \$62,156.00 per year (\$5,179.67 per month), and the percentage rent was set at zero percent which provided the Harbor Department with an eight percent rate of return. The 2009 rental compensation at an eight percent rate of return deviated from the Board's adopted policy of a ten-percent rate of return on land value. The estimated 2008 land value rates were between \$30.00 and \$45.00 per s.f. However, the appraiser determined, based on the economic generation ability of the facilities, that the rental value for the subject property was much lower. The appraiser estimated that with the use restrictions of the permit, and the current location and condition of the improvements, that the rental value for the properties, resulted in at most a \$22.50 per s.f. land rental valuation and in some cases much less. Therefore, the \$22.50 per s.f. land value rate was approved by the Board in consideration of the conclusions reached in 2008 appraisal.

The annual rental rate was calculated using the land value of \$22.50 per s.f., with an eight percent rate of return, based upon the 2008 appraisals, of adjacent properties, West Channel Development Phase I area marinas. Effective July 1, 2010, and every year thereafter, the annual rent was adjusted by the CPI-U and the percentage rent remained at zero. Subsequent annual CPI-U adjustments have resulted in a current annual rental amount of \$66,526.07 (\$5,543.84 per month).

Subsequently, management and majority interest in the facility transitioned to Nicholas Tonsich, former president of the Board. After the management and majority interest transition, Via Cabrillo addressed several facility maintenance issues in late 2008 and through 2009, including roof and heating, ventilation, and air conditioning replacement.

The rental reset occurring in 2008 with annual CPI adjustments for Via Cabrillo substantially increased their rent. Due to the CPI adjustments, the rent has increased by approximately two percent per year and results in a nine point eight percent rate of return, which exceeds the eight percent rate of return from the last reset approved by the Board. The rate seems consistent with what the property can bear, based on prior performance and is in line with the appraisal methodology used for the previous reset. In consideration of the economic conditions and investment into the building, it is proposed that the current annual rent for the period of September 1, 2012 through August 31, 2017, begin at the current annual rate of \$66,526.07 (\$5,543.84 per month), with a CPI-U adjustment every July 1 and no percentage rent. In no event shall annual rent be lower than the prior year's annual rent (Transmittal 4).

A proposed Third Amendment to CA 521 is being presented to the Board concurrently with this proposed compensation reset. The proposed Third Amendment, subject to Board and Los Angeles City Council approval, will delete the percentage rent requirement, as it is not customary for this type of building use, and amend the use requirements to reflect the marine-related office space use of the three-story building.

SUBJECT: PROPOSED COMPENSATION RESET FOR VIA CABRILLO MARINA

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Order resetting compensation under CA 521 with Via Cabrillo. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act in accordance with Article II Section 2 (f) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no direct employment impact.

FINANCIAL IMPACT:

Approval of the proposed compensation reset would provide the Harbor Department with annual rental revenue of \$66,526.07, adjusted every July 1 by the CPI-U.

CITY ATTORNEY:

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

TRANSMITTALS:

- 1. Engineering Drawing No. 5-5726
- 2. Site Map
- 3. Photo of Office Building
- 4. Order

FIS Approval: WP (Initials)
CA Approval: CSB (Initials)

for JACK C. HEDGE
Director of Real Estate

FOR 
KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:


GERALDINE KNATZ, Ph.D.
Executive Director