



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: NOVEMBER 28, 2017

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ - APPROVE PROPOSED SUCCESSOR
PERMIT NO. 921 WITH LEEWARD BAY MARINA**

SUMMARY:

Staff requests approval of proposed Permit No. 921 (Permit) with Leeward Bay Marina (LBM) for the continued use of City of Los Angeles Harbor Department (Harbor Department) property at Berth 200-I in Wilmington to supersede existing Revocable Permit No. 1487 (RP 1487). The Permit grants LBM the use of Harbor Department property for the construction, operation, and maintenance of the marina for berthing of recreational vessels. In addition, the Permit allows for the continuation of a sublease with the "Chowder Barge" restaurant and the cancellation of Temporary Entry and Use Permit (TEUP) No. 814 for temporary use of the water area.

Consistent with the terms of the other nine Wilmington marinas, this Permit will be retroactively effective as of November 1, 2015, and terminates on October 31, 2025. The next five-year reset will be November 1, 2020. The New Minimum Fixed Rent (MFR), effective November 1, 2015, will be \$77,983 per year, which is less than the projected Percentage Rent of \$111,192 per year.

RECOMMENDATION:

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

1. Find that the proposed action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(14) of the Los Angeles City CEQA Guidelines as determined by the Director of Environmental Management; Approve Permit No. 921 with Leeward Bay Marina including the sublease with the Chowder Barge;
2. Direct the Board Secretary to transmit Permit No. 921 to the City Council for approval pursuant to Charter Sections 606 and 607;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the Permit No. 921 upon approval by the City Council; and
4. Adopt Resolution No. _____.

SUBJECT: PROPOSED SUCCESSOR PERMIT WITH LEEWARD BAY MARINA

DISCUSSION:

Background – The proposed Permit (Transmittal 1) with LBM is for the continued operation and maintenance of facilities at the Wilmington marina for pleasure boat and yacht mooring anchorage and incidental purposes, including the leasing of slip space to a floating restaurant called the “Chowder Barge” (Transmittal 2). LBM has been a tenant of the Harbor Department under Revocable Permit No. 1487 since 1982 and is a tenant in good standing.

There are ten Wilmington marinas (Transmittal 3), of which nine were granted 30-year permits effective November 1, 1995, while LBM continued on RP 1487 due to its proximity to the then proposed Consolidated Slip improvements at Berth 200G-H. Since the improvements never materialized, the Waterfront and Commercial Real Estate Division is requesting that LBM be placed on a permit of similar terms and conditions as the other nine Wilmington marinas as detailed below.

In 2016, the Board amended the nine marina permits by resetting the MFR based on the Economic Performance Method (EPM) and established an Improvement Set Aside Account (ISAA) for Wilmington marina upgrades, as described on Item No. 4 below:

Terms of Proposed Permit No. 921:

1. Premises: Depicted on Engineering Drawing No. 45582-2, Revised June 2017 (Transmittal 4), comprising of Parcels Nos. 1, 2, 3 and 4, which consists of land, water, slips, and all existing buildings and structures included therein.
2. Effective and Termination Date: The Permit shall become effective retroactively to November 1, 2015, upon the execution by the Harbor Department’s Executive Director after City Council approval. The Termination Date shall be October 31, 2025. This date is consistent with all other permits for Wilmington Marinas.
3. Compensation: The MFR shall be \$77,983 per year. This proposed MFR was calculated using the EPM. The EPM calculates the MFR by taking 75 percent of the 2012 through 2014 average monthly Percentage Slip Rent reported on its Gross Receipts Report Form (GRRF). The MFR is paid monthly in advance and is retroactive to November 1, 2015 through October 31, 2020, based on the EPM.

The MFR will be adjusted every fifth year with no annual Consumer Price Index (CPI) adjustment/increases, which is consistent with the terms previously approved for the other nine Wilmington marinas. The current MFR was based on a modified land and water value. This method in many of the marinas effectively made the fixed rent exceed 20 percent of the gross receipts; stressing marina viability and reducing capital available for maintenance of long-term improvements.

Therefore, staff proposes implementation of an EPM that is also widely used as the standard among several Southern California marinas within municipal harbors, as well as in the Harbor Department’s marinas.

SUBJECT: PROPOSED SUCCESSOR PERMIT WITH LEEWARD BAY MARINA

<i>Economic Performance Method</i>	
2012 slip rent	\$106,210.00
2013 slip rent	\$105,549.00
<u>2014 slip rent</u>	<u>\$100,173.00</u>
Three year total	\$311,932.00
Three year avg.	\$103,977.33
75% of average	\$77,983.00
Monthly MFR (75%÷12)	\$6,498.58

Additionally, LBM will continue to pay the Percentage Rent, as detailed on the GRRF. The Percentage Rent paid has consistently exceeded the MFR.

4. Improvement Set Aside Account: An ISAA shall be established under the same terms and conditions as the other nine Wilmington marinas. The rent credits shall be retroactive to November 1, 2015, and continue until October 31, 2020. The LBM Permit establishes an ISAA in the form of a rent credit equal to 25 percent of the percentage slip rent toward the funding of pre-approved improvements on the premises. As of August 15, 2017, LBM would have an eligible Set A Side Rent Credit amount of \$50,941 from the November 1, 2015 commencement date. All projects will be approved and inspected by staff. LBM must submit paid invoices and proof of work completion prior to the issuance of any rental credits.

To date, no long-term improvement plan for the Wilmington Marina area has been established by the Harbor Department. As such, deterioration of the marinas goes mostly un-rectified except for emergency and patch repairs.

Due to the relatively short term remaining on the permits, the deferred renovations by the Harbor Department and tenants, and the additional impact of the past ten-year decline in pleasure boating, the marinas have experienced an 18 percent decline in gross revenues from 2005 to 2014.

Staff therefore recommends LBM, like the other nine Wilmington marinas, allocate 25 percent of the percentage rent earmarked for infrastructure and facilities improvements, estimated at \$30,000 annually, to stem the tide of deterioration and allow the Harbor Department time to evaluate the long-term development plan for the East Basin/Cerritos Channel and Berths 206-209.

5. Live-aboard/Marina Regulations Defined: The current live-aboard privileges will be reduced to 5 percent from 10 percent of the total number of slips by attrition.
6. Cancellations: RP 1487 and TEUP No. 814 shall terminate upon execution of the Permit.

SUBJECT: PROPOSED SUCCESSOR PERMIT WITH LEEWARD BAY MARINA

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a successor Permit with LBM, which is an activity involving the issuance of a permit to use an existing facility involving negligible or no expansion of use. As such, the Director of Environmental Management has determined that the proposed action is categorically exempt from the requirements of CEQA in accordance with Article III Class 1(14) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The proposed resetting of the MFR will decrease the MFR from the current obligation of \$87,648 per year to \$77,983 per year, but since the LBM Percentage Rent average is over \$111,192 per year, there should be no loss of revenue to the Harbor Department, as a result of the reduced MFR. Additionally, the ISAA will go toward the upgrade of LBM and will ultimately increase the value of this asset.

CITY ATTORNEY:

The proposed Permit is subject to approval as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

- 1. Permit No. 921
- 2. Chowder Barge Sublease
- 3. Wilmington Marina Map
- 4. Engineering Drawing No. 45582-2


 MICHAEL J. GALVIN
 Director of Waterfront & Commercial Real Estate

FIS Approval:  (initials)
 CA Approval:  (initials)


 MICHAEL DiBERNARDO
 Deputy Executive Director

APPROVED:


 EUGENE D. SEROKA
 Executive Director