

FIRST AMENDMENT TO AGREEMENT NO. 13-3112
BETWEEN THE CITY OF LOS ANGELES AND
PORTS AMERICA CRUISE, INC.

THIS FIRST AMENDMENT to Agreement No. 13-3112 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board"), and PORTS AMERICA CRUISE, INC. ("Operator") as follows:

1. Exhibit E entitled COMPENSATION AND PAYMENT is replaced in its entirety. (See attached Exhibit E.)
2. Page 7 of 9 of Exhibit B entitled SCOPE OF WORK is replaced. (See attached Page 7 of Exhibit B.)
3. Upon approval of this FIRST AMENDMENT by the Board of Harbor Commissioners and City Council, Operator shall receive a one-time reimbursement of \$198,816 for the purchase of two gangways for Overflow Facilities.

Except as amended herein, all remaining terms and conditions of Agreement No. 13-3112 shall remain in full force and effect.

IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. 13-3112 on the date to the left of their signatures.

THE CITY OF LOS ANGELES, by its
Board of Harbor Commissioners

Dated: _____

By _____
EUGENE D. SEROKA
Executive Director

Attest _____
Board Secretary

Dated: 12/18/14

PORTS AMERICA CRUISE, INC.

By: _____
Steve Kostley
STEVE KOSTLEY - VICE PRESIDENT
(Print/type name and title)

Attest: _____
Jason Winter
Jason Winter / General Manager
(Print/type name and title)

APPROVED AS TO FORM AND LEGALITY

January 5, 2014
MICHAEL N. FEUER, City Attorney
Janna B. Sidley, General Counsel

By [Signature]
MINAH PARK, Deputy/Assistant

Account #	<u>13150</u>	W.O. #	<u>000</u>
Ctr/Div #	<u>0424</u>	Job Fac. #	<u>000</u>
Proj/Prog #	<u>000</u>		
Budget FY:		Amount:	
	<u>14/15</u>		<u>\$198,816</u>
	TOTAL		\$198,816
For Acct/Budget Div. Use Only:			
Verified by:	<u>[Signature]</u>		
Verified Funds Available:	<u>[Signature]</u>		
Date Approved:	<u>12/29/2014</u>		

Rev. 06/23/14

MAINTENANCE AND REPAIR RESPONSIBILITIES

OPERATOR RESPONSIBILITIES

Ports America shall perform the following:

<p>Operator is responsible for the operation, and fueling (if/when needed), of all Port-owned equipment provided on the premises, including, but not limited to:</p> <ul style="list-style-type: none"> • Green machine vacuum 286-21 model #636HS • Tennant vacuum 286-13 model #R14 ready space • Tennant 7400 scrubber machine* • Tennant 6100.7496 sweeper /vacuum • 4 FMT brand passenger gangways • 300 Stanchions • 1500 chairs • Audiovisual Infocaster system with 29 TV monitors • Access control computer system • Security monitor computer & camera system • 2 overhead passenger gangway systems • 2 passenger gangway systems at overflow facilities • Wooden office furniture set in Terminal Manager's Office <p>* Operator is responsible for all maintenance, repair and future replacement of the Tennant 7400 scrubber machine.</p>
<p>Regular janitorial cleaning of restroom floors, walls, mirrors, fixtures and refilling or replacement of towel and soap dispensers, non-operational light bulbs prior to each vessel arrival.</p>
<p>Area vacuuming of carpets after each vessel arrival.</p>
<p>As-needed spot stain treatment of carpets. Minimum quarterly cleaning of carpets.</p>
<p>At least quarterly wash windows. Additional washing as needed.</p>
<p>High dusting on a quarterly basis, at minimum.</p>
<p>Cleaning of interior casework and other surfaces prior to each vessel arrival</p>
<p>As-needed sweeping of exterior pedestrian ways accessible by vehicles and passengers.</p>
<p>Cleaning exterior pedestrian ways on a monthly basis.</p>
<p>Removal and proper disposal of bird droppings on daily basis.</p>
<p>Regular interior cleaning of FMT passenger gangways.</p>
<p>As-needed cleaning of interior walls, doors and sliding doors, but no less than on a quarterly basis.</p>
<p>Trash pick-up and disposal, including areas at the Office Block premises.</p>
<p>Operation and maintenance of all audio visual and sound equipment used by the cruise lines, including the newly installed "Electrosonic System."</p>
<p>Provide custodial/janitorial services, repair all fixtures, provide all cleaning supplies and paper products, trash pickup. Ensure facilities are maintained in a sanitary and high standard condition at all times.</p>

COMPENSATION AND PAYMENT

The Operator shall receive the following compensation for its services:

1. **Fixed Monthly Fee**

\$125,000 per month* (regardless of number of days the vessel may be at berth at the Cruise Terminal during such call) ("Fixed Monthly Fee") payable, upon monthly submission of an invoice stipulating the name, date, services provided and duration of vessel calls that have occurred for that monthly period.

For the first month after the Effective Date only, Operator shall receive a one-time additional fee of \$30,000 for the upgrade of the audio/visual equipment, as needed for the Operator to enter into an annual maintenance contract with a service provider, due to the age and obsolescence of certain computer components integral to the system.

The compensation paid in the amount of \$125,000 per month, includes all maintenance and repair costs associated with the audio/visual equipment installed on the premises.

Fixed Monthly Fee is inclusive of all charges, and no additional reimbursement for any other service or operating item shall be paid by the City. Payment of the Fixed Monthly Fee will not be made by the City to Operator in advance of any month or vessel call.

2. **Options Period Compensation Renegotiation**

At the conclusion of the initial five-year term and each 5-year options period thereafter of this Agreement, Operator and City shall renegotiate compensation amounts. At least six (6) months prior to the conclusion of the initial five-year term and any options period of this Agreement, Operator and City shall begin negotiations.

3. **Overflow Facilities**

Compensation paid for any overflow cruise facilities, as needed for when there are three or more cruise vessels calling at the Port of Los Angeles in one day, shall not exceed \$150,000*. Compensation shall include, but not be limited to the following expenses: rental and acquisition of materials, equipment and supplies needed for the embarkation/debarkation of cruise passengers and vessel supplies; facility rentals; scanning equipment; tents; shuttle transportation services; and any other expenditures that may be deemed necessary by the United States Coast Guard and/or the United State Customs and Border Protection Agency.

Operator shall provide City at least 15 calendar days advanced notice of three or more cruise vessels calling at the Port of Los Angeles prior to date of ship call and provide an anticipated expense sheet to be reviewed by the City. If 15 calendar days advanced notice is impracticable due to unforeseen circumstances, reasonable notice will be required.

* Each year after the Effective Date of this Agreement, both the Fixed Monthly Fee and the maximum amount for Overflow Facilities will adjust, in no event downward, in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-W) for Urban Wage Earners and Clerical Workers, All Items, Los Angeles-Riverside-Orange County, CA. The price adjustment rate will be determined by comparing the percentage difference between the monthly CPI of the Effective Date of the Agreement and each year thereafter. The percentage difference between those two CPI figures will be the adjustment rate of the Fixed Fee and the Daily Fee. Should the percentage difference be negative, there shall be no adjustment to the Monthly Fixed Fee. In addition to any increase as a result of increases in CPI, the Fixed Monthly Fee shall also be increased by the additional amount, if any, that labor rates for ILWU sweepers assigned to the Cruise Terminal are increased pursuant to any applicable collective bargaining agreement or amendment thereto.