

ORDER NO. _____

An Order of the Board of Harbor Commissioners of the City of Los Angeles ("City") setting the Fixed Minimum Rent to be paid by HOLIDAY HARBOR/FLEITZ BROTHERS, LLC ("Tenant"), pursuant to Concession Agreement No. 796, for the ten-year period between January 1, 2018 through December 31, 2027.

WHEREAS, Concession Agreement No. 796 provides that the rent to be paid by Tenant shall be subject to readjustment in accordance with the procedures prescribed therein in Section 4(l) "Renegotiations of Compensation;" and

WHEREAS, City and Tenant have agreed upon said Fixed Minimum Rent for the ten-year period from January 1, 2018 through December 31, 2027;

NOW, THEREFORE, IT IS HEREBY ORDERED by the Board of Harbor Commissioners of the City of Los Angeles as follows:

Section 1. For the period January 1, 2018 through December 31, 2018, the Fixed Minimum Rent described in section 4(a) of Concession Agreement No. 796 shall be \$30,559.33 per month, adjusted by inflation by multiplying \$30,559.33 by the October, 2017 CPI and then dividing it by the 2016 CPI (Adjusted Fixed Minimum Rent = Fixed Minimum Rent x (CPI October 20CY (CY=Current Year) ÷ CPI October 20PY (PY=Prior Year))).

Section 2. Beginning January 1, 2019 through December 31, 2027, Fixed Minimum Rent shall be set on January 1st of each year for application during the subsequent twelve months. Tenant shall pay in advance to City for each and every month as rent for use of the premises one-twelfth (1/12) of the Fixed Minimum Rent determined as follows:

(i) Fixed Minimum Rent shall be seventy-five percent (75%) of the average total rent (Minimum Rent + Percentage Rent) owed over the last three years; or

(ii) In the circumstances where the Fixed Minimum Rent determined by the preceding paragraph is less than the prior year's Fixed Minimum Rent adjusted by inflation by application of the Consumer Price Index (i.e., Fixed Minimum Rent is subject to a CPI-adjusted floor), then the Fixed Minimum Rent shall equal the prior year's Fixed Minimum Rent adjusted by inflation by multiplying the prior year's Fixed Minimum Rent by the CPI of the current year and then dividing it by the CPI of the prior year (Adjusted Fixed Minimum Rent = Fixed Minimum Rent x (CPI October 20CY (CY=Current Year) ÷ CPI October 20PY (PY=Prior Year))). CPI is the Consumer Price Index for All Items, All Urban Consumers ("CPI - U") for the Los Angeles-Riverside and Orange Counties, as published by the U.S. Department of Labor, Bureau of Labor Statistics as series CUURA421SAO for October of each year. If the publication of said index is discontinued, then a successor index selected by the Executive Director in his/her sole but reasonable discretion shall be substituted.

(iii) In no event shall the Fixed Minimum Rent be lower than the minimum annual rent for the preceding year.

(iv) Based on items (i), (ii) and (iii) of this Section 2, the Fixed Minimum Rent for the period January 1, 2018 to December 31, 2018 shall be \$30,559.33 per month, adjusted by inflation by multiplying \$30,559.33 by the October, 2017 CPI and then dividing it by the 2016 CPI (Adjusted Fixed Minimum Rent = Fixed Minimum Rent x (CPI October 20CY (CY=Current Year) ÷ CPI October 20PY (PY=Prior Year))).

Section 3. In no event shall the annual Fixed Minimum Rent be lower than the annual Fixed Minimum Rent for the preceding year.

Section 4. Nothing herein is intended to modify or amend any provision of Concession Agreement No. 796, each and every covenant, term and condition of which, as previously amended, shall be and remain in full force and effect.

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Section 5. The Board Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners of the City of Los Angeles.


I HEREBY CERTIFY that the foregoing Order was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting held on _____

AMBER M. KLESGES
Board Secretary

Tenant hereby consents to the foregoing readjustment of minimum compensation and agrees to pay to the Board of Harbor Commissioners of the City of Los Angeles the amount set forth therein during the ten-year (10-year) period beginning on January 1, 2018 and ending on December 31, 2027.

Dated: 9-19-17

HOLIDAY HARBOR/FLEITZ BROTHERS, LLC

By: 
KRIS L. KAZARIAN, GENERAL MANAGER
(Print/Type Name and Title)

Attest: 
JEFF KAZARIAN, ASSISTANT GEN. MGR.
(Print/Type Name and Title)

APPROVED AS TO FORM AND LEGALITY
Sept. 22, 2017
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By 
CHRISTOPHER B. BOBO, Assistant

CBB/ila (08/23/2017)