



DATE: MARCH 20, 2013

FROM: REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ - PROPOSED OPERATING
AGREEMENT WITH PORTS AMERICA CRUISE, INC.**

SUMMARY:

Staff recommends approval of an Operating Agreement (Agreement) with Ports America Cruise, Inc. (Ports America) for the operation, management, and maintenance of the Port of Los Angeles Cruise Terminal (Cruise Terminal) at Berths 90-93, San Pedro. The proposed term of the Agreement is for five years, with two five-year options for renewal. Proposed annual compensation for the first year is \$1,830,000, which includes an annual flat management fee of \$1,500,000, additional costs for outer harbor cruise expenses not to exceed \$75,000 per ship call, and an additional one-time expense to upgrade the Harbor Department's audio visual system used by all the cruise lines.

Ports America was selected through the City of Los Angeles Harbor Department's (Harbor Department) mandated Request for Proposal (RFP) process. Approval of this Agreement will provide for uninterrupted operations of the Cruise Terminal facility for the cruise lines and its passengers. Ports America is currently operating the facility under short-term Operating Agreement No. E6666, which expires on May 31, 2013.

RECOMMENDATION:

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

1. Find that in accordance with the Los Angeles City Charter Section 1022, it is more feasible for an outside contractor to perform this work than City employees;
2. Approve the Agreement with Ports America Cruise, Inc.;
3. Direct the Board Secretary to transmit the Agreement to the City Council for approval pursuant to Charter Section 606 of the City Charter;
4. Authorize the Executive Director to execute and the Board Secretary to attest to the Agreement effective upon approval by City Council; and
5. Adopt Resolution No. _____.

SUBJECT: PROPOSED OPERATING AGREEMENT WITH PORTS AMERICA CRUISE, INC.

DISCUSSION:

Background/Context – Beginning in 2003, the Cruise Terminal (Transmittal 1) was managed under an Operating Agreement with Pacific Cruise Ship Terminals (PCST), a subsidiary of Metro Port Services, the long-time stevedore services provider at the Cruise Terminal. This was intended to be a short-term situation until such time as the RFP process was conducted to secure a long-term Operating Agreement.

Prior to 2003, the Cruise Terminal was managed as a leasehold interest by an entity comprised of a consortium of cruise lines. When the consortium abruptly disbanded, PCST was formed in an effort to maintain continuity and operations. The Board approved Operating Agreement No. 2264 with PCST on December 4, 2002, for the management and operation of the Cruise Terminal for a period of 18 months (effective January 1, 2003), on the condition that staff would seek a long-term operator through the Harbor Department's mandated RFP process. For various reasons, the term was extended for an additional 12 months and expired on June 30, 2005. Agreement No. 2264 was then put on a month-to-month holdover. Although the Board report stated that the Harbor Department would issue an RFP, the issuance of an RFP did not take place until April 2012, with PCST continuing to operate the Cruise Terminal until September 30, 2012, when Agreement No. 2264 was officially terminated.

On April 26, 2012, the Harbor Department released an RFP for the operator of the Cruise Terminal. Two proposals were received by the submittal deadline of May 14, 2012. The evaluation panel consisted of representatives from the Real Estate, Financial Management, and Business Development Divisions, and a representative from the Port of San Diego. Proposer interviews were held on May 22, 2012.

The proposers were rated on the basis of the following criteria: (1) qualifications, experience and references, demonstrated success in providing services identified in the RFP; (2) financial capability; (3) general management and operating plan; (4) proposed collection plan; (5) proposed compensation plan; and (6) quality and responsiveness of the proposal. As reflected by the evaluation panel's proposal review and evaluation score, Ports America has extensive experience operating cruise terminals (both management & stevedoring), strong financial backing to assume cruise terminal operations, very aggressive account receivables collection program with less than .01 percent in bad debt written off, a management program called Lean Six Sigma which targets productivity improvements, safety, billing, fleet optimization, lean operations, and damage reduction and highly competitive appropriate management fees. Ports America manages cruise terminal operations in New York, handling 1.6 million cruise passengers in a typical year. In addition, Ports America is also stevedore at 42 ports in the nation, including Los Angeles, Boston, Miami, Houston, and Portland.

After a review of the written proposals, conducting in-house interviews, and reference checks for each of the respondents, Ports America received the highest score. The results of the evaluation, using the scoring criteria identified in the RFP, are as follows:

SUBJECT: PROPOSED OPERATING AGREEMENT WITH PORTS AMERICA CRUISE, INC.

	Proposer	Rater #1	Rater #2	Rater #3	Rater #4	AVERAGE
1	Pacific Cruise Ship Terminals	78	77	72	76	76
2	Ports America	83	84	57	87	78

Ports America was notified in August 2012 of their selection as the operator. To allow for continued Cruise Terminal operations, Interim Operating Agreement No. E6666 was entered into by the Executive Director, effective October 3, 2012 through January 31, 2013, and is consistent with the terms of Operating Agreement No. 2264 with PCST. Compensation paid under the Interim Operating Agreement is \$11,800 per ship call. Ports America is also reimbursed for the maintenance and repairs of the Harbor Department-owned audio-visual equipment used by the cruise lines. The Interim Operating Agreement was initially for an amount not to exceed \$150,000.

It was originally anticipated that the negotiations for the proposed long-term Operating Agreement for Cruise Terminal operations would be concluded in December 2012, with approval by the Board at its first meeting in January 2013. However, the devastation of the cruise terminal managed by Ports America in Manhattan, New York, caused in November 2012 by Hurricane Sandy, had a significant impact on the availability of Ports America staff to attend negotiation meetings with Harbor Department Real Estate staff and led to the delay.

Therefore, the First Amendment to the Operating Agreement No. E6666 was approved by the Board on January 24, 2013, to allow time to conclude negotiations and allow for sufficient time for the proposed long-term Operating Agreement to be considered and approved by the Board and the Los Angeles City Council. The First Amendment extended the term of the interim Operating Agreement through May 31, 2013 and increased the amount of the contract by \$762,900, for a contract total of \$912,900.

Proposed Terms – Consistent with the provisions of the RFP, it was determined that a more cost-effective approach to managing the Cruise Terminal under an Operating Agreement was to provide increased transparency and accountability of revenue and collections of all tariff charges and other associated costs and fees for the Cruise Terminal. This new methodology will potentially lead to increased efficiencies of operations and cost controls. Under the former arrangement with PCST, compensation was paid to the operator through their direct collection of fees from the cruise lines, on a per-ship call basis.

Under the proposed Agreement (Transmittal 2), Ports America will receive a monthly flat fee for its management and operational responsibilities and all fees, tariff, and other charges collected from the lines by Ports America will be immediately remitted to the Harbor Department. Parking operations for the Cruise Terminal are currently managed under Agreement No. 2388 with Parking Concepts, Inc.

SUBJECT: PROPOSED OPERATING AGREEMENT WITH PORTS AMERICA CRUISE, INC.

The following is a summary of agreement terms:

Term: Five years, with two subsequent five-year options for renewal at discretion of the Executive Director, for a total term not to exceed 15 years.

Effective Date: Upon approval by the Los Angeles City Council and execution by the Executive Director.

Services to be provided: Management, operation, security, and janitorial maintenance of the Cruise Terminal. Services do not include stevedoring services provided to the cruise ships or guest passenger services.

First Year Compensation for Terminal Management and Operations/Costs: Flat rate of \$1.5 million per year, or \$125,000 per month. An additional \$30,000 will be paid for the first month, due to repairs and upgrades needed for the Harbor Department’s computer based audio visual system, used regularly by all cruise lines, as well as \$300,000 for four outer harbor ship calls, for a total amount not to exceed \$1,830,000.

Annual Operating Costs		Monthly Costs	Explanation
Operational/Administration/SSC	\$442,000	\$36,833	Staff salaries (including benefits), Shared Services Center costs
ILWU Mechanical Sweeper - assigned to terminal	\$283,000	\$23,583	Wages, T&I and fringe benefits
General Janitorial Services	\$225,000	\$18,750	General cleaning/housekeeping services, window cleaning, trash removal, pest control, cleaning/janitorial supplies
M&R, Consumables	\$50,000	\$4,167	Lighting, mobility, operational systems, equipment maintenance and repair
Terminal Security	\$300,000	\$25,000	24 hour secure facility and surveillance as per PFSP requirements
Insurance	\$135,000	\$11,250	General coverage as per POLA requirements
Audio Visual Costs	\$65,000	\$5,417	Annual maintenance contract and upgrade to Port's AV equipment used by all the lines
Total Terminal Costs	\$1,500,000	\$125,000	

Compensation for Outer Harbor Ship Calls: not to exceed \$75,000 per occurrence. Expenditures will be mutually agreed upon 60 days prior to date of ship call upon submission by Operator of a detailed budget justifying said expenses, including but not limited to, equipment and material rentals, such as passenger gangways, scanners, fencing, tents, tables and chairs, facility rentals, and security measures required by both Customs and Border Protection and the U.S. Coast Guard, etc.

Subsequent Years Compensation: Adjusted annually by Consumer Price Index and any International Longshore and Warehouse Union (ILWU) labor rate increases for the ILWU sweeper assigned to the premises. Terms will be renegotiated after the initial five years.

SUBJECT: PROPOSED OPERATING AGREEMENT WITH PORTS AMERICA CRUISE, INC.

The following is a breakdown of total gross revenue received for the three previous years, generated by the cruise business out of the Port of Los Angeles.

Cruise Revenue	FY 2012	FY 2011	FY 2010
TOTAL	\$7,229,828	\$6,529,973	\$6,949,943

For the upcoming cruise season commencing in September 2013 and ending in May 2014, current bookings received by Ports America indicate 102 ship calls, four of which will be berthed at the outer harbor.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Operating Agreement with Ports America for continued operation and management of the Cruise Terminal. As an activity involving the issuance of an agreement to use an existing facility involving negligible or no expansion of use, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III Class 1 (14) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

The proposed Agreement with Ports America will continue to generate a significant number of jobs servicing the cruise lines. Ports America has a local economic presence in the Los Angeles harbor area, with current estimated employment of 300 people.

Metro Port Services, through its subsidiaries Metro Shore Services and Cruise Services, will continue to employ approximately 250 people providing guest and passenger services and stevedoring services at the Cruise Terminal and will continue to lease office space for such purposes directly from the Harbor Department at Berth 92. These services are contracted directly by the cruise lines and are not part of the scope of the Agreement with Ports America.

FINANCIAL IMPACT:

The proposed Agreement with Ports America will allow for uninterrupted cruise service to the Cruise Terminal. Sufficient funds have been budgeted for Cruise Terminal operations. Since the execution of the Interim Operating Agreement, Ports America submitted invoices on January 14, 2013, for the months of October, November, and December 2012, totals \$205,039. In the current fiscal year, \$1.2 million has been budgeted for Cruise Terminal operations in Account 54290, Center 0424, Project 000. The contract term extends over two fiscal years; sufficient funds will be included in the Harbor Department's Fiscal Year 2013/2014 proposed budget for this purpose.

DATE: MARCH 20, 2013

PAGE 6 OF 6

SUBJECT: PROPOSED OPERATING AGREEMENT WITH PORTS AMERICA
CRUISE, INC.

CITY ATTORNEY:

The Agreement has been approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Site Map
2. Operating Agreement

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



JACK C. HEDGE
Director of Real Estate



KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:



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