



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. 791 WITH CALIFORNIA YACHT MARINA-CABRILLO, LLC

SUMMARY:

Concession Agreement No. 791 (CA 791) grants California Yacht Marina-Cabrillo, LLC (California Yacht) the use of the City of Los Angeles Harbor Department (Harbor Department) property located within Phase I of the West Channel Development Area in San Pedro. CA 791 provides for the construction, operation, and maintenance of a facility for a recreational vessel marina, Cabrillo Community Building, and incidental purposes.

This proposed Order resetting compensation covers the five-year period of January 1, 2013 through December 31, 2017. The proposed Order resetting compensation is consistent with the methodology for calculating minimum annual rent (MAR) established in the previous compensation reset for CA 791, with actual compensation rates being recalculated annually based upon that methodology. It is proposed that the MAR, effective January 1, 2013, be set at \$959,830 and adjusted every year thereafter.

RECOMMENDATION:

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

1. Approve the Order resetting compensation under Concession Agreement No. 791 with California Yacht Marina-Cabrillo, LLC for the five-year period of January 1, 2013 through December 31, 2017;
2. Authorize the Board Secretary to attest to the Order resetting compensation to be paid by California Yacht Marina-Cabrillo, LLC, pursuant to Section 4(l) of Concession Agreement No. 791; and
3. Adopt Order No. _____.

DISCUSSION:

Background and Context – CA 791 has a 50-year term, commencing August 1, 1998, and terminating on December 31, 2047. The leasehold premises consist of 373,777 square feet (s.f.) of land area (8.6 acres) and 1,617,071 s.f. of water area (37.12 acres) located within Phase I of the West Channel Development Area (Transmittal 1). CA 791 provides that compensation be reset every ten years (consistent with the Charter at that time). Previously, a five-year reset period commencing January 1, 2008 through December 31, 2012, was approved. Another five-year period is recommended at this time, consistent with the current Charter requirements. In addition, California Yacht

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desires a five-year reset period because of its concern that once the Cabrillo Way Marina (with its additional 749 dry and wet slips adjacent to the California Yacht facility) is fully operational, it may negatively impact California Yacht's marina operations and increase its slip vacancies. The five-year reset period, will provide an opportunity to consider the impact, if any, of the new marina facility to California Yacht's operations and associated CA 791 compensation rates.)

In 2010, Board Order No. 10-7056 established an updated methodology for calculating the MAR. The updated methodology is largely based upon appraisals performed in 2008 for Southern California regional waterfront operations. The MAR is calculated by taking 75 percent of the average of total rent paid during the previous three years, rather than the single prior year, preceding each adjustment date. Further, the MAR is adjusted annually every January 1, based on the Consumer Price Index (CPI). The CPI adjustment is limited to an annual increase of three percent and in no event is the MAR allowed to be reduced.

Current Compensation – Compensation under CA 791 is based on the updated MAR methodology or a percentage of gross receipts (Percentage Rent), whichever is greater. The current MAR, effective January 1, 2012, is \$931,600. Percentage rent is based upon gross receipts for various activities and calculated as follows: 25 percent of recreational vessel berthing, 10 percent of locker and storage rentals, and 5 percent of miscellaneous sales. In 2012, California Yacht exceeded the MAR rate.

Proposed Compensation – Based on the previously approved methodology, as illustrated in the attached compensation calculation sheet (Transmittal 3), the proposed MAR effective January 1, 2013 will be reset to \$959,830. The proposed MAR will continue to be reset every year and adjusted by the CPI for the five-year period of January 1, 2013 through December 31, 2017 (Transmittal 2). Compensation is proposed to continue to be made up of MAR or percentage rent, whichever is greater. Percentage rent is proposed to remain based upon gross receipts for various activities and calculated as follows: 25 percent of recreational vessel berthing, 10 percent of locker and storage rentals, and 5 percent of miscellaneous sales.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Order resetting compensation under CA 791 with California Yacht. 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.

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ECONOMIC BENEFITS:

This Board action will have no employment impact.

FINANCIAL IMPACT:

The proposed Order resetting compensation will establish a MAR of \$959,830 effective January 1, 2013, to be reset every year based on the MAR being recalculated by taking 75 percent of the average of total rent paid during the three years preceding the adjustment date, and adjusted annually by the CPI for the previous year. The tenant will continue to pay the greater of MAR or percentage rent.

CITY ATTORNEY:

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

TRANSMITTALS:

- 1. Site Map
- 2. Order
- 3. Compensation Calculation Sheet


FIS Approval: KP (initials)
CA Approval: gma (initials)

for

JACK C. HEDGE
Director of Real Estate

for

KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:

GERALDINE KNATZ, Ph.D.
Executive Director