



DATE: AUGUST 31, 2022

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ - APPROVE TERMINATION OF REVOCABLE PERMIT NO. 12-03 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND BIG HEART PET BRANDS, INC.

SUMMARY:

Staff requests approval of the Agreement Re Termination of RP 12-03 (Termination Agreement) between the City of Los Angeles Harbor Department (Harbor Department) and Big Heart Pet Brands, Inc., a Delaware corporation (Big Heart) for Revocable Permit No. 12-03 (RP 12-03) concerning premises located near Fish Harbor. The Termination Agreement would document the full and final termination of RP 12-03 and the restoration that has taken place at the Premises. Specifically, the Termination Agreement affects the following: 1) the Harbor Department acknowledges, that except for limited remaining restoration work, and undiscovered contamination as provided in the Termination Agreement, Big Heart satisfied the restoration obligations set forth in RP-12-03; 2) Big Heart is required to remit a restoration payment in the amount of \$15,206 in lieu of completing limited remaining restoration work; and 3) Big Heart is released from liability to pay any rent as of April 4, 2019, the date in which staff determined restoration was satisfactorily completed. If the proposed Termination Agreement is approved, Big Heart would be entitled to a reimbursement of \$168,598.21, which includes a partial refund of April 2019 rent in the amount of \$38,907.28 and May 2019 rent in the amount of \$43,230.31, as well as the return of Big Heart's security deposit of \$86,460.62.

RECOMMENDATION:

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

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve the "Agreement Re Termination of RP No. 12-03";

DATE: AUGUST 31, 2022

PAGE 2 OF 4

SUBJECT: TERMINATION OF REVOCABLE PERMIT NO. 12-03 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND BIG HEART PET BRANDS, INC.

3. Authorize the Executive Director to execute and the Board Secretary to attest to the "Agreement Re Termination of RP No. 12-03"; and
4. Adopt Resolution No. _____.

DISCUSSION:

Background - RP 12-03 took effect in December 2012, between the Harbor Department and Del Monte Corporation (Del Monte) and covers the premises identified on Transmittal No. 1 (i.e. eight parcels totaling 434,040 square feet). On November 16, 2013, a subtenant of Del Monte, Ardagh Metal Packaging (Ardagh), had a term release (e.g. environmental spill) of Methyl Glycol Monobutyl Ether from a pump failure. Both Ardagh and Del Monte assumed responsibility for the spill, which an environmental report later determined would require soil remediation. In 2014, Del Monte changed its name to Big Heart. Ultimately, Big Heart (which was acquired by the J.M. Smucker Company in 2015) elected to consolidate operations elsewhere outside of the port complex. Over the course of 2014 to 2015, Big Heart submitted termination notices to the Harbor Department to remove parcels from its premises in connection with its wind down and developed a restoration plan. Big Heart physically vacated the premises in late 2017, and began restoration in 2018. Staff determined that Big Heart satisfied the restoration obligations as of April 4, 2019, except for limited remaining restoration work estimated to cost \$15,206.

The Termination Agreement (Transmittal No. 2) would document the full and final termination of RP 12-03 and the restoration that has taken place at the Premises. Specifically, the Termination Agreement effects the following: 1) Harbor Department acknowledges, that except for limited remaining restoration work, Big Heart satisfied the restoration obligations; 2) Big Heart is required to remit a restoration payment in the amount of \$15,206 to cover limited remaining restoration work; and 3) Big Heart is released from liability to pay any rent as of April 4, 2019, the date in which staff determined restoration was satisfactorily completed.

Typically, the Harbor Department does not issue termination agreements; however, the action is being taken at the request of Big Heart to memorialize it satisfied restoration obligations.

SUBJECT: TERMINATION OF REVOCABLE PERMIT NO. 12-03 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND BIG HEART PET BRANDS, INC.

Rent During Restoration - As required under RP 12-03, Big Heart remitted then-current rent during the restoration phase (March 2018 to April 4, 2019) in the amount of \$209,660.75, which will be retained by the Harbor Department. Rent remitted by Big Heart for periods following restoration completion date (April 4, 2019) will be refunded to Big Heart per the terms of the existing Agreement. See below total.

Period	Amount to be refunded
April 5, 2019, to April 30, 2019	\$38,907.28
May 2019	<u>\$43,230.31</u>
Total	\$82,137.59

The Department suspended rent collection effective June 2019 pending finalization of this Termination Agreement. Negotiations for this Termination Agreement were protracted due to delays on both sides with respect to confirming the restoration completion date, and to reach agreement on the final substance and form of the Termination Agreement.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the authorization of the Termination Agreement between the Harbor Department and Big Heart for termination of RP12-03 and documentation of restoration activities that have taken place on the Premises, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed Termination Agreement would document the full and final termination of RP 12-03, as well as document the completion of Big Heart's remediation responsibilities effective April 4, 2019. If the proposed Termination Agreement is approved, Big Heart would be entitled to a reimbursement of \$168,598.21, which includes a partial refund of April 2019 rent in the amount of \$38,907.28 and May 2019 rent in the amount of \$43,230.31, as well as the return of Big Heart's security deposit of \$86,460.62.

If the proposed Termination Agreement is approved, Big Heart would pay \$15,206 to the Harbor Department to complete remaining remediation activities.

Ultimately, the Harbor Department would pay out \$153,392.21 to Big Heart, which represents total reimbursements of \$168,598.21 paid by the Harbor Department, net of the \$15,206 payment received from Big Heart under the proposed Termination Agreement.

DATE: AUGUST 31, 2022

PAGE 4 OF 4

SUBJECT: TERMINATION OF REVOCABLE PERMIT NO. 12-03 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND BIG HEART PET BRANDS, INC.

CITY ATTORNEY:

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

TRANSMITTALS:

1. Premises Map
2. Agreement Re Termination of RP 12-03

FIS Approval: MB
CA Approval: SO

Marisa L. Katnich
MARISA L. KATNICH
Director, Cargo and Industrial Real Estate

Michael DiBernardo
MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:

Marla Bleavins For

EUGENE D. SEROKA
Executive Director

ES:MD:MK:PA:AP:raw
Author: Armando Parra
BL954raw Big Heart Termination Agreement_NEW COPY