



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: JUNE 5, 2013

FROM: REAL ESTATE

SUBJECT: ORDER NO. _____ - THIRD AMENDMENT TO CONCESSION AGREEMENT NO. 521 WITH VIA CABRILLO MARINA 2500, LLC.

SUMMARY:

Concession Agreement No. 521 (CA 521) is a 50-year agreement which grants Via Cabrillo Marina 2500, LLC, a California Limited Liability Company (Via Cabrillo), use of approximately 39,531 square feet (s.f.) of City of Los Angeles Harbor Department (Harbor Department) land at 2500 Via Cabrillo Marina, San Pedro, for constructing, operating, and maintaining facilities for a convenience restaurant charter vessel facility; vessel brokerage and insurance; sale of marine hardware and sundry items; rental of marine-related office space; marina-related retail sales; and incidental purposes.

The proposed Third Amendment to CA 521 will eliminate the percentage rent requirement, while retaining the annual fixed rental compensation tied to the Consumer Price Index, and amend the use requirements to reflect the current marine-related office space use of the improvement.

RECOMMENDATION:

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

1. Approve the proposed Third Amendment to Concession Agreement No. 521 with Via Cabrillo Marina 2500, LLC;
2. Direct the Board Secretary to transmit the Third Amendment to Concession Agreement No. 521 to the City Council for approval pursuant to Section 606 of the City Charter;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the Third Amendment to Concession Agreement No. 521 upon approval by City Council; and
4. Adopt Order No. _____.

DISCUSSION:

Background and Context – The premises under CA 521, as identified on Harbor Engineering Drawing No. 5-5726 (Transmittal 1), is inclusive of a 39,531 s.f. site, 5,000 s.f. of which is at no charge. The no-charge parcel is accessible to the public and is

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also utilized by the adjacent Doubletree by Hilton Hotel. Tenant-owned improvements include a three-story office building (25,115 s.f.). See Transmittal 2 for site map.

Since the compensation reset, approved in 2010, provided for a zero payment of percentage rent, it is requested that the Section 4 Rent clause of CA 521, as amended by the Second Amendment, be revised to eliminate all percentage rental payments and establish annual compensation adjustments every July 1, based on the Consumer Price Index for All Items, All Urban Consumers for the Los Angeles - Riverside and Orange Counties, as published by the U.S. Department of Labor, Bureau of Labor Statistics, as Series CUURA421 SAO for March of each year (CPI-U). Approval of the proposed Third Amendment to CA 521 will eliminate the percentage rent language which in part requires the tenant to submit reports which now show a zero percentage rent calculation.

The premises under CA 521 were originally part of a larger development, Permit No. 520 (P-520), which was entered into September 1982 with California Coast Development Group, Inc. As a result of bankruptcy and previous amendments, the original P-520 premises is now divided among three separate tenants, LA Sky Harbor, LLC., Los Angeles Yacht Club, and Via Cabrillo. Approval of the proposed Third Amendment (Transmittal 3) will modify the Section 5 Uses clause of CA 521 and remove the unrelated uses of constructing, operating, and maintaining facilities for a convenience restaurant; charter vessel facility; vessel brokerage and insurance; sale of marine hardware, sundry items; and marina-related retail sales. The proposed Third Amendment will revise the Uses clause to indicate that the premises shall be used for the operation and maintenance of structures and facilities for rental of marine-related office space and incidental purposes, and no other purpose without prior written approval of the Board.

A proposed Order to reset compensation is being presented to the Board concurrently with this proposed Third Amendment to CA 521. The proposed Order to reset compensation, subject to Board approval, will establish compensation for the five-year period effective September 1, 2012 through August 31, 2017, beginning at \$66,526.07 annually and adjusting each year by the CPI-U.

All remaining terms and conditions of CA 521 shall remain the same.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a Third Amendment to CA 521 with Via Cabrillo to eliminate the percentage rent requirement and amend the use requirements. As an activity involving an amendment to 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 in accordance with Article III Class 1 (14) of the Los Angeles City CEQA Guidelines.

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ECONOMIC BENEFITS:

This Board action will have no direct employment impact.

FINANCIAL IMPACT:

Approval of the proposed Third Amendment to CA 521 will eliminate the percentage rent requirements from the tenant's permit, since percentage rent would be inappropriate for the revised marine-related office space use of the property. The tenant will continue to pay fixed minimum rent with the addition of a CPI index tied to compensation.

CITY ATTORNEY:

The proposed Third Amendment and Order (Transmittal 4) have been approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

- 1. Engineering Drawing
- 2. Site Map
- 3. Third Amendment
- 4. Order

FIS Approval: WR (Initials)
CA Approval: WR (Initials)

for 
JACK C. HEDGE
Director of Real Estate

for 
KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:


GERALDINE KNATZ, Ph.D.
Executive Director

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