



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

Board of Harbor Commissioners

DATE: NOVEMBER 14, 2019

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ – CONSENT TO TRANSFER REPRESENTING A CHANGE OF CONTROL OF SAN PEDRO PUBLIC MARKET, LLC. UNDER LEASE NO. 915

SUMMARY:

Staff requests approval of a proposed consent to transfer for Lease No. 915 (Lease) between the City of Los Angeles Harbor Department (Harbor Department) and San Pedro Public Market, LLC (SPPM). SPPM, wholly owned by SPPM Managing Member, LLC (Managing LLC), will assign its interest as the sole owner of SPPM to a newly-formed entity known as SPPM Development, LLC (Development LLC), wherein Osprey Investors, LLC (Osprey) will receive a maximum 80 percent ownership interest. Managing LLC has negotiated the receipt of a \$30,000,000 equity commitment by Osprey in exchange for ownership interest in the San Pedro Public Market Project (SPPM Project).

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 Environment Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve the Order to consent to the transfer representing a 100 percent change of ownership of SPPM from Managing LLC to Development LLC, wherein Osprey is a limited partner with 80 percent ownership and Managing LLC retaining 20 percent ownership as general partner under Lease No. 915;
3. Authorize and direct the Board Secretary to transmit to the Los Angeles City Council for approval pursuant to Section 606 of the Charter of the City of Los Angeles the consent to the proposed transfer for 80 percent ownership of SPPM Development LLC that owns SPPM LLC, the Lessee of the City of Los Angeles Harbor Department under Lease No. 915, as amended;
4. Authorize the Executive Director to execute and the Board Secretary to attest to the Order to consent to the transfer; and
5. Adopt Resolution No. _____.

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DISCUSSION:

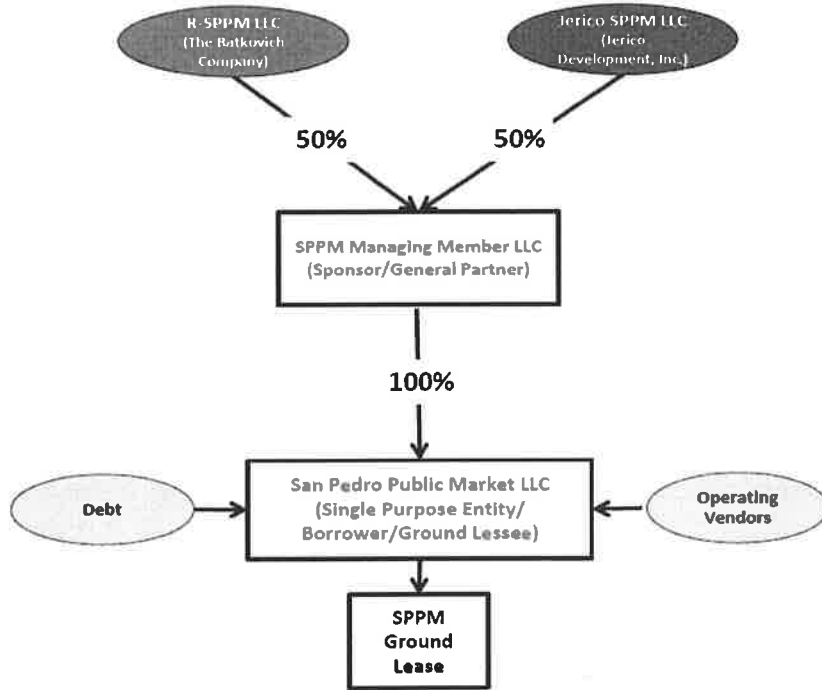
Background - On May 16, 2016, the Board approved Lease with SPPM for the redevelopment of the site formerly known as Ports O'Call in San Pedro. The Los Angeles City Council subsequently approved the Lease at its June 10, 2016 meeting. This will be the first comprehensive redevelopment of the approximately 40-acre Ports O'Call site since its original development in the 1960s. The Lease has a term of 50 years and includes a 42-month option period, during which time SPPM as the Developer will advance the project design, secure financing, and solicit tenants while they along with the City of Los Angeles Harbor Department work towards preparing the site for development.

Rights Under Lease – The Lease contains a provision for SPPM to obtain consent to transfer. Based on that provision, SPPM has requested that the Harbor Department consent to the transfer of ownership of SPPM from Managing LLC to Development LLC. Development LLC is a partnership between Managing LLC owning 20 percent interest and Osprey owning 80 percent interest. Under Section 15.1 of the Lease (Transmittal 1), if a transfer of ownership takes place, the Lessee must provide to the Harbor Department written notice at least sixty (60) days before the proposed effective date of the transfer. Unless the City consents to that Transfer in accordance with the procedures outlined in Section 15.2.1 of the Lease, the proposed transfer would be prohibited. The Lessee has fulfilled the terms specified under Section 15.2 through its letter dated May 6, 2019 (Transmittal 2).

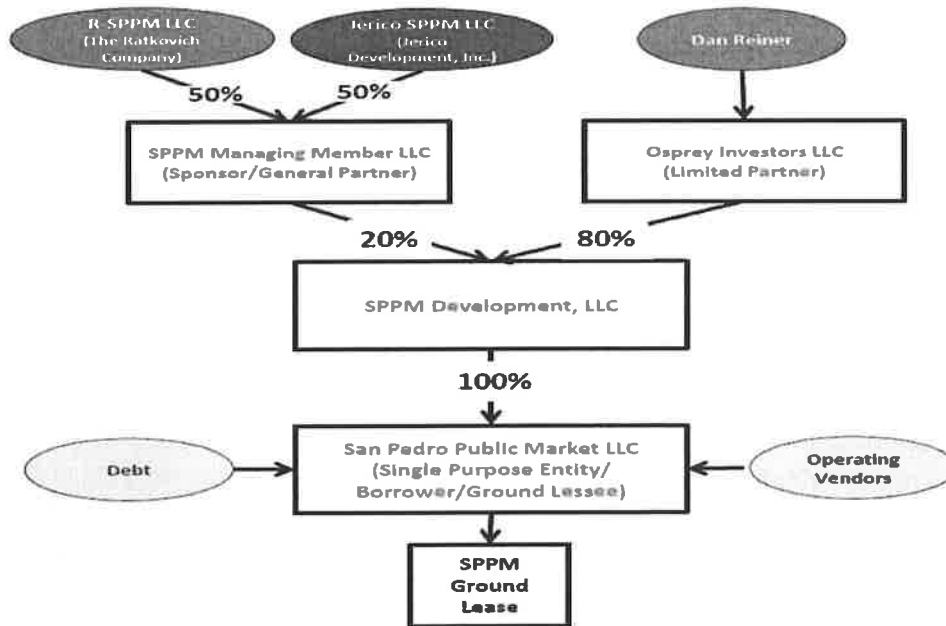
Section 15.7.1.1 of the Lease sets forth a variety of factors including financial capability of the Transferee, as well as the character, experience, and reputation of the Transferee to be considered in granting any consent and that the City will not unreasonably withhold its consent to transfer. Staff has reviewed the information related to the factors and recommends consent.

Staff Review of Transfer – Currently, the manager and sole owner of SPPM is Managing LLC. Managing LLC is a 50/50 percent partnership between The Ratkovich Company and Jerico Development, Inc. (Jerico Development). The Ratkovich Company is a Los Angeles-based development company with 40 years of experience in commercial property development, construction, renovation, and operations. Jerico Development is a San Pedro-based development firm that specializes in rehabilitating commercial buildings. SPPM is a single purpose entity that entered into the Lease for the purposes of redeveloping the former Ports O' Call site in San Pedro. The current corporate structure of SPPM is depicted in the chart below:

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The transfer is not a transfer of SPPM's rights under the Lease but rather it represents a change in control of SPPM. Subject to Harbor Department consent, SPPM Managing Member LLC will assign its interest as the sole owner of SPPM to a newly formed entity known as Development, LLC. The new organizational structure of SPPM after the Transfer is depicted in the chart below:



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With a \$30,000,000 equity commitment made by Osprey to develop the SPPM Project, the member share in the newly formed Development, LLC will be; SPPM Managing Member, LLC, with a 20 percent membership interest, and Osprey, with an 80 percent membership interest. Managing LLC will continue to be the managing member of SPPM through Development LLC, which includes the day-to-day management of operations.

To assess the transfer and financial sufficiency of Osprey Investors to fund the \$30,000,000 commitment, Harbor Department Financial Management staff (Staff) met with representatives of Jerico Development, representing SPPM on June 14, 2019 at their offices to discuss, analyze, and review financial statements and legal documents related to a change in control of SPPM through the newly formed Development LLC. At this meeting, Staff discussed responses that SPPM previously provided with respect to how the change in control complied with the transfer notice provisions contained within Section 15.2.1 of the Lease. The SPPM team presented the following documents for review: San Pedro Public Market, LLC Agreement (the agreement that forms the San Pedro Public Market, LLC), the SPPM Development, LLC Agreement (the agreement that forms the new entity of SPPM Development, LLC comprised of SPPM Managing Member LLC and Osprey Investors), the Assignment and Assumption of Membership Interest (the document assigning the new membership interest of SPPM Development, LLC), a certified copy of Osprey Investors, LLC Income Statement and Balance Sheet, and a letter of asset confirmation from Morgan Stanley Private Wealth Management.

The documentation review yielded the following:

- Based on financial statement review and conversation with Jerico Development's executives, Osprey appears to have sufficient assets to fulfill its \$30,000,000 dollar capital commitment.
- Within the SPPM Development, LLC Agreement, a distribution schedule provided a sliding scale of internal rate of return that showed possible investment growth and a profit sharing tier that incentivizes SPPM Development, LLC to successfully develop and complete the SPPM Project in a timely manner.
- As noted within Article 15.2 of Lease, "Lessee covenants that before entering into or permitting any Transfer, it shall provide to City written notice at least sixty days before the proposed effective date of the Transfer."
 - SPPM responded to 15.2.1(e) by providing documentation showing that the transfer will be effective upon receipt of the Board's consent to the transfer. SPPM will have satisfied the 60-day provision within Article 15.2 of Lease No. 915 as the notice was sent in May 2019.

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- It is Staff's opinion that SPPM has also satisfactorily responded to the conditions laid out within Article 15.2.1(a) – (e) and (g) of the Lease.
- Harbor Department Real Estate staff has confirmed that SPPM has satisfactorily responded to the condition laid out within Article 15.2.1(f) of the Lease. Conditions of Article 15.2.1(a) – (g) can be found in Transmittal 1.

Based on the findings above, staff has reasonably concluded that Osprey appears to possess the financial wherewithal to fulfill its \$30,000,000 commitment to the SPPM Project. Furthermore, SPPM has complied with the administrative requirements prescribed within Article 15.2.1(a) – (g) of the Lease to effectuate the proposed change of control. Therefore, staff requests Board approval of a consent to transfer representing a change in of control SPPM under the Lease.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a consent to transfer representing a change of control of SPPM under the Lease, which is an administrative activity. The SPPM project was assessed pursuant to CEQA in a May 2016 addendum to the certified San Pedro Waterfront Project Environmental Impact Report. 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:

The proposed action would consent to the transfer of Managing LLC's 100 percent ownership interest in SPPM to SPPM Development, LLC, an entity which will be 20 percent owned by Managing LLC and 80 percent owned by Osprey pending the full contribution of \$30,000,000 by Osprey towards development of the SPPM Project. Staff conducted an in-person review of Osprey's income statement and balance sheet as of March 31, 2019, and, based upon that review, Osprey appears to possess reasonable financial wherewithal to fulfill the \$30,000,000 equity commitment associated with the proposed action.

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CITY ATTORNEY:

The proposed Order is subject to approval as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Section 15, Lease No. 915
2. SPPM Transfer Notice Letter

FIS Approval: MB
CA Approval: JM



MICHAEL J. GALVIN
Director of Waterfront & Commercial Real Estate



ANTONIO V. GIOIELLO, P.E.
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

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