



Executive Director's
Report to the

Board of Harbor Commissioners

DATE: NOVEMBER 12, 2013

FROM: REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ - PROPOSED 12-MONTH LEASE
EXTENSION FOR THE UNITED STATES CUSTOMS AND BORDER
PROTECTION LABORATORY ON TERMINAL ISLAND**

SUMMARY:

The proposed action will grant a 12-month lease extension under Supplemental Lease Agreement No. 2 (SLA-2) to Agreement No. 2384 with the U.S. General Services Administration (GSA) for the continued operation of the U.S. Customs and Border Protection (CBP) laboratory at the former U.S. Customs House on Terminal Island.

RECOMMENDATION:

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

1. Approve the 12-month lease extension under Supplemental Lease Agreement No. 2, substantially in the form attached hereto as Transmittal 2, beginning March 23, 2013 and ending March 22, 2014;
2. Direct the Board Secretary to transmit Supplemental Lease Agreement No. 2 to City Council pursuant to Section 606 of the City Charter;
3. Authorize the Executive Director to execute and the Board Secretary to attest to Supplemental Lease Agreement No. 2; and
4. Adopt Resolution No. _____.

DISCUSSION:

Background/Context – In 2005, the City of Los Angeles Harbor Department (Harbor Department) entered into a Memorandum of Understanding (MOU) with GSA under which GSA quitclaimed the property located at 300 South Ferry Street on Terminal Island to the Harbor Department. As part of this MOU, the Harbor Department agreed to lease back a portion of the facility to GSA for five years, from March 23, 2005 to March 22, 2010, under Lease No. GS-09B-01498 (GSA Lease) for the operation of the CBP laboratory. A lease extension was approved under Board Resolution No. 11-7157 for an additional three years and was granted to GSA under Supplemental Lease Agreement No. 1 (SLA-1), which expired on March 22, 2013. Since that time, SLA-1 has been on holdover. GSA is requesting a lease extension through March 22, 2014, because their new facility is still in the process of being prepared for occupancy.

Harbor Department staff has recently visited the new site of the CBP lab to check on construction. Construction is moving along, and according to the latest construction

SUBJECT: PROPOSED LEASE EXTENSION FOR THE CBP LABORATORY

schedule from GSA, the building is expected to be completed in mid-January 2014. GSA expects to be moved into the new facility by the end of February 2014. Harbor Department staff is recommending extending the lease until March 2014 to account for any unforeseen delays. GSA can exercise the 30-day termination clause if everything continues to move along according to schedule.

Below is a summary of the proposed significant terms:

Term: 12 months (March 23, 2013 to March 22, 2014)

Premises and Permitted Use: The facility is a 222,539 square foot (s.f.) building, of which GSA occupies 30,686 s.f. of office and laboratory space, and a 108,276 s.f. parking lot and security area, as shown on Transmittal 1. In addition to the premises being used as a laboratory by CBP, Port Police uses certain portions of the facility for training, storage (C&M and Engineering also use the warehouse area for storage), and parking associated with such activities.

Current Rent: The total current monthly rent payable under SLA-1 is \$77,668. This amount is comprised of \$42,865 per month in property rent and \$34,803 per month for utilities and maintenance paid for or provided by the Harbor Department. The property rent is a combination of rent for (a) an office, laboratory, and loading dock and (b) a parking lot. The building rent portion of the property rent (office, laboratory, and loading dock) is \$23,015 per month, based on an annual rental rate of \$9 per s.f. The monthly rent for the parking lot is \$19,851 based on a 10 percent rate of return on a \$22 per s.f. land value. Combining these two amounts results in a monthly property rent of \$42,865.

The estimated cost for the utilities and maintenance for the entire former Customs House facility amounts to \$38,670 per month. Although the facility is used by both CBP and Port Police, it is estimated that 90 percent of the utilities and maintenance costs are attributable to CBP's operations. Therefore, CBP pays 90 percent of the estimated \$38,670, which results in the amount of \$34,803.

Since rent under SLA-1 was a substantial increase over the rent paid under the original GSA lease, the Harbor Department discounted the first two years of SLA-1 by a total of \$745,852. Not only did this provide a stepped increase to the full rent, but it provided GSA with a financial incentive to vacate the Customs House by the end of the term of SLA-1, as they would not have to repay the discount amount of \$745,852 if they moved out by the end of the term. However, since CBP did not move out by the end of the term of SLA-1, the Harbor Department is owed the full amount of \$745,852.

According to the terms of SLA-1, the incentive amount of \$745,852 was due on or before May 31, 2013. The Harbor Department billed for this amount, but it was not paid. GSA requested to pay the amount in equal installments over the course of the new extension, but Harbor Department staff was not agreeable to the proposal. The payment is in process by GSA but has been held up by their Finance staff.

To provide for a mechanism for repayment of the discount, GSA has suggested that the Harbor Department file a claim against GSA. Per GSA, although the amount owed is not in dispute by either party, a claim can provide a mechanism to allow GSA to pay the

SUBJECT: PROPOSED LEASE EXTENSION FOR THE CBP LABORATORY

amount owed. Therefore, the Harbor Department is moving through the claim process with GSA. Based on the current status of the claim, GSA estimates that the latest the Harbor Department will be paid is the first week of January 2014. There is a chance the payment could be received the first week of December 2013 if GSA can approve the claim internally and move the payment request to their Finance staff by November 15, 2013.

Since the Harbor Department does not charge late fees or penalties to government agencies, the \$745,852 will not be subject to interest. GSA is currently one month behind on their monthly rent of \$77,668. However, it is common for government agencies to run behind with payments due to lengthy payment processes.

Proposed Rent: The proposed total monthly rent is \$80,427. The increased amount is based on the percentage increase in the Consumer Price Index (CPI) on the property rent from March 2010 to March 2013. The change in CPI over this period is 6.4 percent (239.995 in March 2013 vs. 225.483 in March 2010). The utilities and maintenance costs have remained the same and are not expected to change.

Effective Date	Total Monthly Rent	# of Months	Total
March 23, 2013 to March 22, 2014	\$ 80,427	12	\$ 965,124

In addition to the monthly rent total, the full amount of the previous term discount (\$745,852) will be paid. The total amount to be paid under this agreement is \$1,710,976.

Please note that Federal Law requires this lease extension to be on GSA's supplemental lease template, as was SLA-1 and the original GSA Lease, and is attached as Transmittal 2 for further reference. All other terms and conditions of the previously approved lease and lease extension will remain the same. Federal Law requires lessors to execute documents first. Therefore, the extension must be presented to the Board for approval before GSA executes the document.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an 12-month lease extension for the continued operation of the CBP laboratory on Terminal Island. As an activity involving the amendment of a permit 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 Class 1 (14) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment impact.

SUBJECT: PROPOSED LEASE EXTENSION FOR THE CBP LABORATORY

FINANCIAL IMPACT:

Approving this lease extension will result in total rental revenue of \$965,124 over the course of the 12-month extension, plus repayment of the discount made during the previous term. If GSA continued to pay the current rent of \$77,668 per month until March 2014 instead of the new rental amount, the expected revenue would be \$932,016. Therefore, the incremental additional revenue stemming from this extension is estimated to be \$33,108.

CITY ATTORNEY:

SLA-2 is subject to approval as to form and legality by the Office of the City Attorney.

TRANSMITTALS:


1. Site Map
2. Supplemental Lease Agreement No. 2

FIS Approval: ldk (Initials)
CA Approval: gmc (Initials)


JACK C. HEDGE
Director of Real Estate


KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:


GARY LEE MOORE, P.E.
Interim Executive Director

GK:KM:JCH:RG:ST:JK:raw
Author: Jeremy Karmelich
BL465raw GSA