

ORDER NO.

An Order of the Board of Harbor Commissioners of the City of Los Angeles ("City") setting the Fixed Minimum Rent to be paid by CALIFORNIA YACHT MARINA - CABRILLO, LLC ("Tenant"), pursuant to Concession Agreement No. 791, for the five -year period between January 1, 2018 through December 31, 2022.

WHEREAS, Concession Agreement No. 791 provides that the compensation to be paid by Tenant shall be subject to readjustment in accordance with the procedures prescribed therein in Section 4(l); and

WHEREAS, City and Tenant have agreed upon the amount of fixed minimum rent ("Fixed Minimum Rent") for the five-year period from January 1, 2018 through December 31, 2022;

NOW, THEREFORE, IT IS HEREBY ORDERED by the Board of Harbor Commissioners of the City of Los Angeles as follows:

Section 1. For the period January 1, 2018 through December 31, 2018, the Fixed Minimum Rent described in Section 4(a) of Concession Agreement No. 791 shall be \$83,687.97 per month, adjusted by inflation by multiplying \$83,687.97 by the October 2017 CPI and then dividing it by the 2016 CPI (Adjusted Fixed Minimum Rent = Fixed Minimum Rent x (CPI October 20CY (CY = Current Year) ÷ CPI October 20PY (PY=Prior Year))).

Section 2. Beginning January 1, 2019 through December 31, 2022, Fixed Minimum Rent shall be set by City annually for application commencing January 1 of each year and continuing for the subsequent twelve months. Tenant shall pay in advance to City for each and every month as rent for use of the premises one-twelfth (1/12) of the annual Fixed Minimum Rent determined as follows:

(i) Fixed Minimum Rent shall be seventy-five percent (75%) of the average total rent (Fixed Minimum Rent + Percentage Rent) owed over the last three years; or

(ii) In the circumstances where the annual Fixed Minimum Rent determined by the preceding paragraph is less than the prior year's annual Fixed Minimum Rent adjusted for inflation by application of the Consumer Price Index (i.e. Minimum Rent is subject to a CPI-adjusted floor), then the annual Fixed Minimum Rent shall equal the prior year's annual Fixed Minimum Rent adjusted for inflation by multiplying the prior year's annual Fixed Minimum Rent by the CPI of the current year and then dividing it by the CPI of the prior year (adjusted annual Fixed Minimum Rent = annual Fixed Minimum Rent x (CPI October 20CY (CY=Current Year) ÷ CPI October 20PY (PY=Prior Year))). CPI is the Consumer Price Index for All Items, All Urban Consumers ("CPI - U") for the Los Angeles-Riverside and Orange Counties, as published by the U.S. Department of Labor, Bureau of Labor Statistics as series CUURA421SAO for October of each year. If the publication of said index is discontinued, then a successor index selected by the Executive Director in his/her sole but reasonable discretion shall be substituted.

(iii) In no event shall the Fixed Minimum Rent be lower than the Fixed Mimimum Rent for the preceding year.

(iv) City shall not be deemed to have waived the right to collect the adjusted amount of Fixed Minimum Rent as provided in this Section if City fails to invoice Tenant accordingly or for any other reason.

Section 3. The percentage rates used to calculate Percentage Rents shall remain the same as it was immediately prior to this Order and shall continue to be paid through December 31, 2022.

Section 4. Nothing herein is intended to modify or amend any provision of Concession Agreement No. 791. Each and every covenant, term and condition of which, as previously amended, shall be and remain in full force and effect.

Section 5. The Board Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners of the City of Los Angeles.

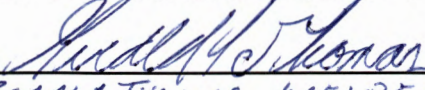
I HEREBY CERTIFY that the foregoing Order was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting held _____.

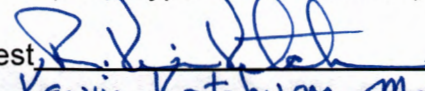
Board Secretary

The undersigned Tenant hereby consents to the foregoing readjustment of compensation for Concession Agreement No. 791 and agrees to pay City the amount set forth therein during the period beginning January 1, 2018 and ending December 31, 2022.

Dated: October 31, 2017

CALIFORNIA YACHT MARINA - CABRILLO, LLC

By: 
GERALD THOMAS, MEMBER
(Print/Type Name and Title)

Attest: 
R. Kevin Ketchum, Member
(Print/Type Name and Title)

APPROVED AS TO FORM AND LEGALITY

11.9, 2017
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By: 
MINAH PARK, Deputy City Attorney