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Antonio R. Villaraigosa

Mayor, City of Los Angeles

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Commissioners

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Sung Won Sohn, Ph.D.

Geraldine Knatz, Ph.D.

Executive Director

April 24, 2013

Honorable Members of the
City Council of the
City of Los Angeles

CD No. 15

Attention: Mr. Michael Espinosa, City Clerk's Office

SUBJECT: ORDER NO. 13-7121 – APPROVAL OF FIRST AMENDMENT TO PERMIT NO.
825 WITH ISLAND YACHT ANCHORAGE, INC.

Pursuant to Section 606 of the City Charter, enclosed for your approval is Order No. 13-7121 for the First Amendment to Permit No. 825 with Island Yacht Anchorage, Inc., which was approved by the Board of Harbor Commissioners at its Regular Meeting on January 17, 2013.

RECOMMENDATION:

1. Approve the proposed First Amendment to Permit 825 with Island Yacht Anchorage, Inc.;
2. Adopt the determination by the Los Angeles Harbor Department that the proposed action is exempt from the requirements of the Environmental Quality Act (CEQA) in accordance with Article III Class 1(14) of the Los Angeles City CEQA Guidelines; and
3. Return to the Board of Harbor Commissioners for further processing.

Respectfully submitted,


JULIE WICHMANN HUERTA
Commission Secretary

cc: Trade, Commerce & Tourism Committee
Councilman Rosendahl, encs.
Councilman LaBonge, encs.
Councilman Buscaino, encs.
Christine Yee Hollis, CLA, encs.

Alvin Newman, CAO, encs.
Lisa Schechter, CD4, encs.
Aaron Gross Government Affairs, encs.
Robert Henry, encs.
Mandy Morales, Mayor's office, encs.

1-17-13
4

RECOMMENDATION APPROVED AND
ORDER NO. 13-7121 ADOPTED
BY THE BOARD OF HARBOR COMMISSIONERS

January 17, 2013



Executive Director's
Report to the

Board of Harbor Commissioners

Korla S. T. M. M. M.
SECRETARY

DATE: JANUARY 3, 2013

FROM: REAL ESTATE

SUBJECT: ORDER NO. 13-7121 - APPROVE FIRST AMENDMENT TO
PERMIT NO. 825 WITH ISLAND YACHT ANCHORAGE, INC.

SUMMARY:

Due to the closure of the Colonial Yacht Anchorage Marina (Colonial) located at Berth 204 on March 1, 2012, the City of Los Angeles Harbor Department (Harbor Department) requested various marinas, including Island Yacht Anchorage, Inc. (Island Yacht), to accommodate displaced liveaboards. Approval of the proposed First Amendment to Permit No. 825 is requested to allow Island Yacht to temporarily have a liveboard percentage over the originally permitted amount of five percent. A reduction to five percent or less of total marina capacity will be restored through attrition.

On October 4, 2012, the Board of Harbor Commissioners (Board) approved amendments to Wilmington Marina Permits with Pacific Yacht Landing, Yacht Haven Marina, Inc., Yacht Centre, Inc., and Holiday Harbors-Wilmington that allowed these marinas additional liveboard capacity. Island Yacht was not submitted for Board approval in October due to a delay in receiving the signed amendment from the tenant. Permit No. 825 with Island Yacht is the last Wilmington marina that requires an amendment to its Permit in order to accommodate displaced liveaboards on one vessel from the former Colonial marina.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the First Amendment to Permit No. 825 with Island Yacht Anchorage, Inc.;
2. Direct the Board Secretary to transmit the First Amendment to Permit No. 825 with Island Yacht Anchorage, Inc. 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 permit amendment upon approval by City Council; and
4. Adopt Order No. 13-7121.

DATE: JANUARY 3, 2013

PAGE 2 OF 3

SUBJECT: FIRST AMENDMENT TO PERMIT NO. 825

DISCUSSION:

Background/Context – Colonial operated a recreational vessel marina, boat yard, and storage yard located at Berth 204 under Permit No. 800 (Transmittal 2). On March 1, 2012, this permit was terminated, and the Harbor Department agreed to relocate the six vessels with liveaboards to the surrounding Wilmington area marinas, which included Pacific Yacht Landing, Yacht Haven Marina, Inc., Yacht Centre, Inc., Holiday Harbors-Wilmington, and Island Yacht.

To accommodate the liveaboards at the Island Yacht marina, the proposed amendment (Transmittal 1) to Permit No. 825 will increase the allowable liveboard percentage to accommodate liveaboards from one vessel formerly with Colonial. The remaining liveaboards were dispersed among the other Wilmington marinas listed above. The intent of the amendment is not to permanently increase the liveboard percentage level beyond the allotted five percent. Rather, the amendment specifies that this would be temporary, as there are no other marinas in the Port of Los Angeles with liveboard vacancies to accommodate them.

The proposed amendment to Permit No. 825 provides that the liveaboards formerly with Colonial will not count towards Island Yacht's allowable five percent liveboard limit. When these liveaboards eventually terminate their tenancy, Island Yacht may not replace them with new liveaboards.

Proposed Permit Amendment – The First Amendment to Permit No. 825 amends Section 5, "Uses", subsection (a), "Permitted Uses." This section acknowledges that the tenant accepted existing liveaboards from the former premises of Colonial. A list of allowed liveboard tenants is included.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an amendment to Permit No. 825 with Island Yacht to temporarily increase their permitted liveboard rates above five percent to accommodate liveaboards displaced by the closure of Colonial. Relocated liveaboards would occupy boat slips in the existing marina and a reduction back to the originally permitted five percent liveboard cap would be restored through attrition, thereby resulting in negligible expansion of use. Therefore, as an activity involving amendments to permits to use existing facilities involving negligible expansion of use, the Director of Environmental Management has determined the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article III, Class 1 (14) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment effect in the five-county region.

DATE: JANUARY 3, 2013

PAGE 3 OF 3

SUBJECT: FIRST AMENDMENT TO PERMIT NO. 825

FINANCIAL IMPACT:

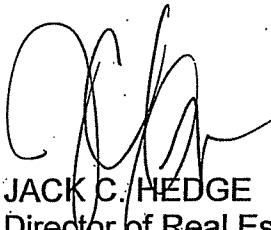
The increased tenancy and revenue at the affected marinas reflect the absorption of the tenants from the closure of the neighboring marina. The First Amendment to Permit No. 825 allows this permittee to have a liveaboard percentage over the current five percent, and thereby temporarily accept liveaboards that were displaced due to termination of another Harbor Department permit. Therefore, the aggregate income remains the same.

CITY ATTORNEY:

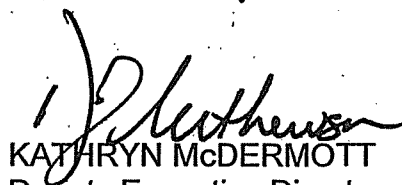
The Office of the City Attorney has approved the First Amendment to Permit No. 825 and Order (Transmittal 3) as to form and legality.

TRANSMITTALS:

1. First Amendment to Permit No. 825
2. Site Map
3. Order


JACK C. HEDGE
Director of Real Estate

FIS Approval: WR (initials)
CA Approval: gm (initials)

FOR 
KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:


GERALDINE KNATZ, Ph.D.
Executive Director

JH:RG:ER:FFS:raw
Author: F. Sanchez
BL429mm Island Amendment

FIRST AMENDMENT TO
PERMIT NO. 825
ISLAND YACHT ANCHORAGE, INC.

Permit No. 825 granted to ISLAND YACHT ANCHORAGE, INC. is hereby amended a first time as follows:

1. Section 5, "Uses", subsection (a), "Permitted Uses", is amended to read:

(a) Permitted Uses. The Premises shall be used for construction, operation and maintenance of a facility for recreational vessel marina and related uses, including dry storage of vessels and for incidental purposes. Tenant may allow berthing occupants to live aboard vessels subject to the limitations set forth in Section 1 which defines "Liveaboards", provided that not more than five percent (5%) of total berthing capacity is so occupied. Liveboard privileges shall be reduced to five percent (5%) by attrition. Tenant shall provide to City and maintain a listing of liveaboards in the form provided as Exhibit "B". Existing liveaboards living on vessels within the premises may remain provided they are listed on Exhibit "B" when this Agreement commences. Additionally, notwithstanding the foregoing, as of May 1, 2012, Tenant accepted existing liveaboards living together on one vessel within the former premises of Colonial Yacht Anchorage, as defined in Permit No. 800, due to the closure of Colonial Yacht Anchorage's former premises. Such liveaboards shall not count towards the aforementioned five percent (5%) liveboard limitation. Liveboard status may not be transferred. Tenant may also sell and provide incidental boater products and services, marine supplies and equipment, petroleum products (except fuel), sundry items, refreshments and soft drinks, insurance, conduct a business for the sale/brokerage of new and used boats/yachts and operate a yachting, boating, or sailing club and related club uses. Tenant may not conduct a boat/yacht repair business unless City agrees to amend this Permit to allow such use and unless special provisions are added related to such use. Tenant may allow berthing occupants' vessels to extend beyond the end of their respective berths to the length described in Exhibit "C", so long as such overhang is within the granted premises, but the overhang shall never exceed five (5) feet. Subject to the provisions of Section 10(e) of this Agreement, Tenant may sublease or license the use of the Premises for the marina uses described herein. Tenant may sublease one or more blocks of vessel berths, not to exceed fifty percent (50%) cumulatively of total berthing and not to exceed twenty-five (25%) of total berthing to any individual sublessee, subject to approval by Board. Vessel berthing shall be limited to recreational vessels which are seaworthy as determined by the Executive Director in the Executive Director's sole discretion. Notwithstanding the foregoing sentence, those specific structures which constitute Tenant's floating facilities, such as offices, support facilities and other uses as designated on Exhibit "D" attached, may

remain on the premises so long as they conform to applicable Building and Safety standards. To be seaworthy, a vessel must be able to withstand the ordinary attacks of wind and weather, must have its own motive power so that it can immediately vacate the marina if so directed by the Executive Director, and must be in a condition which guarantees that it is not and will not cause pollution of any type to harbor waters. Tenant shall remove or cause to be removed any unseaworthy vessels from the marina within six (6) months' written notice from the Executive Director. Tenant shall not use the Premises for any other purpose without the prior written approval of Board. If City so requests, Tenant shall provide City, at Tenant's expense, a marine survey of any vessel which City has reason to believe may be unseaworthy. The survey report must be prepared by a qualified marine surveyor who has conducted a physical inspection of the vessel in question within thirty (30) days of City's request for a survey. Tenant may include in its slip agreement with its subtenants a provision requiring the subtenant to reimburse Tenant the cost of such survey.

2. The First Amendment shall be deemed operative May 1, 2012, upon execution by the Executive Director and Board Secretary of the City of Los Angeles Harbor Department following approval of the Los Angeles City Council of the Order approving this Amendment.

Except as amended herein, all remaining terms and conditions of Permit No. 825 shall remain the same.

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IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Permit No. 825 on the date to the left of their signatures.

THE CITY OF LOS ANGELES, by its
Board of Harbor Commissioners

Dated: _____

By: _____
Executive Director

Attest: _____
Board Secretary

ISLAND YACHT ANCHORAGE, INC.

Dated: 10-22-12

By: _____
Chris Pollock, President
(Print/type name and title)

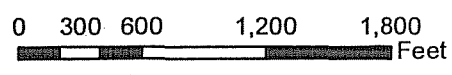
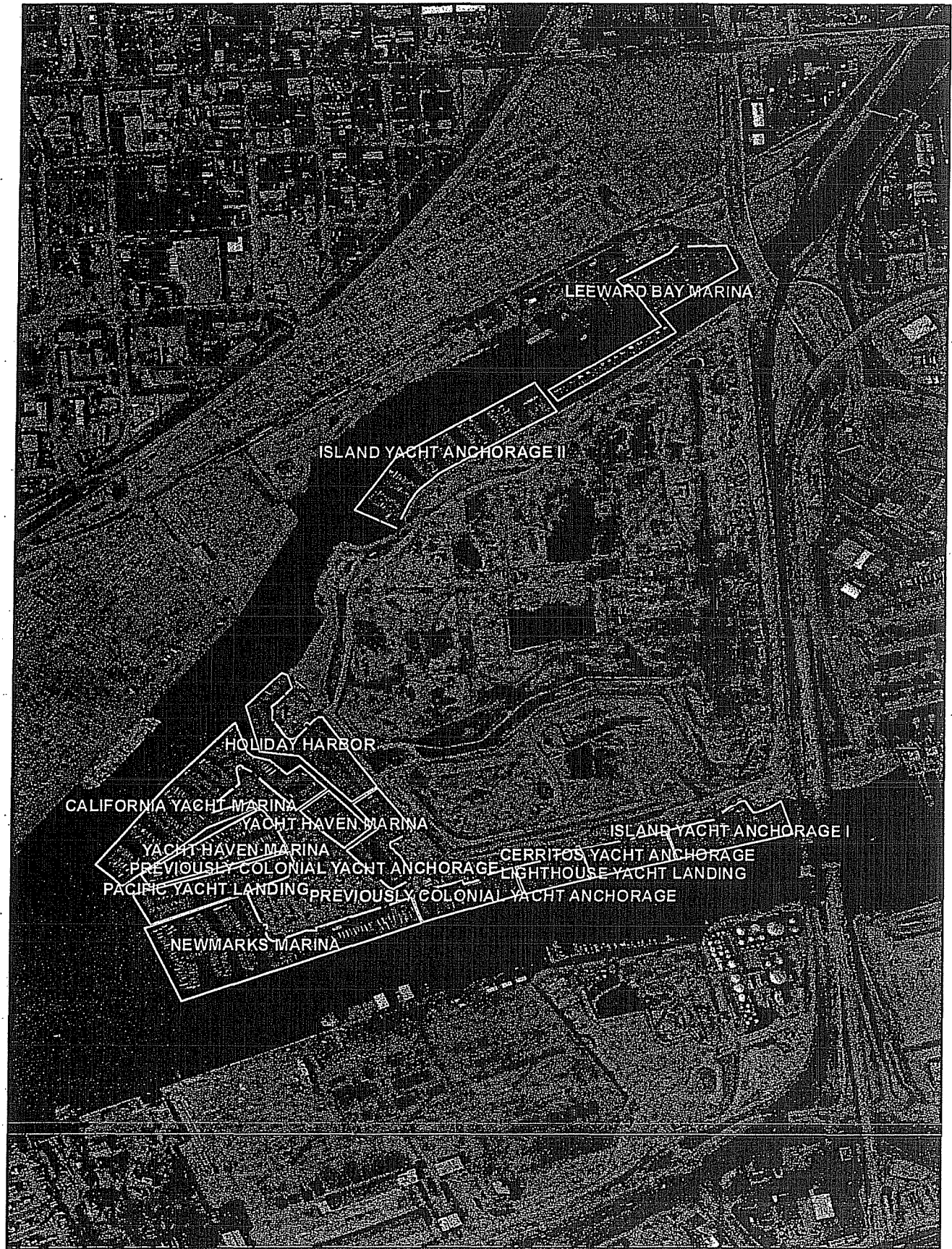
Attest: _____
Teresa Valenzuela, Manager
(Print/type name and title)

APPROVED AS TO FORM AND LEGALITY

November 29, 2012
GARMEN A. TRUTANICH, City Attorney
Thomas A. Russell, General Counsel

By: _____
JANET KARKANEN, Deputy

East Basin Marinas - Wilmington



Harbor Department
Planning and Economic Development
Map Produced 09/2012



ORDER NO. 13-7121

IT IS HEREBY ORDERED by the Board of Harbor Commissioners that the First Amendment to Permit No. 825 granted by the City of Los Angeles, acting by and through its Board of Harbor Commissioners, to ISLAND YACHT ANCHORAGE, INC., is hereby approved and the Executive Director and the Secretary of the Board are hereby authorized and directed to execute and attest to the same on behalf of the City of Los Angeles upon this Order being approved by the City Council as described below.

The Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners of the City of Los Angeles and shall cause a copy of the same to be presented to the City Council as provided in Section 606 of the Charter of the City of Los Angeles. If the Council shall approve this Order within 30 days after such Order shall have been presented to it, or if the Council shall fail to disapprove this Order within said 30 days, the Order shall be deemed approved and shall become effective upon such approval without publication. The Amendment approved by this Order shall become effective immediately upon execution by the City Executive Director and Board Secretary after such Council approval of the Order.

I HEREBY CERTIFY that the foregoing Order was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting of January 17, 2013.

Korla G. Tondreault

KORLA G. TONDREAULT
Commissioner Secretary

APPROVED AS TO FORM

December 26, 2012
CARMEN A. TRUTANICH City Attorney

By *Janet Karbana*

0150-09922-0000

TRANSMITTAL

TO
Geraldine Knatz, Ph.D., Executive Director
Harbor Department

DATE
MAR 13 2013

COUNCIL FILE NO.

FROM
The Mayor

COUNCIL DISTRICT
15

**PROPOSED FIRST AMENDMENT TO PERMIT NO. 825 WITH
ISLAND YACHT ANCHORAGE, INCORPORATED**

Transmitted for further processing and Council consideration.
See the City Administrative Officer report attached.

Antonio Vellaragosa by
Brian Cunningham
MAYOR

MAS:ABN:10130111t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: March 11, 2013

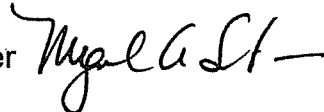
CAO File No. 0150-09922-0000

Council File No.

Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Harbor Department dated January 28, 2013; referred by the Mayor for report on January 31, 2013

Subject: **PROPOSED FIRST AMENDMENT TO PERMIT NO. 825 WITH ISLAND YACHT ANCHORAGE, INCORPORATED**

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 13-7121 authorizing a proposed First Amendment to Permit No. 825 (Permit) with Island Yacht Anchorage, Inc. The proposed Amendment will allow the Port-leased marina in the Wilmington area to have a temporary "liveaboard" level that exceeds the Port regulated level of five percent in order to take in liveaboard residents from another marina that has closed, as explained below. The term "liveaboard" stands for persons who make a boat, or typically a small yacht in a marina, their primary residence. A marina is defined as a boat basin that has docks, moorings, supplies and other facilities for small boats. Port regulations for these Permits allow tenants to occupy or live aboard vessels in certain berthing areas in marinas on Port property, subject to prescribed rules and limitations. Pursuant to Charter Section 606, Council approval is required for agreements and amendments to permits and leases.

In March 2012, the Colonial Yacht Anchorage Marina closed and the Port had to relocate vessels with liveaboard occupants to other marinas. According to the Port, there were no other liveaboard vacancies to accommodate the vessels from the closed marina. As a result, the Port requested that the surrounding marinas in Wilmington accommodate the displaced liveaboard occupants from the closing marina. However, Port regulations require that no more than five percent of the total berthing capacity in a marina may be occupied by liveaboard occupants. Since the marinas in the Wilmington area would exceed the five percent allotted level for liveaboard occupancy, the Port is requesting to allow an amendment to this Permit to transfer the displaced tenant to another marina on a temporary basis. In February 2013, the Mayor and Council approved First Amendments to four liveaboard tenants to transfer to and occupy other marinas on Port property (C.F. 13-0049).

The proposed Amendment will allow the Port to increase the allowable liveaboard level to exceed the five percent at the other marinas to accommodate the liveaboard occupants and their vessels. The proposed Amendment is temporary and will not permanently increase the five percent liveaboard percentage level for all other tenants at marinas. The Port states that this marina and any other

marinas that are already at the five percent allotted level will be restricted from accepting any additional liveaboard occupants until their current liveaboard percentage falls below the five percent level through attrition.

The City Attorney has approved the proposed Amendment to the Permit as to form and legality. Since the proposed Permit is a property lease, the request is not subject to provisions of Charter Section 1022. The proposed Permit is in compliance with all applicable provisions of the City Ordinances and contracting requirements. Except as amended, the Port states that all remaining terms and conditions of the Permit will remain in effect. The Port Director of Environmental Management has determined that the proposed Amendment is temporary in nature to accommodate the liveaboard occupant displaced by the closure of another marina. A reduction to the originally permitted five percent liveaboard levels will be restored through attrition of the occupants. Therefore, the amendments to the Permits are exempt from the California Environmental Quality Act (CEQA) in accordance with Article III, Class 1(14) of the Los Angeles City CEQA Guidelines.

RECOMMENDATION

That the Mayor:

1. Approve Harbor Department (Port) Resolution No. 13-7121 authorizing a proposed First Amendment to Permit No. 825 (Permit) with Island Yacht Anchorage, Inc., to allow a Port-leased marina in the Wilmington area to have a temporary "liveaboard" level that exceeds the Port regulated level of five percent in order to take in a liveaboard resident from another marina that had been closed; and
2. Return the proposed Amendment to the Lease Permit to the Port for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed First Amendment to the Permit for Island Yacht Anchorage, Inc., will have no financial impact to the Harbor Department Revenue Fund. The aggregate income will remain the same because any increased tenancy and revenue at the marina will be off-set by the displacement of the tenant from the closed marina. There is no impact on the City General Fund.

TIME LIMIT FOR COUNCIL ACTION

Pursuant to Charter Section 606, "Process for Granting Franchises, Permits, Licenses and Entering into Leases," and the Los Angeles Administrative Code, Section 10.5, "Limitation and Power to Make Contracts," unless the Council take actions disapproving a contract that is longer than five years within 30 days after submission to Council, the contract will be deemed approved.