

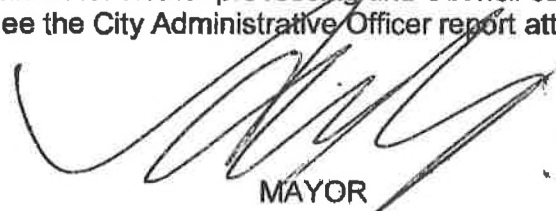
0150-10358-0002

TRANSMITTAL

TO Eugene D. Seroka, Executive Director Harbor Department	DATE OCT 23 2018	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	

**PROPOSED THIRD AMENDMENT TO AGREEMENT NO. 13-3112 WITH
PORTS AMERICA CRUISE, INCORPORATED**

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



Ana Guerrero

MAYOR

RHL:ABN:101900301

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: October 17, 2018

CAO File No. 0150-10358-0002

Council File No.

Council District: 15

To: The Mayor

From: Richard H. Llewellyn, Jr., City Administrative Officer

Reference: Correspondence from the Harbor Department dated September 12, 2018; referred by the Mayor for report dated September 13, 2018

Subject: **PROPOSED THIRD AMENDMENT TO AGREEMENT NO. 13-3112 WITH PORTS AMERICA CRUISE, INCORPORATED**

RECOMMENDATIONS:

That the Mayor:

1. Approve Harbor Department (Port) Resolution No. 18-8342 authorizing a proposed Third Amendment to Operating Agreement No. 18-3112 to modify the Consumer Price Index provision, effective May 2018; and,
2. Return the document to the Port for further processing, including Council consideration.

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 18-18342 authorizing a proposed Third Amendment (Amendment) to Agreement No. 13-3112 (Agreement) with Ports America Cruise, Inc. (Port America) to modify the Consumer Price Index (CPI) provision in the contract. The Port states that the Bureau of Labor Statistics (for Los Angeles-Long Beach-Orange County, CA) has introduced a new CPI index and therefore discontinued the existing index. According to the Port, the new CPI adjustments will affect the existing Agreement by increasing the compensation fees paid to Port America by the Port. The Board approved the original Agreement with Ports America to operate, manage and maintain the Port of Los Angeles (POLA) Cruise terminal at Berths 91-93 and the Outer Harbor Overflow Facilities (Overflow Facilities) for the loading and unloading of additional cruise line passengers at Berth 46. All other terms and conditions in the Agreement will remain the same.

In April 2013, the Port selected and approved an Agreement with Ports America through a competitive bid process. Ports American was selected due to their qualifications and extensive experience in the operation of cruise terminals, financial and management systems, and work at ports in the other cities across the country. The original Agreement was a five-year term, with two subsequent five-year renewal options, for a total of 15 years. The Port approved the first five-year renewal option on May 7, 2018, which coincides with the effective date of the new CPI provision.

The Port states that compensation is adjusted annually based on the CPI and any International Longshore and Warehouse Union (ILWU) labor rate increases for the ILWU personnel assigned to the property. In January 2018, the Bureau of Labor Statistics introduced a new geographic area sample for the CPI. The new CPI will coincide with the annual adjustment of compensation for the first five-year renewal option and sixth year of the original Agreement. Pursuant to the annual CPI, the proposed Amendment will adjust compensation for the fixed monthly management fee and the Overflow Facilities for Ports America. The current fixed monthly management fee for Ports America is approximately \$134,500 and the Overflow Facilities is \$154,675. The Overflow Facilities provide services to larger cruise vessels that require additional services, rental, equipment, and supplies. The compensation to the Port has increased since the initial Agreement due to an increase of more and larger ship arrivals at the Berths.

The First Amendment increased the maximum compensation for the Overflow Facilities in order to service larger vessels at the Berth and the purchase of passageways systems to serve the larger vessels. The Second Amendment approved by the Board allowed the Port to reimburse Ports America for services provided during Fleet Week and compensation for non-cruised related events that occur periodically at the cruise terminal at the POLA.

The proposed Amendment has been approved by the City Attorney as to form and legality. The Agreement is in compliance with all applicable provisions of City Ordinances and contracting requirements. The Agreement is subject to Living Wage, Service Workers Retention, Equal Benefits, Affirmative Action and Minority, Women, and Other Business Enterprises compliances. The Port prepared a Charter Section 1022 determination and concluded that the contracting work could be performed more economically and feasibly by outside contractors instead of City employees because of the required expertise and specialized nature of the work. The Port Director of Environmental Management has determined that the proposed Amendment is an administrative action and is therefore exempt from the requirements of California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

FISCAL IMPACT STATEMENT

Approval of the Harbor Department (Port) proposed Third Amendment to the Agreement with Ports America Cruise Inc. (Ports America) will modify the Consumer Price Index (CPI) rate provision, as a result of a new CPI rate introduced by the Bureau of Labor Statistics. The annual CPI adjustment will have the effect of increasing the compensation fees paid to Port America by the Port to operate, manage and maintain the cruise terminal at its Berths 91-93 and the Outer Harbor Overflow Facilities for loading and unloading of additional cruise line passengers at Berth 46. All other terms and conditions in the Agreement will remain the same. Any future funding for the Agreement will be requested in the Port's annual budget process.