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RECOMMENDATION APPROVED;
RESOLUTION NO. 17-8109 ADOPTED; AND
AGREEMENT NO. 17-3112-B APPROVED
BY THE BOARD OF HARBOR COMMISSIONERS



May 18, 2017

AMBER M. KLESGES
Board Secretary

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MAY 2, 2017

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

SUBJECT: RESOLUTION NO. 17-8109 - APPROVE SECOND AMENDMENT
TO AGREEMENT NO. 13-3112 WITH PORTS AMERICA CRUISE, INC.

SUMMARY:

Staff requests approval of the Second Amendment to Operating Agreement No. 13-3112 (Agreement) with Ports America Cruise, Inc. (Ports America). The proposed Second Amendment allows the City of Los Angeles Harbor Department (Harbor Department) to provide a one-time reimbursement to Ports America of \$28,758.62 for providing services in connection with the Harbor Department-hosted inaugural 2016 Los Angeles Fleet Week (Fleet Week), and to reimburse Ports America up to \$50,000 during the remaining term of the Agreement for any expenses they may incur as a result of events hosted by the Harbor Department.

RECOMMENDATION:

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

1. Find that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(14) of the Los Angeles City CEQA Guidelines as determined by the Director of Environmental Management;
2. Ratify and authorize a one-time reimbursement in the amount of \$28,758.62 to Ports America Cruise, Inc. for services performed during 2016 Los Angeles Fleet Week;
3. Authorize payment in amount of \$28,758.62 to Ports America Cruise, Inc. from the Community Relations Budget (Account 52040, Center 0220);
4. Approve the Second Amendment to Operating Agreement No. 13-3112 with Ports America Cruise, Inc.;
5. Direct the Board Secretary to transmit the Second Amendment Operating Agreement No. 13-3112 to City Council for approval pursuant to Charter Section 606 of the City Charter;
6. Authorize the Executive Director to execute and the Board Secretary to attest to the Second Amendment to Operating Agreement No. 13-3112 upon approval by City Council; and
7. Adopt Resolution No. 17-8109.

SUBJECT: SECOND AMENDMENT TO AGREEMENT NO. 13-3112

DISCUSSION:

Background – On April 4, 2013, the Board approved the Agreement with Ports America for a term of five years, with two five-year renewal options to operate, manage, and maintain the Port of Los Angeles (Port) Cruise Terminal (Cruise Terminal) at Berths 90-93 and at the Outer Harbor overflow facilities (Overflow Facilities) located at Berth 46. The initial five-year term will end on April 3, 2018. Compensation paid under the Agreement includes a monthly management fee of \$131,000; up to \$150,000 per three-ship call day at the overflow facility; and previous one-time reimbursements for cruise passenger upgrades and equipment purchases. Fees and reimbursement of expenses are limited to facility management and cruise vessel related expenses.

The Cruise Terminal is a regulated maritime facility, subject to the Code of Federal Regulations enforced by the United States Coast Guard (U.S. Coast Guard). Activities occurring within secure or restricted areas at the Cruise Terminal require U.S. Coast Guard-approved security arrangements to insure the safety and security of the facility. A complete and thorough protection plan is critical and the terminal operator has responsibility not only for the security of the terminal but also for the Security Plan on record with the U.S. Coast Guard.

The First Amendment allowed for continued, uninterrupted cruise operations at the overflow facilities during three-ship call days. Due to an unanticipated increase in cruise vessel sizes, the First Amendment approved an increase of \$75,000 per instance in allowable expenses, as well as \$198,816 for a one-time reimbursement to Ports America for the purchase of two gangways to service the larger vessels.

In 2016, the Harbor Department hosted Fleet Week at the Cruise Terminal. Bringing active U.S. Navy ships into the Port for a public event requires significant coordination between the ships' agents and the terminal operator for ship logistics, and also among the Navy's Force Protection, local law enforcement agencies, and the terminal operator. The Harbor Department engaged the terminal operator Ports America from the onset of planning. During the planning process, the U.S. Navy set forth many requirements for equipment, staffing, security and procedures to make the site acceptable for their Fleet Week visit. Harbor Department event planning staff authorized Ports America to provide the required services, including U.S. Coast Guard approved security services, above those that the Harbor Department itself could provide with the understanding that Ports America would be reimbursed for their costs.

The Agreement allows the Harbor Department to require additional safety and security procedures and equipment to address special circumstances; however, at the time Harbor Department staff directed Ports America to provide the additional security for Fleet Week, there were not sufficient funds appropriated for the Agreement to reimburse Ports America for the requested services. Therefore, staff requests the Board to ratify staff's earlier approval of the additional services and expenses, which was at that time unauthorized.

SUBJECT: SECOND AMENDMENT TO AGREEMENT NO. 13-3112

The proposed Second Amendment (Transmittal 1) will permit the Harbor Department to reimburse Ports America for non-cruise vessel related events. The City of Los Angeles and the Harbor Department's commitment to bringing more visitors to the LA Waterfront both in San Pedro and Wilmington requires the Harbor Department's involvement in planning a variety of events at various waterfront venues. The Cruise Terminal (Transmittal 2) has become an excellent venue for various events when there are no cruise ships, which typically occur in the months of May through September. As new events develop, it will be necessary for Harbor Department staff to work with Ports America to make sure the security and functions of the managed terminals are addressed while at the same time providing an excellent experience for visitors. It is anticipated that public events in the cruise terminal footprint will continue into the future.

Summary of Second Amendment:

The proposed Second Amendment will provide a one-time reimbursement of \$28,758.62 for providing services in connection with the Fleet Week and allow future reimbursements not to exceed a total of \$50,000 for approved non cruise vessel related services provided for Harbor Department hosted events. All other terms and conditions of the Agreement remain unchanged.

The one-time reimbursement and any future reimbursements for non-passenger, cruise vessel Harbor Department hosted events will be paid from the Public Relations Division's budget, Account 52040, Center 0220.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Second Amendment to Agreement No. 13-3112 with Ports America to reimburse them for services in connection with the Harbor Department-hosted 2016 Fleet Week as well as additional future expenses incurred as a result of Harbor Department events. 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 CEQA in accordance with Article III Class 1(14) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The Second Amendment to the Agreement with Ports America will authorize a one-time payment of \$28,758.62 to reimburse Ports America for services provided for the Harbor Department-sponsored Fleet Week. Future funding under the Agreement for non-cruise related events may be reimbursed up to \$50,000 over the remaining term of the agreement. Payments shall be made from Account 52040, Center 0220, Program 000 for Fiscal Years 2016/2017 and 2017/2018.

DATE: MAY 2, 2017

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CITY ATTORNEY:

The Second Amendment has been reviewed and approved as to form and legality by the Office of the City Attorney.

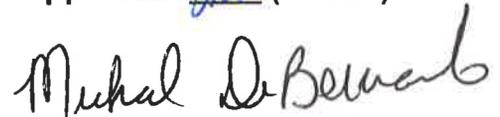
TRANSMITTALS:

1. Second Amendment
2. Site Map



MICHAEL J. GALVIN
Director of Waterfront & Commercial Real Estate

FIS Approval: MB (Initials)
CA Approval: JMA (Initials)



MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

ES:MD:MG:ER:RV:KS:fo
Author: K. Stanberry
BL647fo Ports America 2nd Amendment