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RECOMMENDATION APPROVED;
RESOLUTION NO. 18-8342 ADOPTED; AND
AGREEMENT 18-3112-C APPROVED
BY THE BOARD OF HARBOR COMMISSIONERS

September 6, 2018



AMBER M. KLESGES
Board Secretary



THE PORT
OF LOS ANGELES
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: AUGUST 22, 2018

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

SUBJECT: RESOLUTION NO. 18-8342 APPROVE THIRD AMENDMENT TO
AGREEMENT NO. 13-3112 WITH PORTS AMERICA CRUISE, INC.

SUMMARY:

Staff requests approval of the Third Amendment to Operating Agreement No. 13-3112 (Agreement) with Ports America Cruise, Inc. (Ports America) modifying the Consumer Price Index (CPI) provision effective May 7, 2018. The index specified in the Agreement has been discontinued by the Bureau of Labor Statistics, and a new index now needs to be specified. All other terms and conditions of the Agreement remain the same.

RECOMMENDATION:

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

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve the Third Amendment to Operating Agreement No. 13-3112 modifying the CPI provision effective May 7, 2018;
3. Direct the Board Secretary to transmit the Third Amendment to Agreement 13-3112 to the City Council for approval pursuant to Charter Section 606 of the Los Angeles City Charter;
4. Authorize the Executive Director to execute and the Board Secretary to attest to the Third Amendment to Operating Agreement No. 13-3112 upon approval by City Council; and
5. Adopt Resolution No. 18-8342

DISCUSSION:

Background – On April 4, 2013, the Board of Harbor Commissioners (Board) approved the Agreement with Ports America for a term of five years, with two subsequent five-year renewal options. The Agreement is for the operation, management, and maintenance of the World Cruise Center (Cruise Terminal) at Berths 91 to 93 (Transmittal 1). The first five-year renewal option was exercised effective May 7, 2018.

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At the inception of the Agreement, the Fixed Monthly Fee was \$125,000, and the maximum compensation paid for services, rental, equipment, supplies and shuttle services at the Overflow Facilities at Berth 46 when there were three or more cruise ships calling at the Port of Los Angeles was \$75,000 per occurrence.

Subsequently, the Fixed Monthly Fee was annually adjusted by CPI, and for the year ending May 6, 2018, compensation was set at \$134,500. Through the First Amendment to the Agreement, approved by the Board on January 8, 2015, the maximum payment for three-ship calls at the Overflow Facilities was increased from \$75,000 to \$150,000 (with annual CPI adjustments) due to an unanticipated increase in cruise vessel sizes calling at the Overflow Facilities which required larger tents, additional equipment, supplies and services. The maximum payment allowed for Overflow Facilities ship calls through May 6, 2018 was \$154,675. The First Amendment also allowed for the reimbursement to Ports America for the purchase of two gangways to service the larger vessels.

In 2016, the City of Los Angeles Harbor Department (Harbor Department) hosted Fleet Week at the Cruise Terminal, a regulated maritime facility whose operations are 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 ensure the safety and security of the facility. The Second Amendment to the Agreement, approved by the Board on May 18, 2017, permitted the Harbor Department to reimburse Ports America \$28,759 for services provided during Fleet Week, and set aside \$50,000 for compensation to Ports America for non-cruise related events that may occur from time to time at the Cruise Terminal.

Proposed Third Amendment – As specified in the Agreement, annual year-over-year changes in the Consumer Price Index (CPI-W) for Urban Wage Earners and Clerical Workers, All Items, Los Angeles-Riverside-Orange County, CA serves as the basis for the annual escalation of the Fixed Monthly Fee and the compensation for Overflow Facilities fees paid to Ports America. In January 2018, the Bureau of Labor Statistics introduced a new geographic area sample for the CPI such that the changes in the distribution of the population across the country are properly reflected. The index specified in the Agreement has been discontinued, and staff from Financial Management and the Waterfront and Commercial Real Estate Divisions have jointly determined that the most appropriate replacement is the CPI-W for Urban Wage Earners and Clerical Workers, All Items, Los Angeles-Long-Beach-Anaheim, CA. The new CPI-W index will be retroactive to May 7, 2018, to coincide with the annual adjustment of compensation for the 6th compensation year.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a Third Amendment to Operating Agreement No. 13-3112 with Ports America to modify the CPI provision, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

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FINANCIAL IMPACT:

Approval of the Third Amendment (Transmittal 2) will not materially change the financial obligation of the Harbor Department as it pertains to the fees paid to Ports America since the provision for CPI adjustments has always been included in the Agreement. Staff has obtained the monthly CPI-W results for both the Los Angeles-Riverside-Orange County and the Los Angeles-Long Beach-Anaheim statistical areas over a 10-year period from January 2008 through December 2017, and the CPI-W index for these areas did not differ in any significant manner over this timeframe.

CITY ATTORNEY:

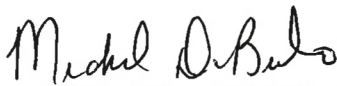
The Third Amendment to Agreement No. 13-3112 has been approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Site Map
2. Third Amendment

FIS Approval: MB
CA Approval: MB


MICHAEL J. GALVIN
Director of Waterfront & Commercial Real Estate


MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:


EUGENE D. SEREOKA
Executive Director

ES:MD:MG:ER: RV:fo
Author: Rica Viola
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