

RECOMMENDATION APPROVED AND  
RESOLUTION NO. 15-7813 ADOPTED  
BY THE BOARD OF HARBOR COMMISSIONERS

June 18, 2015

AMBER M. KLESGES  
Board Secretary



Executive Director's  
Report to the

Board of Harbor Commissioners

6-18-15  
DATE: JUNE 11, 2015

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. 15-7813 - FIRST AMENDMENT  
TO PERMIT NO. 353 WITH THE CITY OF LOS ANGELES  
DEPARTMENT OF GENERAL SERVICES

**SUMMARY:**

The City of Los Angeles Harbor Department (Harbor Department) is proposing to amend Permit No. 353 (Permit) by adding additional premises covered under Order Nos. 2130, 2680, and 3469 (Orders) with the City of Los Angeles Department of General Services (GSD). The Permit is for a term of 50 years and expires on December 31, 2024. The consolidation of the Orders into Permit 353 was contemplated as: (a) the terms of the Orders have exceeded 50 years and could not be extended and (b) the Orders, as well as the Permit, were all due for compensation reset with the exception of Order No. 2680. The consolidation will also help facilitate the management and compensation adjustment process for these entitlements, as the premises are used for similar purposes related to sewer pipelines and right-of-ways.

The compensation reset for the Permit and Orders has been due since January 1, 2015 and July 2013, respectively. Even though the Permit and Orders have had prior resets, the land value of \$12 per square foot (s.f.) used for calculation of rent did not change since 1993, which resulted in no upward rent adjustments with the exception of Order No. 2680, which was adjusted upwards to \$22 per s.f. in 2013.

The proposed First Amendment will: (a) add the premises covered under the Orders into Permit No. 353, (b) adjust compensation to reflect current fair market land value of \$32 per s.f. for all of the premises, while obtaining a 10 percent rate of return, which yields an annual rent of \$237,840, (c) include an annual Consumer Price Index (CPI) adjustment factor, and (d) reconcile the rent under the Permit and Orders. GSD has the financial responsibility to make rental payments under the Permit.

**RECOMMENDATION:**

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

1. Approve the First Amendment to Permit No. 353 (substantially in the form of Transmittal 4) with the City of Los Angeles Department of General Services;
2. Direct the Board Secretary to transmit the First Amendment to Permit No. 353 to the City Council for approval on behalf of the Harbor Department pursuant to Los Angeles City Charter Section 606 and request that the City Council consider and approve the First Amendment on behalf of both the Harbor Department and on behalf of the City of Los Angeles General Services Department and Department of Public Works pursuant to Los Angeles City Charter 370. Thereafter, the First Amendment should be returned to the Los Angeles Harbor Department which, in turn, will transmit the First Amendment to the Department of General Services.

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DEPARTMENT OF GENERAL SERVICES**

3. Authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment upon Board, and City Council approval; and
4. Adopt Resolution No. 15-7813.

**DISCUSSION:**

Background/Context – Permit No. 353 has a 50-year term commencing January 1, 1975, and expiring December 31, 2024. The premises consist of 15,001 s.f. of land, 131,955 s.f. of subsurface land, and 20,800 s.f. of submerged land (water) (Transmittal 1) for the purpose of construction, maintenance, and operation of a sewer pipeline, which is operated by the Bureau of Sanitation, Department of Public Works (Public Works). The sewer line serves the communities of San Pedro and Wilmington, and Public Works is charged rent for the pipeline network within the Harbor District with connection to the Terminal Island Treatment Plant.

Compensation under the Permit was last reset in 2012, retroactively for three consecutive five-year periods, beginning January 1, 2000 and extending through December 31, 2014. Annual rent remained unchanged at \$31,441. The Permit is currently due for a compensation reset for the period of January 1, 2015 through December 31, 2019.

The Board also granted Public Works certain lands for the purpose of a sewer right-of-way under Order No. 2130 (March 25, 1947), Order No. 2680 (August 9, 1956), and Order No. 3469 (April 14, 1965). The compensation for Order Nos. 2130 and 3469 was last reset in 2011 for the period of July 1, 2004 through June 30, 2013. Annual rent remained unchanged at \$4,575 and \$7,586, respectively. Compensation under Order No. 2680 was last reset in 2013 for the period of July 1, 2013 through June 30, 2018 at an annual rent of \$12,041.

The rental adjustments were pursuant to Settlement Agreement 1106 and 1106A, (Transmittal 2) between the City of Los Angeles and the Board in 1977. The compensation for occupancy of State Tideland Trust lands used for municipal purposes may be adjusted annually based on the Board's current rate of return on the lands and subsurface/submerged land and the fair market value of the lands and subsurface/submerged land at the time of the adjustment.

The Permit and Orders are identified in Harbor Engineering Drawing Nos. 2-2123-1, 5-4225-1, 5-1839-2, 45486-1, and 2-2451 (Transmittal 3) and are administered by GSD on behalf of Public Works. Order Nos. 2130 and 3469 are due for compensation reset for the five-year period beginning July 1, 2013. The Office of the City Attorney opined that since the term of Order Nos. 2130 and 3469 has a 50-year limitation, they could neither be amended, nor compensation reset, to ensure compliance pursuant to Los Angeles City Charter Section 607(a).

It was decided to add Order Nos. 2130, 3469, and 2680 into the Permit through the proposed First Amendment.

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DEPARTMENT OF GENERAL SERVICES**

Current Compensation: The total current annual rent for the Permit and the Orders is \$55,790, based on various land values established in 1993 (a submerged land value of \$5.00 per s.f. and a backland value of \$12.00 per s.f.). Current annual rent for Order No. 2680 is at a submerged land value of \$7.26 per s.f. and a backland value of \$22.00 per s.f.

Proposed Compensation: Effective January 1, 2015, the annual rent will be calculated based on current land value of \$32.00 per s.f. based on the Board's 10 percent rate of return policy, a negotiated submerged value of \$10.67 per s.f., and subsurface land value of \$32.00 per s.f. discounted by 50 percent. The proposed rent is calculated as follows:

Parcel	Land Type	Area (Sq. Ft.)	Land Value (Sq. Ft.)	BOHC Rate of Return	Agreement 1106 Port's %	Subsurface Discount Rate	Annual Rent
<b>P353 - Drawing No. 2-2123-1 Exhibit "A-1" to the Permit, as amended</b>							
Parcel 1	Submerged	20,800	s.f. \$10.67	10%	100%	0%	\$22,194
Parcel 2	Subsurface	1,200	s.f. \$32.00	10%	100%	50%	\$1,920
Parcel 3	Subsurface	38,815	s.f. \$32.00	10%	100%	50%	\$62,104
Parcel 4	Subsurface	14,162	s.f. \$32.00	10%	100%	50%	\$22,659
Parcel 5	Subsurface	32,238	s.f. \$32.00	10%	100%	50%	\$51,581
Subtotal							\$160,458
<b>P353 - Drawing No. 5-4225-1 Exhibit "A-2" to the Permit, as amended</b>							
Parcel 1	Subsurface	5,855	s.f. \$32.00	10%	100%	50%	\$9,368
<b>O2130 - Drawing No. 5-1839-2 Exhibit "B-1" to the Permit, as amended</b>							
Parcel 1	Land	6,000	s.f. \$32.00	10%	61%	0%	\$11,712
<b>O3469 - Drawing No. 45486-1 Exhibit "B-2" to the Permit, as amended</b>							
Parcel 1	land	9,001	s.f. \$32.00	10%	61%	0%	\$17,570
Parcel 2-4	Subsurface	3,794	s.f. \$32.00	10%	61%	50%	\$3,703
<b>O2680 - Drawing No. 2-2451 Exhibit "B-3" to the Permit, as amended</b>							
Parcel 1	Subsurface	35,891	s.f. \$32.00	10%	61%	50%	\$35,030
Total Annual Rent							\$ 237,840

The proposed rent will also include annual CPI adjustments. This rent has been negotiated with both Public Works and GSD. The negotiated rental increase will be effective January 1, 2015.

Staff recommends the proposed increase, as the current rent has not been adjusted since 1993 (with the exception of Order No. 2680, which was last reset in 2013). To reconcile the Permit and the Orders, there will not be any retroactive rent due from July 1, 2013 to December 31, 2014 for Order Nos. 2130 and 3469. However, the proposed resets and reconciliations described herein will result in a net gain in fixed land rent revenues for the Harbor Department over the five-year reset period.



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DEPARTMENT OF GENERAL SERVICES****ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of an amendment to the Permit with GSD to consolidate premises covered under several Orders into the Permit. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

**ECONOMIC BENEFITS:**

This Board action will have no employment effect.

**FINANCIAL IMPACT:**

The proposed First Amendment will result in utilizing \$32 per s.f. for land value, translating to an annual rent in the amount of \$237,840. The proposed compensation will be increased annually to reflect any CPI adjustment with a floor of 0 percent and no maximum. The proposed fixed rental compensation proposed herein conforms to the Board's 10 percent rate of return policy on land.

**CITY ATTORNEY:**

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

**TRANSMITTALS:**

1. Site Map
2. Settlement Agreements 1106, 1106A and Benefit Ratio
3. Drawings (Permit 353, Orders 2130, 3469 & 2680)
4. First Amendment

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

*for* S Thappa  
JACK C. HEDGE  
Director of Real Estate

*FOR* Michael DiBernardo  
MICHAEL DiBERNARDO  
Deputy Executive Director

APPROVED:

*FOR* Eugene D. Seroka  
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