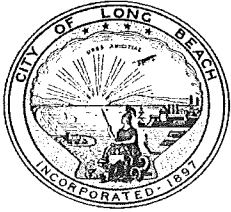


## CITY OF LONG BEACH



DEPARTMENT OF PUBLIC WORKS

333 West Ocean Boulevard 9<sup>th</sup> Floor • Long Beach, CA 90802 • (562) 570-6383 • Fax (562) 570-6012

February 5, 2013

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Authorize the City Manager to execute all documents necessary for the Second Amendment to Lease No. 20968 between the City of Long Beach (Landlord) and the Hansen Bypass Trust, the Hansen Marital Trust, and the C and D Hansen Revocable Trust (collectively, Tenant) for the continued leasing of City-owned property at 25 39<sup>th</sup> Place adjacent to the Belmont Brewing Company. (District 3)

**DISCUSSION**

On August 8, 1989, the City Council authorized the execution of Lease No. 20968 (Lease) with James A. Brennan and Berton J. Simon, original tenant, and a sublease with Belmont Brewing Company, Inc. (a subsidiary of Tenant), for a 25-year term, for approximately 1,600 square feet of City-owned property located at the southern end of 39<sup>th</sup> Place, for use as outdoor seating (Patio), in connection with Tenant's adjacent restaurant and "brewpub" operation. Subsequent modifications of the Lease included the expansion of the Patio and various assignments of the leasehold interest. The Patio currently totals 2,248 square feet representing approximately 29.3 percent of the total restaurant area. The Lease is scheduled to terminate on September 30, 2014.

Under the terms of the Lease, Tenant pays percentage rent in the amount of 5 percent of food sales, 3 percent of alcohol sales, and 10 percent of other sales. In no event, shall the total annual amount paid to City be less than the guaranteed Minimum Annual Rent (MAR), which is presently at \$33,773.

With less than two years remaining on the existing term, Tenant has requested an extension of the Lease for business planning purposes. Given its location and that no alternative use is foreseen in the next seven years, staff recommends a 5-year extension of the Lease, subject to an immediate market value increase in the rent. Negotiations between City and Tenant coupled with an appraisal of the Patio, identified the market rental value for the leasehold interest at \$39,115 per year.

A proposed Second Amendment to Lease No. 20968 has been negotiated containing the following major terms and provisions:

- Landlord: City of Long Beach.
- Tenant: Hansen Bypass Trust, the Hansen Marital Trust, and the C and D Hansen Revocable Trust (collectively, Tenant).
- Leased Premises: Approximately 2,248 square feet of land adjacent to 25 39<sup>th</sup> Place.
- Use: The Leased Premises shall be used for outdoor dining in connection with Tenant's adjacent restaurant operation.
- Term: The term of the lease shall be extended through September 30, 2019.
- Rent: Tenant shall continue to pay percentage rent pursuant to the terms of the existing Lease; however, effective January 2013, the Minimum Annual Rent (MAR) shall be increased to \$39,115 (\$3,260 per month). This represents a 16 percent increase over the current MAR.
- Rental Adjustment: Effective October 1, 2017, the MAR shall be adjusted to 85 percent of the average total rent paid by Tenant for the preceding 3-year period. In no event shall the MAR be adjusted to an amount less than \$39,115.

All remaining terms and provisions of Lease No. 20968 shall remain in full force and effect.

This matter was reviewed by Deputy City Attorney Richard Anthony on December 26, 2012 and by Budget Management Officer Victoria Bell on January 15, 2013.

#### TIMING CONSIDERATIONS

City Council action on this matter is requested on February 5, 2013, in order to execute the Second Amendment in a timely manner to formalize the continued occupancy of the Premises beyond the current term of the Lease.

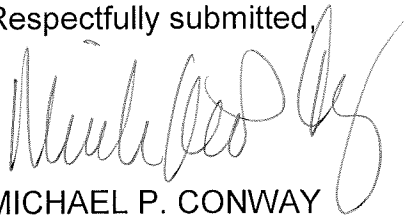
#### FISCAL IMPACT

Minimum annual base rent shall increase from \$33,773 to \$39,115 and shall continue to accrue to the Tidelands Operations Fund (TF 401) in the Department of Public Works (PW). There is no impact to the General Fund. Approval of this recommendation will provide continued support to the local economy.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



MICHAEL P. CONWAY  
DIRECTOR OF  
PUBLIC WORKS



GEORGE CHAPJIAN  
DIRECTOR OF PARKS,  
RECREATION AND MARINE

MPC:GC:JLR:MTB  
BBC Patio Lease Extension v1

APPROVED:



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PATRICK H. WEST  
CITY MANAGER