



Legislation Text

File #: 10-0180, **Version:** 1

Recommendation to authorize City Manager to execute any and all documents necessary for the Third Amendment to Lease No. 23509 with BANCAP Marina Center, Inc., a California corporation, for City-owned property at 241-255 Marina Drive, to decrease the monthly base rent from \$37,803 to \$34,803, for a two-year period, commensurate with an equivalent two-year reduction in the monthly rent paid to BANCAP by the Seal Beach Yacht Club. (District 3)

On February 1, 1994, the City Council authorized the execution of Master Lease No. 23509 (Master Lease) with BANCAP Marina Center, Inc. (BANCAP), for the remodeling, renovation, and management of City-owned property and improvements located at 241255 Marina Drive (Premises). The Master Lease provides for a 25-year term and shall expire on June 30, 2019. The Premises are fully occupied with the following subtenants: Stan Miller Yachts (boat broker); Stoll Engine (marine engine sales); Alan Andrews Yacht Design (custom yacht design); West Marine Products (marine hardware sales); Scuba Duba (boat hull cleaning and maintenance service); Schooner or Later (restaurant); and the Seal Beach Yacht Club (social club). A vicinity map is attached.

In 1995, BANCAP completed the remodeling and renovation of the Premises at a cost of approximately \$1,850,000. The Master Lease allowed these costs to be recovered by BANCAP in the form of a rent credit until such amount was fully amortized, which occurred in October 2005. At this time, the annual base rent increased from \$100,000 to \$400,000 and is currently at \$453,636 per annum (\$37,803 per month). BANCAP is also required to make percentage rental payments equal to 70 percent of its Net Operating Income (NOI). Despite the success of the project over the years, the current negative economic environment has placed significant financial strain on one of the major subtenants, the Seal Beach Yacht Club (SBYC).

In February 1994, the City executed a lease with the SBYC and immediately assigned said lease to BANCAP (SBYC Sublease), for an approximate 5,925 square foot facility, for a term of 25 years. The current rent paid by the SBYC, inclusive of common area maintenance charges, is \$94,860 per year (\$7,905 per month). A loss of membership levels and the resulting reduction in revenues generated from dues, initiation, and activities, has made the current rental payment of \$7,905 per month unsustainable.

Since yacht clubs are one of the key types of uses for public recreational marinas (such as the Alamitos Bay Marina), discussions with BANCAP have occurred regarding strategies for assisting with the retention of the SBYC on the Premises. As a result of said discussions, BANCAP has recommended a temporary two-year rental reduction to the SBYC Sublease of \$3,000 per month along with a commensurate two-year reduction of \$3,000 per month in the base rent paid by BANCAP to the City under the Master Lease. However, to ensure that both parties are receiving an equitable share of the revenue reduction, BANCAP shall make monthly reimbursement payments to the City (in addition to monthly base rent and percentage rent payments otherwise due), equal to the lesser amount of 30 percent of its percentage rent income or \$900. This rental reduction structure is consistent with the percentage breakdown of project revenue (City receives 70 percent and BANCAP

receives 30 percent of NOI).

After considerable negotiation with BANCAP, staff proposes a Third Amendment to Master Lease No. 23509 under the following major terms and provisions:

- Lessor: City of Long Beach.
- Master Lessee: BAN CAP Marina Center, Inc., a California corporation.
- Rent: Effective January 1, 2010 through December 31, 2011, the base rent of \$37,803 per month shall be reduced to \$34,803 per month for a two-year period.
- Reimbursement Payments: Master Lessee shall make monthly reimbursement payments to the Lessor equal to the lesser amount of 30 percent of Master Lessee's percentage rent income or \$900. If in any given month there is insufficient percentage rent available to make the \$900 reimbursement, the difference shall be carried over to the following month.

All remaining terms and provisions of Master Lease No. 23509 shall remain in full force and effect.

This letter was reviewed by Deputy City Attorney Richard Anthony on January 20, 2010 and Budget and Performance Management Bureau Manager David Wodynski on January 28, 2010.

City Council action on this matter is requested on February 16, 2010 in order to execute the Third Amendment (to be effective January 1, 2010) in a timely manner.

Minimum annual base rent in the amount of \$417,636 shall continue to accrue to the Marine Fund (TF 403) in the Department of Community Development (CD). The \$3,000 monthly reduction in rent paid to the City will be offset in part by a payment from the Master Lessee of 30 percent of its percentage rent income or \$900, whichever is less.

Approve recommendation.

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APPROVED:

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