

RECOMMENDATION APPROVED;
RESOLUTION 22-10096 ADOPTED; AND
AGREEMENT 22-3125-B APPROVED;
BY THE BOARD OF HARBOR COMMISSIONERS

November 17, 2022

AM Klesges
Amber M. Klesges
Board Secretary



DATE: NOVEMBER 9, 2022

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

SUBJECT: RESOLUTION NO. 22-10096 - APPROVE SECOND AMENDMENT TO OPERATING AGREEMENT NO. 13-3125 WITH WESTREC MARINA MANAGEMENT, INC.

SUMMARY:

Staff requests approval of a Second Amendment to Operating Agreement No. 13-3125 (Agreement) with Westrec Marina Management, Inc. (Westrec) and Consent to Assignment and Assumption of Agreement between the City of Los Angeles and Westrec. If approved, the proposed Amendment would enable Westrec to transfer its operation, management and maintenance responsibilities at Cabrillo Way Marina (CWM) to a new management company, Westrec SMI OPCO, LLC (Westrec SMI) effective January 1, 2023. The proposed Amendment is required at this time due to an anticipated acquisition of Westrec by Suntex Marina Investors LLC (SMI) which is expected to close on December 31, 2022. The Harbor Department is not expected to incur any additional expenses if the proposed Amendment is approved.

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 Second Amendment to Operating Agreement No. 13-3125 with Westrec Marina Management, Inc.;
3. Approve the Consent to Assignment and Assumption of Agreement between the City of Los Angeles and Westrec Marina Management, Inc.;
4. Direct the Board Secretary to transmit the Second Amendment to City Council for approval pursuant to Charter Section 606;
5. Direct the Board Secretary to transmit the Consent to Assignment and Assumption of Agreement between the City of Los Angeles and Westrec Marina Management, Inc. to City Council for approval pursuant to Charter Section 606;

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6. Authorize the Executive Director to execute and the Board Secretary to attest to the Second Amendment to Operating Agreement No. 13-3125 with Westrec Marina Management, Inc.;
7. Authorize the Executive Director to execute and the Board Secretary to attest to the Consent to Assignment and Assumption of Agreement between the City of Los Angeles and Westrec Marina Management, Inc. upon approval by the Board; and
8. Adopt Resolution No. 22-10096.

DISCUSSION:

Background – On June 6, 2013, the Board approved the Agreement with Westrec to operate, manage, and maintain Cabrillo Way Marina. Westrec manages CWM as a fee operator, while passing through all expenses and revenue to the City of Los Angeles Harbor Department (Harbor Department). The initial term was effective from July 1, 2013 through June 30, 2018, with two five-year options to extend the term. The current term (following the exercise of the first five-year extension option) expires on June 20, 2023, with one remaining five-year extension option for the period starting July 1, 2023 and ending on June 30, 2028 at the Harbor Department's sole discretion. In addition, on February 16, 2017, the Board approved the First Amendment (Resolution No. 17-8057) to the Agreement which revised the Scope of Work (SOW) for Westrec's maintenance responsibilities at CWM.

CWM consists of approximately 87 acres of land and water in San Pedro, and was designed for recreational berthing slips, dry boat storage stalls, cranes for boat hoisting, pump out stations, parking lots, promenades, boater facilities, and public restrooms. All improvements are owned by the Harbor Department and maintained by Westrec.

Proposed Amendment (Transmittal 1) and Consent to Assignment and Assumption (Transmittal 2) – Westrec sent a letter (Transmittal No. 3) to the Harbor Department on September 15, 2022, advising of its pending sale to SMI. Westrec SMI, an indirect wholly owned subsidiary of SMI, will be the new operator under the same terms and conditions of the current Agreement effective January 1, 2023.

Under Section XII B of the Agreement, assignments or transfers of the Agreement are not permitted. Therefore, WCRED requests an amendment to the Agreement for a one-time transfer of the management company from Westrec Marina Management, Inc. to Westrec SMI OPCO, LLC.

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The Harbor Department is in negotiations with Cabrillo Way Partners LLC for the purchase of the marina and commercial development of the site under a long-term lease, anticipated to be submitted to the Board for consideration within the next 12-18 months. Based on the expected timing of the pending transfer of the marina to a new tenant, and with the understanding there will be no substantive change in the current operator's staff or financial capabilities, it is recommended to permit a one-time transfer of the operating agreement to Westrec SMI.

Suntex Marina Investors LLC - SMI is an owner, operator, manager and developer of high-quality coastal and inland marina properties located throughout the United States. SMI was formed in 1995 for the purposes of acquiring direct and indirect interests in marina properties. Today, SMI owns, manages and operates 67 marinas where the primary business activities include leasing of wet-slips, dry vessel storage, boat rentals, vessel club memberships, retail sales, food and beverage services and commercial leasing.

Commencing in March 2021, SMI completed a \$1.2 billion recapitalization of its business and acquired approximately \$579 million in new marina assets. Subsequently, SMI's cost value rose to \$1.9 billion, and the balance sheet reflects \$10 million in cash and an additional \$334 million credit facility. The 2022 operational proceeds are projected to be approximately \$56 million. In addition, SMI's financial partners are further prepared to increase funding capacity to support future growth of the company. As a result, SMI's business and operations reflects a financially stable, solvent and well-funded enterprise as a marina operator for CWM. Suntex will be signing a Guaranty to ensure Westrec's obligations are met.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the Second Amendment to the Agreement with Westrec to allow for a one-time transfer of the management company, 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.

FINANCIAL IMPACT:

Approval of the proposed Second Amendment to Agreement No. 13-3125 is not anticipated to change the Harbor Department's previously approved financial commitments under the current Agreement.

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CITY ATTORNEY:

The proposed Second Amendment to Operating Agreement No. 13-3125 has been reviewed and approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Second Amendment 22-3125-B
2. Consent to Assignment and Assumption
3. Westrec Marina Management, Inc. Letter

FIS Approval: *JS*
CA Approval: *SO*

Michael J. Galvin
MICHAEL J. GALVIN
Director, Waterfront & Commercial Real Estate

Michael DiBernardo
MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

ES:MD:MG:HP:MC:JM:RW:ds
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BL946ds Westrec 2nd Amendment