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Commercial Real Estate Committee
Wednesday, March 7, 2007
12:00 Noon – Board Room

ROLL CALL:

Commissioner John **Protopappas**, Chair
Commissioner Patricia **Scates**
Commissioner Kenneth **Katzoff**

REVIEW OF MARCH 20, 2007 BOARD CALENDAR ITEMS:

1. Approval of a 5-year License and Concession Agreement with Waterfront Plaza LLC for the use of approximately 4,810 s.f. of Meeting Room Space in Jack London Square, at an Annual Rental Rate of \$92,352.
2. Approval of a License and Concession Agreement with Waterfront Plaza LLC for the use of 6,968 s.f. of paved land in the Clay Street parking lot, at an Annual Rental Rate of \$17,100.

OPEN FORUM:

Public comment on non-agenda items may be received by the Committee during this time. Please fill out a speaker card and present it to the Secretary of the Committee.

ITEMS REQUIRING CLOSED SESSION: (90 minutes)

1. **Conference With Legal Counsel – Anticipated Litigation**, Significant exposure to Litigation pursuant to subdivision (b) of California Government Code Section 54956.9: (2) matters.

2. Conference With Real Property Negotiator. Government Code Section 54956.8.

Property: Various Parcels in Jack London Square, Oakland
Negotiating Parties: Port of Oakland and Ellis Partners
Under Negotiation: Price and Terms of Payment

Property: Oak to Ninth Area, Oakland
Negotiating Parties: Port of Oakland and Oakland Harbor Partners, LLC
Under Negotiation: Price and Terms of Payment

ADJOURNMENT

The next regular meeting of the Commercial Real Estate Committee will be held on Wednesday, April 4, 2007 at noon in the Board Room.

Public Participation

This meeting is wheelchair accessible. To request materials in alternative formats, or to request an ASL interpreter, or assistive listening device, please call the Board Secretary, John Betterton, at 510-627-1696 or TDD 510-763-5703 at least three working days before the meeting. Please refrain from wearing scented products to this meeting so attendees who experience chemical sensitivities may attend.

You may speak on any item appearing on the Agenda. Please fill out a Speaker's Card and give it to the Board Secretary before the start of the meeting. All speakers will be allotted a minimum of two minutes.

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Board Secretary, John Betterton, at 510-627-1696 or visit our webpage at www.portoakland.com.

To receive Port Agendas and Agenda Related Materials by email, please email your request to board@portoakland.com.

ITEM 1

AGENDA REPORT - DRAFT

TITLE: Approval of a 5-year License and Concession Agreement with Waterfront Plaza LLC for the use of approximately 4,810 s.f. of Meeting Room Space in Jack London Square, at an Annual Rental Rate of \$92,352.

AMOUNT: \$92,352

PARTIES INVOLVED: Port of Oakland and Waterfront Plaza LLC

Corporate Name/Principal	Location
Waterfront Plaza LLC	Oakland, CA
Clyde R. Gibb - President	

TYPE OF ACTION: Ordinance

SUBMITTED BY: Joyce Washington, Director of Commercial Real Estate

COMMITTEE ASSIGNED: Commercial Real Estate

SCHEDULED FOR COMMITTEE: March 07, 2007

APPROVED BY: Omar Benjamin, Executive Director

FACTUAL BACKGROUND

The Waterfront Plaza Hotel (WPH) currently has two separate License and Concession Agreements for meeting/banquet room space, office and gift shop space in Port Building F-114 (Water Street III building). WPH has proposed to rent two additional spaces in the same building for additional meeting/banquet uses. WPH also has proposed to consolidate all of the separate agreements into one new 5-year License and Concession Agreement, which would include one additional 5-year option to extend the License term. The proposed new agreement would also give the WPH a first right to rent one additional 824 s.f. space that is currently leased to Port tenant Lanvie (retail women's clothes). WPH plans to spend approximately \$75,000 on improvements to the building including a new structural beam and restroom upgrades to make them ADA compliant.

ANALYSIS

The following are the proposed terms and conditions of the License and Concession Agreement:

Type of Agreement: 5-year License and Concession Agreement

Premises: Approximately 4,810 s.f. in Port Building F-114 Suite #'s 473, 479, 481,485 and 493.

Use: Building Suite #'s 473,479, 481 & 485 would be used for meeting/banquet room uses. Suite # 493 would be used for office and gift-shop use.

First Right to Rent: The WPH would have the First Right to rent Suite # 489, currently occupied by Lanvie. The rental rate would be at the prevailing monthly rate for the other building suites.

Term: The term of the License and Concession Agreement will be 5-years. WPH would have a one time, five-year (5 year), option to extend the License term, provided they are not in default. The rental rate during the option period would be at the prevailing market office rental rate for JL Square as determined by market survey.

Initial Monthly Rent: The initial monthly minimum rent would be \$7,696 per month (\$1.60 psf). The reporting of gross sales from the meeting/banquet room activities would be included in the gross sales report for the Waterfront Plaza Hotel. The WPH pays 10% of gross sales for their meeting/banquet room activities.

Rent Adjustments: The minimum rent would be increased annually by 3%.

Tenant Improvements: All tenant improvements and modifications to the premises would be constructed at WPH's sole cost, subject to the Port's prevailing wage requirements. WPH would obtain the necessary City of Oakland building permits. The Port would contribute a maximum of \$5,200 toward tenant improvement costs in the form of a rental credit or tenant reimbursement.

Performance Deposit: The WPH has requested that the performance deposit requirement for this License and Concession Agreement be waived. In light of their excellent payment history, longtime partnership with the Port and their substantial investment in Jack London Square, staff recommends that the deposit be waived. Please note that WPH has a separate \$45,000 deposit on file the Hotel/Restaurant Lease.

Maintenance & Repair: WPH would be responsible for all maintenance and repair of the premises including the roof, exterior walls, glass, air conditioning units and restrooms.

Utilities: Licensee would be responsible for the payment of all utility costs associated with the premises. Also, Licensee would separately meter the premises.

Possessory Interest Taxes: Licensee would be responsible for the payment of possessory interest taxes directly to the County of Alameda.

Termination Option: The Port would have the right to terminate the License and Concession Agreement if the building is sold for development purposes.

The rental rate of \$1.60 psf is net of Leasing Commissions and minimal Tenant Improvement cost. Also the tenant will be responsible all operating expenses associated with the licensed premises.

BUDGET & FINANCIAL IMPACT

The proposed License & Concession Agreement will have a positive annual impact of at least \$92,352 on the Port's budget. Port's cash investment for the proposed agreement is \$5,200.

STAFFING IMPACT

There are no staffing impacts

SUSTAINABILITY

No sustainability opportunities have been identified

ENVIRONMENTAL

This project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to CEQA Guidelines, Article 19, Section 15300.4, which directs public agencies, in the course of establishing their own procedures, to list specific activities that fall within each of the exempt classes categorized under Article 19 (Categorical Exemptions) and Class I of Port CEQA Guidelines Section 15301(p) which exempts renewals, extensions or amendments to leases or license and concession agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involving negligible or no expansion of use beyond that previously existing.

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The work performed under this contract is in the Commercial Real Estate area and is not within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA). The provisions of MAPLA do not apply to this work.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

OCIP does not apply to this License and Concession Agreement.

GENERAL PLAN

The project appears to conform to the policies of the General Plan. The project is within City of Oakland Planning jurisdiction, and they will make an official finding as part of the zoning approval.

LIVING WAGE

Based upon a review of the terms of the agreement and information provided by the tenant, it appears that the Port Living Wage requirements do not apply because the tenant is not a Port Aviation or Maritime business, thus not subject to Section 728 of the Charter (tenancy agreements are not subject to Port Ordinance No. 3666). However, the tenant will be required to certify that should living wage obligations become applicable, the tenant shall comply with all of its obligations.

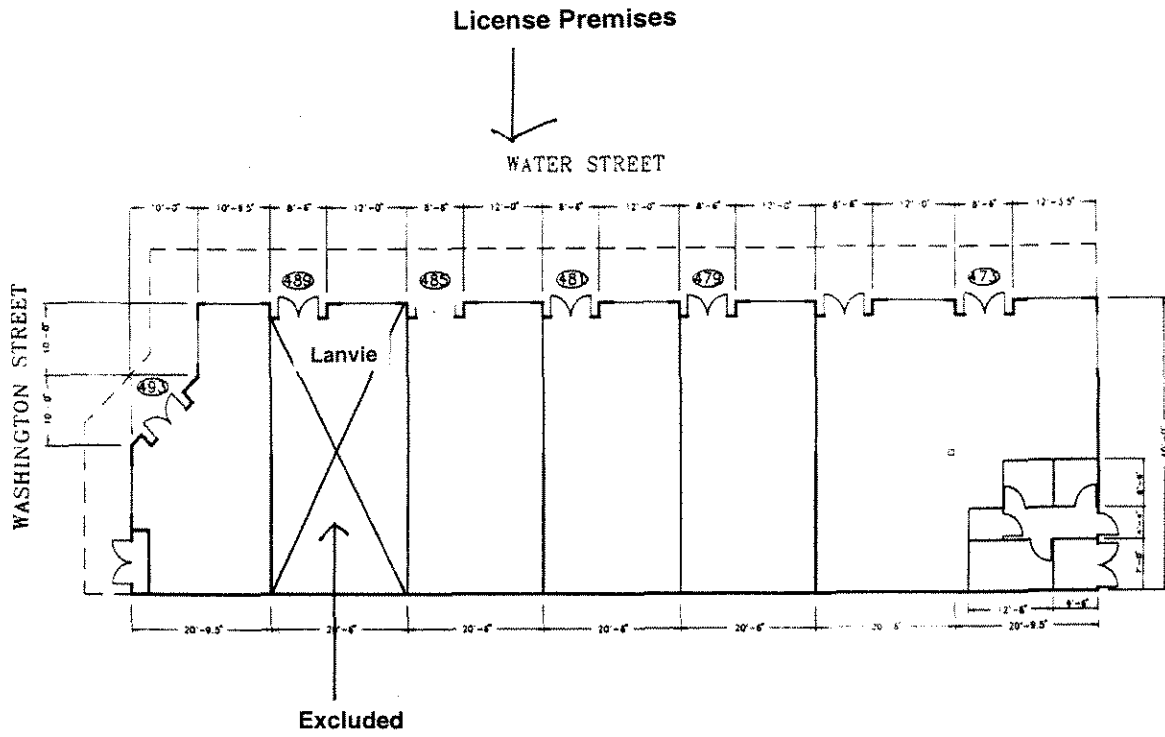
OPTIONS

1. Approve the proposed multi-year License and Concession Agreement as proposed;
2. Approve the proposed Agreement with conditions; or
3. Do not approve the proposed Agreement.

RECOMMENDATION

It is recommended that the Board give first reading to an Ordinance approving the 5-year License and Concession Agreement with Waterfront Plaza Hotel, under the terms and conditions outlined above.

Approval of a 5-year License and Concession Agreement with Waterfront Plaza LLC for the use of approximately 4,810 s.f. of Meeting Room Space in Jack London Square, at an Annual Rental Rate of \$92,352



DATE							
DRAWN BY							
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SCALE							
PROJECT NO.							
SHEET NO.							
Water Street Three BLDG. F11X 1st FLOOR PLAN						PORT OF OAKLAND 100 WATER STREET OAKLAND, CALIFORNIA PH 199.6400	

ITEM 2

AGENDA REPORT - DRAFT

TITLE:	Approval of a Multi-Year License and Concession Agreement with Waterfront Plaza LLC for the use of a 6,968sf Portion of the Clay Street Parking Lot, at an Annual Rental Rate of \$17,100.						
AMOUNT:	\$17,100 per year						
PARTIES INVOLVED:	Port of Oakland and Waterfront Plaza LLC						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: black; color: white;"> <th style="width: 60%;">Corporate Name/Principal</th> <th style="width: 40%;">Location</th> </tr> </thead> <tbody> <tr> <td>Waterfront Plaza LLC</td> <td>Oakland, CA</td> </tr> <tr> <td>Clyde R. Gibb, President</td> <td></td> </tr> </tbody> </table>	Corporate Name/Principal	Location	Waterfront Plaza LLC	Oakland, CA	Clyde R. Gibb, President	
Corporate Name/Principal	Location						
Waterfront Plaza LLC	Oakland, CA						
Clyde R. Gibb, President							
TYPE OF ACTION:	Ordinance						
SUBMITTED BY:	Joyce Washington, Director of Commercial Real Estate						
COMMITTEE ASSIGNED:	Commercial Real Estate Committee						
SCHEDULED FOR COMMITTEE:	March 7, 2007						
APPROVED BY:	Omar Benjamin, Executive Director						

FACTUAL BACKGROUND

The following License and Concession Agreement is submitted for Board Approval:

Licensee	Location	Property Description	Rental Rate	Agreement Date
Waterfront Plaza LLC	Corner of Clay Street & Embarcadero	6,968sf of paved land	\$1,425.00 per month (\$0.2045 psf)	March 20, 2007

The Waterfront Plaza Hotel (WPH) currently offers valet parking services to their hotel guests. Previously their valet cars were parked in the West End parking lot adjacent to the hotel and the meadow green. That parking lot was demolished last year to make room for required shoreline public access improvements, which were subsequently constructed. WPH has requested the use of a portion (19 stalls) of the Clay Street parking lot to park their valet cars. This proposed License and Concession Agreement would accommodate that use. The remaining portion (35 stalls) of the Clay Street lot would continue to be used by BevMo for customer parking, as provided in their Lease.

ANALYSIS

The term of the proposed License Agreement would run concurrent with the remaining term of the BevMo Lease, which expires in either September 2009 (2.6 years), or September 2014 (7.6 years), if they decide to exercise one remaining 5-year extension option. Staff supports this proposed multi-year term since the Clay Street parking lot cannot be developed until the Port's contractual obligation to provide customer parking for BevMo expires.

The proposed monthly rental rate is based on the Port's approved monthly parking rate (\$75 per stall) for surface parking lots in Jack London Square, times the 19 total stalls (19 parking stalls X \$75 = \$1,425 per month). Also, please note that the proposed monthly rental rate, on a per square foot basis (\$.2045 psf), is roughly equivalent to the current Maritime tariff rate for paved land with lighting and fencing (\$.20 psf), which is considered a market rate. The monthly rent will be increased annually by 3%. Staff recommends that the performance deposit be waived.

BUDGET & FINANCIAL IMPACT

The proposed License & Concession Agreement will have a positive annual impact of at least \$17,100 on the Port's budget. Port's cash investment for the proposed agreement is about \$2,000.

STAFFING IMPACT

There are no staffing impacts

SUSTAINABILITY

No sustainability opportunities have been identified.

ENVIRONMENTAL

This project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to CEQA Guidelines, Article 19, Section 15300.4, which directs public agencies, in the course of establishing their own procedures, to list specific activities that fall within each of the exempt classes categorized under Article 19 (Categorical Exemptions) and Class I of Port CEQA Guidelines Section 15301(p) which exempts renewals, extensions or amendments to leases or license and concession agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involving negligible or no expansion of use beyond that previously existing.

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OPTIONS

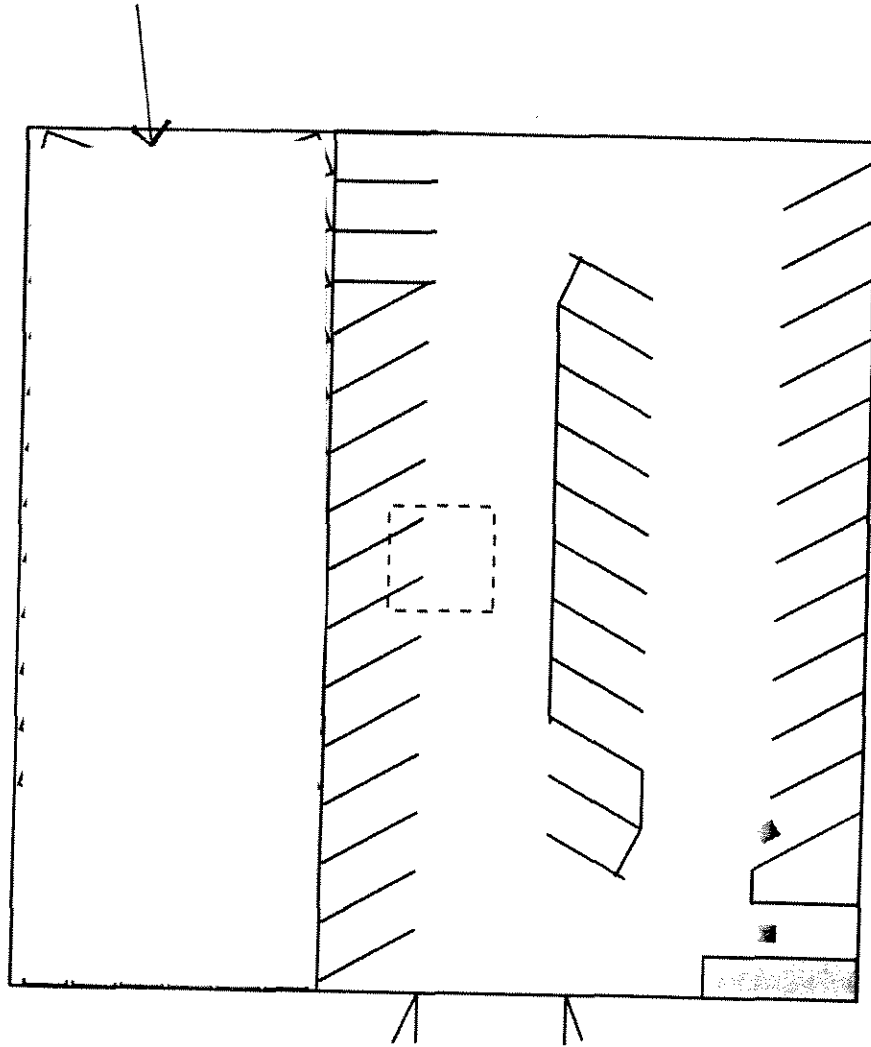
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Boundary of Premises



Embarcadero

Clay Street