

RESOLUTION NO. 30413

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO LEASE AMENDMENT NO. 3 WITH ERWIN MARINE RIVERFRONT, LLC, IN SUBSTANTIALLY THE FORM ATTACHED, TO AMEND THE RENT, EFFECTIVE APRIL 30, 2020, TO A SUM EQUAL TO A PERCENTAGE OF THE ANNUAL GROSS REVENUE OF TENANT MADE FROM OR UPON THE PREMISES AT A RENT FACTOR OF THREE AND A HALF (3.5%) PERCENT OF GROSS REVENUE DERIVED FROM THE PREMISES.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, that it is hereby authorizing the Mayor to enter into Lease Amendment No. 3 with Erwin Marine Riverfront, LLC, in substantially the form attached, to amend the rent, effective April 30, 2020, to a sum equal to a percentage of the annual gross revenue of tenant made from or upon the premises at a rent factor of 3.5% of gross revenue derived from the premises.

ADOPTED: July 14, 2020

/mem

LEASE AMENDMENT NO. 3

This Lease Amendment No. 3 to the Lease Agreement by and between the City of Chattanooga (the "City") and Erwin Marine Riverfront, LLC ("Erwin Marine") (the "Agreement") is made effective April 30, 2020.

RECITALS

WHEREAS, the City and Marinemax East, Inc. ("Marinemax") entered into the Agreement dated December 20, 2010, with a term beginning on May 1, 2010 and ending on April 30, 2015, defining the roles and responsibilities of the parties; and

WHEREAS, the City and Marinemax entered into Lease Amendment No. 1 by extending the term from May 1, 2015 through April 30, 2020 (the "Renewal Term") and amending certain terms of the Agreement as provided therein; and

WHEREAS, Marinemax assigned the Agreement to Erwin Marine on August 27, 2015; and

WHEREAS, City and Erwin Marine entered into Lease Amendment No. 2 by extending the Renewal Term from May 1, 2015 through July 31, 2020; and

WHEREAS, the City and Erwin Marine desire to amend the Agreement as provided herein.

AMENDMENT

1. Paragraph 4 of the Agreement is hereby deleted in its entirety and replaced with the following:

"4. Rent. Tenant shall pay to City for the Premises as rent, without demand, offset or deduction, a sum equal to a percentage of the annual Gross Sales (as hereinafter defined) of Tenant made from or upon the Premises at a rent factor of three and one-half percent (3.5%) of gross revenue derived from the Premises ("Percentage Rent"). The Gross Sales will include income derived from boat rentals conducted on the Premises and this income will be included with the permanent and daily rental income derived annually."

2. No other modifications, amendments or changes of the provisions of the Agreement, Lease Amendment No. 1 or Lease Amendment No. 2 are to be affected by this Lease Amendment No. 3.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Lease Amendment No. 3 on the _____ day of _____, 2020, at Chattanooga, Hamilton County, Tennessee.

CITY OF CHATTANOOGA

ERWIN MARINE RIVERFRONT, LLC

By: _____
ANDY BERKE, *Mayor*

By: _____
LOUIS H. ERWIN, JR., *President & Manager*