

May 28, 2021

## **Official City of Long Beach Statement Regarding the Queen Mary**

### **Introduction**

The City of Long Beach is committed to preserving the historic Queen Mary. The Queen Mary arrived in Long Beach in September 1967 after having carried over 2 million passengers over 1,000 voyages across the North Atlantic during its historic career. Over the last five years, following decades of deferred investment by past operators, the City implemented several steps to document and address critical repairs required for preservation. Under an agreement approved by the City Council in 2016, the new operator was able to complete \$23 million in critical repairs and address significant safety and structural issues through a public-private-partnership to operate, maintain, and repair the Ship with revenues generated on site.

The following statement provides specific information on various aspects of the operator's responsibilities, the City's role, financing, economic impact, recent inspection reports, bankruptcy proceedings, and next steps.

### **Queen Mary Uses a Public-Private Partnership Model**

The Queen Mary and surrounding land is leased to a private operator (Lease). This long-standing model assigns both the risk and reward of management of the public asset to the private operator. The operator can generate revenue on the Ship and surrounding property, but with that comes the obligation at its sole expense to fund all necessary repairs and maintenance. The City's role is to ensure compliance with the Lease, documenting issues, inspecting the asset, and acting to ensure the operator meets its obligations under the Lease.

### **Queen Mary as an Economic Generator**

It is important to note that when open and operating, the Queen Mary is a major economic generator for Long Beach residents and helps to generate tax revenues that pay for important services citywide. An economic impact study completed by Beacon Economics was released in May 2020 ([Queen Mary Economic Impact Report](#)), confirming the immense economic impact that the Queen Mary has on the Long Beach economy. Some key insights for Long Beach specifically:

- In Long Beach, spending associated with the Queen Mary supported 1,374 jobs;
- Contributed \$42.7 million in labor income;
- Generated \$93.7 million in economic output; and
- Of the 1,365 direct jobs supported in Long Beach, 329 were at the Queen Mary.

For comparison purposes, the City performed a similar economic impact study one of our largest events in Long Beach, the Long Beach Grand Prix. That event generated \$32.4

million or approximately one third of the economic output impact of the Queen Mary in 2017.

**Funding for the Queen Mary**

There is a common misperception that the Ship is funded by general tax dollars. No General Fund dollars are used on the Ship. The funding strategy has been to use revenues generated by the Lease itself (the Ship, the adjacent land, and the Carnival Cruise Lines sublease) to support the Queen Mary and fund restoration efforts. The City made a major change to the funding model in 2016, to increase funding to Ship repairs that prior operators had not performed, requiring that funding from Carnival Cruise Line passenger fees (the most stable and reliable source of revenue) go directly towards restoration and repair efforts as opposed to the operator. That funding source generates approximately \$2.9 million per year through a \$2.15 passenger fee - a major change from past models in an effort to provide more direct restoration funding.

Upon finalization of the marine studies, it was evident that significant repairs were needed. The City accelerated the most urgent repairs by issuing 10-year bonds to be repaid by Carnival Cruise Lines passenger fees (in additional to funds that had previously been collected for restoration purposes). This helped create a \$23 million Historic Preservation Capital Investment (HPCIP) Fund for the Ship operator to invest in the critical repair projects and projects detailed in the Marine Survey report and approved by the City, to safely reopen sections of the Ship, boost revenue, and provide visitors with a safe and enjoyable experience.

**Level of Investment at Its Highest Level in 15 Years**

The funding invested in the Ship for repairs is higher than it has even been. For comparison purposes, nearly twice as much has been invested in capital repairs in the five years since the creation and deployment of the HPCIP fund than in the prior 10 years. In the 10-year period between 2007 and 2016, private operators of the Ship invested approximately \$12.8 million in capital repairs. In the 3-year period between the Fall 2016 and 2018, the operator invested \$23.3 million or nearly double the amount of the previous three operators.

| <u>Operator</u>  | <u>Years</u> | <u>Capital Investment</u> |
|------------------|--------------|---------------------------|
| • Save the Queen | (2007-2009)  | \$2,000,000               |
| • Garrison       | (2009-2016)  | \$10,820,275              |
| • Urban Commons  | (2016-2021)  | \$23,286,342              |

*\* Note: Urban Commons assumed the lease from Garrison in Fall 2016.*

It is important to note that these numbers do not include over \$43 million in documented maintenance and replacement investments recorded for the same 15-year period.

### **Documentation of Repairs**

Over the past several years, City leadership has proactively documented the necessary repairs to the Queen Mary after decades of deferred maintenance by former operators, beginning with the first-ever comprehensive inspection report shared with the public in 2017. The current operator took responsibility for all these documented repairs in 2016 pursuant to the Lease.

### **Repairs Completed and Underway**

In its agreement with the private operator Urban Commons Queensway LLC (Urban Commons), the City established an Historic Preservation Capital Investment Plan (HPCIP) backed by passenger fee revenues from Carnival Cruise Lines. In its detailed agreement with Urban Commons, the City approved a list of 27 projects to be completed by private contractors and reimbursed Urban Commons for costs associated with approved work. That work completed seven major life safety and structural projects, including repair of the Fire and Life Safety System Ship-wide, replacement of the expansion joints, and additional major structural repairs.

On [September 18, 2018](#), the City Manager detailed these repairs in a public presentation to the City Council. On [September 23, 2019](#), the City Manager provided another written update to the City Council regarding the status of these projects. On October 1, 2019, the City of Long Beach sent a letter to the Lessee which is detailed and attached to a written memo to the City Council on [November 4, 2019](#), indicating that it was falling short of its obligations under the terms of the Lease. For more information on the repairs and public reports, please see this latest update on [May 20, 2021](#).

### **Project Oversight**

The City has implemented a number of new processes and controls to improve oversight of current and future operators of the Queen Mary. Starting in 2017, the City hired a full-time analyst dedicated to the daily oversight of Queen Mary repairs and accounting for HPCIP fund expenditures. Additionally, the City created a review and approval process for construction projects, inspection reports, and reimbursement requests from the operator. As a result, the Queen Mary receives the most direct lease oversight of any of the City's properties.

Approval of payments require extensive review by multiple City departments with expertise in construction, accounting, and financial audit; and, required the operator to submit backup documentation detailing the work completed and certifying invoices for payment by the City. Consistent with its capital improvement programs for other major City facilities including the Convention Center, the City has established a rigorous process for the management and disbursement of funds for work on the Queen Mary. Per Section 7.3.3.5 of the Lease:

Prior to the disbursement of any amounts from the HPCIP Fund, Tenant shall furnish to Landlord either applicable invoices for work to be paid from the HPCIP

Fund or evidence of payment if Tenant is to be reimbursed from the HPCIP Fund and other back-up materials reasonably acceptable to Landlord concerning the use of amounts from the HPCIP Fund. Subject to compliance with Landlord's customary disbursement requirements, including certified invoices, owner affidavit, lien releases and other like matters, disbursements from the BMRP Fund can be made on an installment basis as work progresses for projects with a projected scope of work that exceeds Two Hundred and Fifty Thousand Dollars (\$250,000).

Although City staff followed all the of the requirements of its agreement with Urban Commons, a recent investigation by the City Auditor indicates that "Urban Commons did in fact misrepresent financial information and failed to perform their duties under the lease". As part of this investigation and in collaboration with the City Auditor, City management formally requested financial documents providing proof of payment to its vendors. Unfortunately, Urban Commons did not entirely comply with this request. It is unacceptable that Urban Commons provided the City with documents marked "paid" for reimbursement when they had not yet been paid, and the City will pursue all legal remedies available to it against Urban Commons resulting from such misrepresentation.

### **Payment Process**

As part of standard City purchasing procedures, invoices are submitted for payment and are checked against the agreement for compliance. However, in this and other agreements, the City reserves the right to request additional data upon commencement of an audit. That information was requested by management, but has not been provided, and as such the audit has not yet been completed.

The City will continue to push through all legal means to receive the required data and then take any appropriate next steps upon conclusion of the analysis. At this time, no vendor has come forth to say that payment is outstanding, or they did not receive compensation for their work on the Ship, which is confirmed by the audit work. Independent analysis from a City-hired engineer has shown that the work submitted for payment was completed; an additional audit is being conducted to determine if all detailed work was appropriately accounted for and properly completed; the results of that work is not yet complete.

### **City's Actions to Place Urban Commons in Default for Violations of the Lease**

On April 1, 2020, due to a failure to provide required financial documents requested by the City Auditor, the City noticed the Lessee and its lenders that it was in default of its obligations under the Lease. The Lessee was formally noticed of additional defaults, including the failure to pay rents, on May 28, 2021, June 19, 2020, July 1, 2020, and November 5, 2020. On January 18, 2021, EHT US1, Inc. (Eagle Hospitality Trust), and its affiliated entities, including the Queen Mary tenant, Urban Commons Queensway, LLC, filed for bankruptcy protection.

Although the current operator failed to meet its obligations and is now facing bankruptcy, the City is working diligently to hold current and future operators accountable for repairs needed to keep the Queen Mary safe. The City Manager will work closely with the City Auditor to pursue its rights under the Lease to review financial information, assess potential violations of law, and to file a formal complaint with law enforcement if criminal activity is confirmed.

### **Bankruptcy Status**

On May 14, 2021, the City of Long Beach filed an Objection to Sale of Leases with the Court administering the Queen Mary bankruptcy. The City reaffirms its earlier Objection to the Sale of Leases and lease cure amounts proposed by the debtor. In May 2021, the City and its maritime engineering experts had the opportunity to inspect the Queen Mary and have determined that the approximate cost to cure all existing noticed defaults under the Lease have increased to between approximately \$41 million and \$58 million, which constitutes a significant change to the previous cure cost estimate. City management, together with the City Attorney's Office, will continue to take all the appropriate actions in the debtor's bankruptcy case to protect the City's property and achieve an outcome which will best position the Ship for long-term success.

Per the Lease, the current or future Lessee will be legally responsible for making all the repairs necessary to safely reopen the Queen Mary. Based on the strength of its historical documentation, inspection reports, and detailed information filed with the Courts, the City should not be required to spend its own funds to repair the Queen Mary if the Lease is assumed through the bankruptcy process.

### **Recent Inspection Report**

In May 2021, as part of the bankruptcy proceedings initiated by the current operator, the City commissioned an inspection report by Elliott Bay Design Group—a marine engineer with expertise in historic ships—to hold the current operator accountable and support the City's case that the current operator has not fulfilled its obligations to operate, maintain, and repair the Queen Mary as required by the Lease. Issues raised in the most recent report are not new and have been well documented by City staff several times including a [report](#) and a [public presentation](#) on September 18, 2018. Failure to address these issues led to a notice of potential default on October 1, 2019 and formal default on May 7, 2020.

Although closed to the public due to COVID-19, numerous inspectors, regulatory agencies, and public safety organizations continue to conduct regular and ongoing inspections to ensure the Queen Mary is safe; including the annual fire inspection which will occur in early June and include the participation of 25 fire fighters to review the life safety systems aboard the Ship.

Although the current operator failed to meet its obligations and is now facing bankruptcy, the City Attorney, City Manager, and City Auditor are working diligently to hold current

and future operators accountable for repairs needed to keep the Queen Mary safe. Until that time, responsibility for the repairs will continue to rest with the operator and the City will utilize all its legal powers available to force the operator to complete these repairs through the bankruptcy proceedings.

### **Bankruptcy Auction Extension**

On May 14, 2021, Urban Commons, the debtor and lessee under the Lease, requested that the Court extend the deadline by which the debtor must decide whether to assume or reject the Lease to August 16, 2021.

The Court is scheduled to consider this request at a hearing on June 8, 2021, at which time the City expects that the Court will grant the request. In the meantime, the City expects the auction of the Lease, to the extent that the debtor seeks to assume the Lease, to be delayed until sometime this summer, with the exact date to be determined by the debtor and the Court. Until an auction occurs and the assumption and assignment of the Lease is approved by the Court, Urban Commons remains obligated to fulfill all obligations as tenant under the Lease.

### **Next Steps**

The City continues to hold Urban Commons responsible for all Shipboard repairs through the bankruptcy process and will pursue every legal avenue available to the City to ensure protection of the asset and address any potential wrongdoing or Lease violation. The bankruptcy is expected to continue into August. In the meantime, the City continues to explore with the Port options for a different model and potential transfer back to the Port of the asset (as was the case prior to 1993) and the results of the Study will be available this summer. In July, the City Council will hold a Study Session to review the Queen Mary and various options. The City Manager is also preparing contingency plans to address the most critical safety repairs in the event the City regains control of the asset through the bankruptcy process.

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