



DATE: November 6, 2013

TO: Honorable Mayor and City Councilmembers

FROM: Property Management Division

SUBJECT: **AMENDMENT 3 TO THE CPI PROPERTY LEASE AGREEMENT WITH MANHEIM INVESTMENTS, INC., FOR THE PREMISES LOCATED AT 4691 CALLE JOVEN**

SYNOPSIS

Staff recommends that the City Council approve Amendment 3 to the CPI Property Lease Agreement with Manheim Investments, Inc., for the property located at 4691 Calle Joven, increasing the square footage of the premises and increasing the annual rental from \$144,456 to \$179,515; and authorize the City Manager to execute the amendment.

BACKGROUND

On May 24, 1996, the City of Oceanside as landlord ("City") and ADT Automotive, Inc., a Delaware corporation, doing business as San Diego Auto Auction as predecessor in interest to Manheim Investments, Inc., a Nevada corporation, as tenant ("Lessee") originally entered into a CPI Property Lease Agreement for the property located at 4691 Calle Joven, Oceanside, CA ("Property"). The CPI Property Lease Agreement was subsequently amended on December 23, 1998 and June 20, 2012 (collectively the "Agreement").

The Agreement was for the lease of approximately 23.3 acres of unimproved real property for the purpose of constructing a facility to operate an auto auction and/or vehicle storage business. The remaining term of the Agreement is for just over three-years, set to expire on May 23, 2016, and provides Lessee two additional five-year options to extend the term of the Agreement set to expire on May 23, 2021 and May 23, 2026.

Previously the Lessee reduced the size of the Property from 29.0 acres to 23.3 acres due to the auto auction business being in a state of decline as a result of the recent recession and the slower-than-expected economic recovery in the automobile resale business. As a result, Lessee no longer required as much space as it had previously occupied. However, due to current market conditions Lessee is desirous of leasing the previously relinquished approximate 5.7 acres ("5.7 Acre Property").

ANALYSIS

The proposed amendment increases the Property from its current size of 23.3 acres, up to 29.0 acres. The 5.7 Acre Property would be returned to the Lessee in its improved condition, which consists of an asphalt-paved pad that is partially fenced with a concrete block wall and landscaped.

The beginning rent for the Property, commencing the effective date of Amendment 3 to CPI Property Agreement ("Amendment"), will be at the same rent that Lessee is currently paying, increased on a prorated basis. For each year of the additional term of the Agreement the rent for the Property will be increased at one percent per annum. Should Lessee exercise the renewal options, the new rent for the Property will be at the fair market value rent at the time each renewal is exercised.

FISCAL IMPACT

Lessee currently pays an annual rent of \$144,456 for the 23.3 acre Property. The rent for the larger 29.0 acre Property would be increased to the annual amount of \$179,515, subject to increases of one percent per year for the extended term bringing the total consideration to \$543,949 for the remaining term of the Agreement. The rent from Lessee will continue to be deposited into General Fund Account No. 1101.4351.0009.

INSURANCE REQUIREMENTS

Lessee will be required to maintain the City's standard insurance requirements over the term of the Agreement.

COMMISSION OR COMMITTEE REPORT

Does not apply.

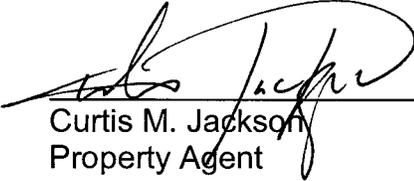
CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

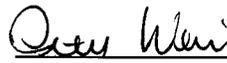
RECOMMENDATION

Staff recommends that the City Council approve Amendment 3 to the CPI Property Lease Agreement with Manheim Investments, Inc., for the property located at 4691 Calle Joven, increasing the square footage of the premises and increasing the annual rental from \$144,456 to \$179,515; and authorize the City Manager to execute the amendment.

PREPARED BY:


Curtis M. Jackson
Property Agent

SUBMITTED BY:

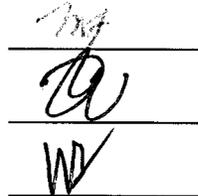

Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Douglas E. Eddow, Real Estate Manager

Michael Blazenski, Interim Financial Services Director



**THIRD AMENDMENT
TO CPI PROPERTY LEASE AGREEMENT**

This Third Amendment to CPI Property Lease Agreement (“Amendment”) is made this ___ day of November, 2013 (“Effective Date”), by and between the City of Oceanside (“CITY”) and Manheim Investments, Inc., a Nevada corporation (“LESSEE”).

RECITALS

WHEREAS, CITY and LESSEE’s predecessor in interest, ADT Automotive, Inc. doing business as San Diego Auto Auction (“ADT”) entered into that certain CPI Property Lease Agreement, dated May 24, 1996 (“Lease”) for the real property located at 4691 Calle Joven, Oceanside, CA (“Premises”); which Lease was amended by Lease Amendment No.1 dated December 23, 1998 (“Lease Amendment”) and by Lease Amendment No. 2 dated June 20, 2012 (“Lease Amendment No. 2”);

WHEREAS, CITY and ADT entered into an Agreement to Lease, dated January 22, 1997 regarding the respective covenants to be performed by each party in order to execute an amendment to the Lease, which Agreement to Lease was amended by (i) an Amendment to Agreement to Lease dated September 17, 1997; (ii) a Second Amendment to Agreement to Lease dated January 7, 1998; and (iii) a Third Amendment to Agreement to Lease dated April 8, 1998;

WHEREAS, ADT and LESSEE entered into a Distribution Agreement dated December 31, 2001, whereby a dividend distribution was made by ADT to LESSEE transferring the assets and rights used in the conduct of the business located at the Premises from ADT to LESSEE, which Distribution Agreement was consented to by CITY;

WHEREAS, Lease Amendment No. 2 reduced the size of the Premises by approximately 5.7 acres--from approximately 29.0 acres to approximately 23.3 acres--and extended the term of the Lease for an additional five (5) years, providing for two (2) additional renewal options to further extend the term of the Lease an additional five (5) years each; and

WHEREAS, LESSEE has requested to increase the size of the Premises by approximately 5.7 acres--from approximately 23.3 acres to approximately 29.0 acres;

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the parties hereto agree as follows:

AGREEMENT

The Lease, beginning on the Effective Date, shall be amended to read as follows:

1. Subsection 1.01 Premises is deleted in its entirety and replaced with the following language:

1.01 Premises.

The CITY hereby leases to LESSEE and LESSEE leases from CITY, in accordance with the terms of this Lease, all that certain real property situated in the City of Oceanside, County of San Diego, State of California, commonly known as 4691 Calle Joven, more particularly shown on Exhibit "A-1", attached hereto and by this reference made a part of this Lease (hereinafter referred to as the "PREMISES"). The exact configuration of the PREMISES shall consist of a total of approximately 29.0 acres as determined by a licensed surveyor. The survey cost shall be paid by the CITY.

2. Subsection 3.02 Rent is deleted in its entirety and replaced with the following language:

3.02 Rent.

a. Minimum Monthly Rent. LESSEE shall pay to the CITY as Rent the sum of Fourteen Thousand Eight Hundred Eleven and 48/100 Dollars (\$14,811.48) per month beginning on March __, 2013.

b. Annual Rent Adjustment. The Minimum Monthly Rent set forth above shall be increased annually thereafter as follows:

July 1, 2013 – June 30, 2014	\$14,959.60
July 1, 2014 – June 30, 2015	\$15,109.19
July 1, 2015 – May 23, 2016	\$15,260.29

3. Subsection 3.04 Rent for Extended Term(s) is deleted in its entirety.

4. All other terms, conditions, covenants and provisions of the Lease shall remain in full force and effect. In the event of any conflict between the terms of the Lease and this Amendment, the terms of this Amendment shall control.

“CITY”

THE CITY OF OCEANSIDE
a municipal corporation

APPROVED AS TO FORM:

By: _____
City Manager

By: *Paul Hamilton, ASST.*
City Attorney

LESSEE”

MANHEIM INVESTMENTS, INC.
a Nevada corporation

By: *Katherine K. Decker*

Name: **Katherine K. Decker**
Vice President & Treasurer

Title: _____

NOTARY ACKNOWLEDGEMENT OF LESSEE’S SIGNATURE(S) MUST BE ATTACHED

Sandra L. Gordon

