

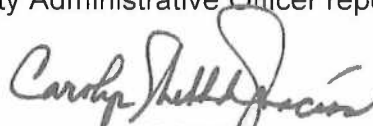
0150-12712-0000

TRANSMITTAL

TO Eugene D. Seroka, Executive Director Harbor Department	DATE 7/03/2024	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	

RESOLUTION NO. 24-10375 AND PROPOSED FIRST AMENDMENT TO AGREEMENT NO. 21-9805 AMONG THE CITY OF LOS ANGELES HARBOR DEPARTMENT, PORT OF LONG BEACH, PORTCHECK, LLC, AND MARINE TERMINAL OPERATORS FOR CLEAN TRUCK FUND RATE COLLECTION SERVICES TO EXTEND THE TERM BY FIVE YEARS AND ADJUST COMPENSATION

Approved and transmitted for further processing including Council consideration.
See the City Administrative Officer report attached.


MAYOR

(Carolyn Webb de Macias for)

Attachment

MWS/PJH/JVW:JAS:10240241t

CAO 649-d

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: June 28, 2024

CAO File No. 0150-12712-0000

Council File No.

Council District: 15

To: The Mayor

From: Matthew W. Szabo, City Administrative Officer

Reference: Correspondence from the Los Angeles Board of Harbor Commissioners (Board) dated June 27, 2024 and June 27, 2024 Board Resolution; referred by the Mayor for report on June 27, 2024

Subject: **RESOLUTION NO. 24-10375 AND PROPOSED FIRST AMENDMENT TO AGREEMENT NO. 21-9805 AMONG THE CITY OF LOS ANGELES HARBOR DEPARTMENT, PORT OF LONG BEACH, PORTCHECK, LLC, AND MARINE TERMINAL OPERATORS FOR CLEAN TRUCK FUND RATE COLLECTION SERVICES TO EXTEND THE TERM BY FIVE YEARS AND ADJUST COMPENSATION**

RECOMMENDATIONS

1. Approve Los Angeles Harbor Department (Harbor Department) Resolution No. 24-10375 authorizing the proposed First Amendment to Agreement No. 21-9805, among the City of Los Angeles Harbor Department, Port of Long Beach, Portcheck, LLC, and Marine Terminal Operators for Clean Truck Fund Rate collection service, extend the term by an additional five years from August 20, 2024 to August 19, 2029, update the scope of work, and increase funding by \$21,068,130 from \$10,000,000 to a new not-to-exceed contract authority of \$31,068,130;
2. Adopt the June 27, 2024 Board of Harbor Commissioners findings 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; and
3. Authorize the Harbor Department Executive Director, or designee, to execute the proposed Agreement, already approved as to form by the City Attorney, and return the Agreement to the Port for further processing, including Council consideration.

SUMMARY

The Los Angeles Board of Harbor Commissioners (Board) requests approval of its June 27, 2024 Resolution No. 24-10375 (Attachment 1) which authorizes the First Amendment to Agreement No. 21-9805 among the City of Los Angeles Harbor Department (Harbor Department), Port of Long Beach (POLB), PortCheck, LLC (PortCheck), and Marine Terminal Operators (MTO) to extend the Agreement by an additional five years, from August 20, 2024 to August 19, 2029, and increase compensation by \$21,068,130 from \$10,000,000 to a new not-to-exceed contract authority of \$31,068,130 for Clean Truck Fund (CTF) Rate collection services for the Harbor Department and POLB (collectively known as Ports). The Harbor Department is financially responsible for 50 percent, or \$15,534,065, of the expenses incurred under the agreement and POLB is financially responsible for the other 50 percent of the expenses.

The Amendment expands truck movement data collected to comply with recently adopted California Air Resources Board (CARB) truck regulations recordkeeping requirements to provide information on all drayage trucks that call at the Ports, where previously, information was only obtained from trucks with containers. Some of the data is already being received from PortCheck, but the Harbor Department amended the request to include all data fields required by CARB including vehicle identification number (VIN), entry date/time, and license plate number.

The proposed amendment has been approved as to form by the City Attorney. Pursuant to Charter Section 373 and Los Angeles Administrative Code Section 10.5, Council approval is required because the cumulative contract term exceeds five years. Our Office has reviewed the request and recommends approval.

BACKGROUND

One of the most notable and successful strategies contained in the original joint Ports Clean Air Action Plan (CAAP) of 2006 was the Clean Truck Program (CTP), established in 2008, which led the trucking industry to begin replacing the existing fleet of trucks that provided drayage services at the Ports with cleaner trucks. In order to incentivize trucking companies to replace their trucks, the Ports charged a clean truck fee of \$35 per Twenty-Foot Equivalent Unit (TEU) to Beneficial Cargo Owners (BCOs) on loaded cargo carried by any drayage truck that did not meet the 2007 Environmental Protection Agency (EPA) compliance standards. The Ports used the money collected to administer the CTP and provide incentive funding for truck drivers and trucking companies to purchase clean trucks.

Effective October 1, 2008, all drayage trucks must be registered in the Port Drayage Truck Registry (PDTR) in order to access any terminal in the Port of Los Angeles (POLA) and as of October 1, 2018, no additional drayage trucks shall be entered into the PDTR unless they are a model year 2014 or newer.

Clean Air Action Plan (CAAP): The 2017 CAAP Update was adopted by the Ports on November 2, 2017, which included further advancement of the CTP to help the trucking industry phase out older trucks and transition to the CAAP goal of Zero Emissions (ZE) drayage trucks by 2035,

which aligns with the requirements in the Advanced Clean Fleet Regulation enacted by CARB on April 28, 2023. As a result of the successful CTP efforts, air emissions from trucks operating at the Harbor Department have been reduced by 98% for diesel particulate matter, 83% for nitrogen oxides, 92% for sulfur oxides, and 16% for greenhouse gasses compared to 2005.

Original Agreement: On May 11, 2021, through Resolution No. 21-9826, the Board approved Agreement No. 21-9805 among the Harbor Department, POLB, PortCheck, and MTOs for PortCheck to establish the mechanism and provide the services to collect the CTF Rate from non-exempt trucks hauling loaded containers at both Ports container terminals. The initial Agreement was for a term of three years, from August 20, 2021 through August 19, 2024, with a maximum contract authority amount of \$10,000,000, where the Harbor Department and POLB are each responsible for fifty percent of the cost. CTF Rate collection system development costs were not-to-exceed \$875,000 and operating costs were not-to-exceed \$9,125,000.

Current Proposed First Amendment: The Amendment will extend Agreement No. 21-9805 for an additional five years, from August 20, 2024 through August 19, 2029, with additional compensation in the amount of \$21,068,130 for a new not-to-exceed contract authority of \$31,068,130. This includes \$875,000 in development costs previously expended for the original development of the CTF Rate collection system, and a not-to-exceed amount of \$30,193,130 in operating costs. To meet recently adopted CARB truck regulations recordkeeping requirements, the Amendment will expand the type of truck data provided by PortCheck and the MTOs to the Ports. The new data will include information on all trucks entering into container terminals including trucks with a container (container is connected to a chassis attached to the truck), trucks with a chassis attached (but no container), and trucks with no chassis or container (just the truck cab, known as a bobtail), rather than only trucks carrying containers. This expanded data will require PortCheck to obtain additional computer equipment and upgrade existing equipment.

Clean Truck Fund (CTF) Rate Collection: The 2017 CAAP Update included the establishment of a CTF Rate, which charges a rate of \$10 per TEU or \$20 per container longer than 20 feet to cargo owners or their authorized agents on loaded import or export containers hauled by drayage trucks at Ports terminals since April 1, 2022, with exemptions for ZE and low nitrogen-oxide (Low NOx) trucks. At POLA, Low NOx trucks that were registered in the PDTR and placed into service by December 31, 2022 are exempt through December 31, 2027, after which, only ZE trucks will be exempt. POLB has different exemption criteria for Low-NOx trucks. PortCheck CTF Rate collection services include upgrades and maintenance of the CTF Rate collection system, collection of the CTF Rate, application of exemptions in accordance with the Ports Tariffs, and remitting the collected CTR Rate revenues to the Ports.

Revenue: PortCheck began collecting the CTF Rate on April 1, 2022 and has collected approximately \$81.7 million through March 2024 for the Harbor Department, and a similar amount for POLB. Annual revenue from CTF Rate collection is expected to be approximately \$40 million each year over the next two years and will gradually decrease as more ZE trucks enter POLA. The Harbor Department is expected to retain approximately \$38 million annually after PortCheck retains their operating costs. This program is expected to end on January 1, 2035 aligning with the CAAP goal of 100 percent ZE trucks by 2035, but is subject to change. All

CTF Rate funds will be used exclusively to pay for incentive programs to replace port drayage trucks with ZE trucks, and to pay for associated ZE infrastructure as needed. PortCheck's operating costs will be paid from the revenue collected from the CTF Rate. PortCheck will pay the Harbor Department the CTF Rate revenue collected at POLA minus the operating costs for that period. Bank or credit card fees will be charged to the Port where the CTF Rate is collected, and all remaining fixed costs will be split evenly between the Ports.

Funding and Spending Schedule: Table 1 provides a detailed list of actual and anticipated expenditures of the Harbor Department's fifty percent of the contract total, by fiscal year (FY) from FY 2021-22 through 2029-30. A total of \$3,210,571 has been expended to date, with \$1,789,429 remaining under the previous authority. The additional Harbor Department funds of \$10,534,065 under the proposed First Amendment is projected to be utilized over FY 2025-26 through 2029-30 for a new total obligation of \$15,534,065 from the new total contract authority not-to-exceed \$31,068,130.

Table 1: PortCheck Clean Truck Fund Rate Collection Services Agreement No. 21-9805; Resolution No. 24-10375 Total Harbor Department Funding Authority, Expended, and Remaining Funds				
Fiscal Year	Total Expended	Unspent Authority	1st Amendment	Total
2021-22	\$507,977			\$507,977
2022-23	\$1,194,796			\$1,194,796
2023-24	\$1,507,798			\$1,507,798
2024-25		\$1,789,429		\$1,789,429
2025-26			\$2,500,000	\$2,500,000
2026-27			\$2,500,000	\$2,500,000
2027-28			\$2,500,000	\$2,500,000
2028-29			\$2,700,000	\$2,700,000
2029-30			\$334,065	\$334,065
Total	\$3,210,571	\$1,789,429	\$10,534,065	\$15,534,065

CITY COMPLIANCE

California Environmental Quality Act (CEQA) – On June 27, 2024, the Board determined that the approval of the amendment is administratively exempt as it is an action which is an activity for which the underlying project is the approval of an Amendment to extend the term of the agreement by an additional five years and increase compensation to accommodate recently adopted CARB requirements, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

The City Attorney has reviewed and approved the proposed Agreement as to form. Pursuant to

Charter Section 373 and Los Angeles Administrative Code 10.5, Council approval is required because the total Agreement term exceeds five years. Our Office recommends approval.

FISCAL IMPACT STATEMENT

Approval of the proposed First Amendment to Agreement No. 21-9805 between the Harbor Department, the Port of Long Beach (POLB), PortCheck, LLC, and Marine Terminal Operators will meet compliance with recent California Air Resources Board truck regulation record keeping requirements. The total compensation will be increased from \$10,000,000 by \$21,068,130 to a new not-to-exceed contract authority of \$31,068,130. The Harbor Department is financially responsible for \$15,534,065 (50 percent) of the expenses incurred under the agreement and POLB is financially responsible for the other 50 percent. The expenses incurred under the agreement are offset by the Clean Truck Fund (CTF) Rate revenue collected. From April 1, 2022 through March 31, 2024, PortCheck collected approximately \$81.7 million in CTF Rate revenue for the Harbor Department. Funding for FY 2024-25 in the amount of \$1,789,429 is available in Account 59967 (Clean Truck Program Administrative Costs), Center 0330 (Environmental), Program 000 (Base Budget). Future year funding will be requested through the annual budget adoption process, subject to Board approval. The recommendations in this report and proposed actions comply with the Harbor Department's Financial Policies. There is no impact on the City's General Fund.

Attachment 1 – June 27, 2024 Harbor Department Report Resolution No. 24-10375 and Proposed First Amendment to Agreement No. 21-9805 approved by the Board of Harbor Commissioners at its June 27, 2024 meeting

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