

0150-06030-0010

TRANSMITTAL

TO Eugene D. Seroka, Executive Director Harbor Department	DATE JUN 15 2016	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	

**PROPOSED SEVENTH AMENDMENT TO PERMIT NO. 733 WITH
EAGLE MARINE SERVICES, LTD TO MODIFY CALCULATION OF COMPENSATION**

Transmitted for further processing and Council consideration.
See the City Administrative Officer report attached.



Ana Guerrero

MAYOR

MAS:ABN:1016088t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: June 8, 2016

CAO File No. 0150-06030-0010

Council File No.

Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Correspondence from Harbor Department dated April 19, 2016; referred by the Mayor for reported dated April 21, 2016

Subject: **PROPOSED SEVENTH AMENDMENT TO PERMIT NO. 733 WITH EAGLE MARINE SERVICES, LTD TO MODIFY CALCULATION OF COMPENSATION**

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 16-7919 authorizing a proposed Seventh Amendment to Permit No. 733 (Permit) with Eagle Marine Services, Ltd (EMS), a terminal operator, to change the compensation structure for use of its cargo terminal at the Port of Los Angeles (POLA). The proposed Amendment will change the current calculation used by the Port's compensation structure for the dockage and wharfage charges to one that includes a calculation on the volume of cargo containers. A standard cargo container size is approximately twenty feet and is called a Twenty-Foot Equivalent Unit (TEU). The wharfage fee is a charge assessed by the POLA to lease the terminal to handle incoming or outgoing cargo. The dockage fee is a charge by POLA on the length of water frontage used by a vessel tied up to the wharf. The Port states that the proposed TEU-based compensation scale will allow more efficient collection of revenue and implement a system similar to other cargo container terminals in the POLA.

BACKGROUND

The Port states that Permit No. 733 was initially approved for a 30-year contract term ending in December 2026 to operate containerized cargo for a terminal area within the POLA. EMS is a terminal operating subsidiary of the shipping line American President Lines (APL). APL is a member of a six-member global shipping alliance (called G6 Alliance) of shipping line vessel operators. These six leading shipping line containers created one of the largest vessel partnerships to share vessel space, increase efficiency and reduce supply chain costs. The G6 Alliance carriers include the following: APL, Hapag Lloyd, Hyundai Merchant Marine, Mitsui O.S.K. Lines (MOL), Nippon Yusen Kaisha (NYK), and Orient Overseas Container Line (OOCL). The Port works with these carriers and other ones to develop programs and incentives for participating shipping line tenants to maintain their intermodal (ship, rail and truck) containerized cargo merchandise and businesses. The movement of containerized cargo through the POLA supports thousands of direct and indirect jobs in Los Angeles and across the United States.

The Permit with EMS is on approximately 261 acres of POLA property at Pier 300 and includes approximately 30 acres under the Space Assignment and Revocable Permits. The terminal operations include maintenance and repair facilities, on-dock rail services, services berths, wheeled and grounded operations, and an integrated system for vessel, rail and gate operations. According to the Port, the current EMS revenue compensation includes a Minimum Annual Guarantee (MAG) of \$40,056,098 for wharfage and dockage charges. Revenue from the Space Assignment was approximately \$2,728,125 for use of the 30 acres in 2015. Pursuant to the provisions of the Permit, the MAG could be adjusted to reflect an increase or decrease to the charges for the TEU, wharfage and dockage fees, subject to review and approval by the Board.

PROPOSED SEVENTH AMENDMENT TO EMS

The Port states that the current EMS revenue compensation structure is inefficient and in need of an improvement and upgrade. The Port states that the current process for revenue collection is partially electronic, but is mostly manual. Since the formation of the G6 Alliance, more shipping line members are submitting data manually instead of electronically. The manual submission of data adds approximately 30 to 60 days to collect, prepare and process the invoices. According to the Port, the manual process has caused administrative burdens for EMS, other shipping lines and POLA staff, but has also caused delays in collecting revenue.

The POLA has requested EMS and the other shipping lines to develop an electronic system, but it has not been able to do so yet because of proprietary or registered data issues. Therefore, the Port is recommending that EMS convert its compensation schedule to one using a TEU sliding scale rate. This will allow all shipping lines using the EMS terminal to transmit their container volume data electronically, without infringing on proprietary data provisions. The TEU rates to be charged will be established according to the total number of cargo containers handled by EMS and other shipping lines based upon the sliding scale set forth in the Permit. The Port states that the TEU rate conversion scale will accomplish the following:

- improve the efficiency of the compensation collection;
- reduce the administrative process and time allotment involved in collecting and processing cargo volume data; and,
- improve customer services to the G6 shipping line members.

The proposed upgrade to the TEU-based compensation scale will improve the process and allow the collections of payments to be consistent with other container terminals in the POLA. The Port states that the TEU sliding scale rate would be structured to maintain revenue neutrality, with the Port and EMS receive the same amount of money despite the changes to the compensation structure.

The above referenced Resolution No. 16-7919, authorizing approval of the proposed Seventh Amendment and this report incorporate revised information received from the Port subsequent to the initial request submitted.

CITY COMPLIANCE ISSUES

The proposed Amendment has been approved as to form and legality by the City Attorney. In accordance with Charter Section 606, the Council must approve the proposed contract amendment since the term of the Permit No. 733 exceeds five years. The Port Director of Environmental Management has determined that the proposed action is an Amendment to the existing Agreement and is therefore exempt from the requirements of the California Environmental Quality Act (CEQA) under Articles III, Class 1(14) of the Los Angeles City CEQA Guidelines.

RECOMMENDATION

That the Mayor:

1. Approve Harbor Department (Port) Board of Harbor Commissioners Resolution No. 16-7919 authorizing a proposed Seventh Amendment to Permit No. 733 with Eagle Marine Services, Ltd to change the compensation structure for use of its cargo terminal at the Port of Los Angeles and
2. Return the proposed document to the Port for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

The Harbor Department (Port) states that the proposed Amendment with Eagle Marine Services (EMS) will change the current calculation of the compensation structure for the dockage and wharfage charges to one that includes a calculation on the volume of Twenty-Foot Equivalent Unit (TEU) cargo containers. The proposed TEU-based compensation scale will allow more efficient collection of revenue and implement a system with EMS and other shipping lines that is similar to other cargo container terminals in the Port of Los Angeles.

TIME LIMIT FOR COUNCIL ACTION

Pursuant to Charter Section 606, "Process for Granting Franchises, Permits, Licenses and Entering Into Leases," unless Council takes action disapproving a contract that is longer than five years within 30 days after submission to Council, the contract will be deemed approved.