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Eugene D. Seroka

Executive Director

June 27, 2024

Honorable Members of the
City Council of the
City of Los Angeles

CD No. 15

Attention: Mr. Michael Espinosa, City Clerk's Office

Subject: RESOLUTION NO. 24-10374: SET ASIDE 2019 FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR BERTHS 97-109 (CHINA SHIPPING) CONTAINER TERMINAL PROJECT AND RELATED PROJECT APPROVALS; REMOVE CONDITIONS TO PREVIOUS APPROVALS OF THE FIFTH AMENDMENT AND ORDER RESETTING COMPENSATION; APPROVE THE SIXTH AMENDMENT TO PERMIT NO. 999 WITH CHINA SHIPPING (NORTH AMERICA) HOLDING COMPANY, LTD.; AND DIRECT STAFF TO PREPARE A NEW ENVIRONMENTAL DOCUMENT PURSUANT TO WRIT OF MANDATE ISSUED BY SAN DIEGO SUPERIOR COURT

Pursuant to Section 607(a) of the City Charter; enclosed for your approval is POLA Order No. 24-7371 (Order) that sets aside certification of 2019 Final Supplemental Environmental Impact Report for Berths 97-109 (China Shipping) Container Terminal Project ("2019 SEIR"), as well as related project approval and specified actions and approvals as set forth in Resolution No. 19-9548 – Final Supplemental Environmental Impact Report for the Berths 97-109 (China Shipping) Container Terminal Project (App No. 150224-504; SCH No. 2003061153), adopted on October 8, 2019.

This Order is mandated by a court order that requires the City to set aside specified actions, resolutions and orders including the 2019 SEIR CEQA certification and related project approvals.

Staff also requests approval of the Sixth Amendment to Permit No. 999 with China Shipping, contractually binding China Shipping to implement certain mitigation and lease measures in the 2008 EIR and the 2019 SEIR, as modified by the trial court ruling and the appellate court opinion.

Finally, staff requests approval of POLA Resolution No. 24-10374, removing conditions contained in Resolution No. 24-10336, wherein it conditionally approved the Fifth Amendment to Permit No. 999, as amended (Permit 999) with China Shipping (North America) Holding Company, Ltd. (China Shipping) ("Fifth Amendment"), and Order Resetting Compensation for the period of June 28, 2020, through June 27, 2025, ("Order Resetting Compensation"), to make both such approvals unconditional. Both the Fifth Amendment and the Order Resetting Compensation were conditionally approved by the Board on March 28, 2024, and the City Council on April 9, 2024.

The proposed actions will comply with a Writ of Mandate issued to the Port by the San Diego Superior Court on May 24, 2024, by contractually binding China Shipping through a Sixth Amendment to Permit 999 to implement those CEQA mitigation and lease measures determined to be feasible by court proceedings to date through a permit amendment, set aside the 2019 SEIR and related project approvals, and prepare a new environmental document under CEQA. The proposed actions will also unconditionally implement a commercial agreement between the parties in the Fifth Amendment to Permit 999 to reflect agreement on the resolution of commercial matters concerning a \$15,500,000 equipment credit, a \$1,446,379.57 resolution of a pending claim concerning

China Shipping's 2019 compensation obligations, and via the Order Resetting Compensation, the resetting of Minimum Annual Guarantee (MAG) and Twenty-Foot Equivalent Unit (TEU) rates for the period of June 28, 2020, through June 27, 2025, which will leave them unchanged from what was in place as of June 27, 2020, subject to any increase in the Tariff N.O.S. rate occurring during any compensation year in accordance with the terms of the Permit. There is no impact to the General Fund.

RECOMMENDATION FOR CITY COUNCIL:

1. ADOPT the determination by the Board of Harbor Commissioners that the proposed action of adopting the Order is administratively exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2 (b)(f) and (h) of the Los Angeles City CEQA Guidelines;
2. ADOPT the determination by the Board of Harbor Commissioners that the proposed actions of approving the permit amendments have been previously evaluated pursuant to the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(i) of the Los Angeles City CEQA Guidelines, and further that the proposed actions are ordered by the San Diego Superior Court as authorized by CEQA, and therefore is administratively exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2 (b)(f) and (h) of the Los Angeles City CEQA Guidelines;
3. APPROVE POLA Order No. 24-7371 to set aside all City Council's 2019 SEIR approvals, including the Los Angeles City Council's August 12, 2020, adoption of a (1) Motion by Councilmembers Joe Buscaino and Mitch O'Farrell (Council File No. 19-1263) to Deny all appeals and Certify the Final Supplemental Environmental Impact Report and Adopt the recommendations of the Board of Harbor Commissioners from its special meeting held October 8, 2019 relative to the China Shipping Container Terminal Project; and (2) Official Action of the Los Angeles City Council – Adopting motion of Buscaino and O'Farrell;
4. APPROVE Sixth Amendment to Permit No. 999 with China Shipping Holding Company, Ltd., thus implementing and making contractually enforceable against China Shipping the 2008 EIR mitigation and lease measures and the 2019 SEIR mitigation and lease measures, as modified by the trial court ruling issued on June 27, 2022, and the Court of Appeal opinion issued on December 29, 2023. The Board's approval for the Sixth Amendment is based upon, and incorporates by reference, the Board's December 12, 2008, Findings of Fact and Statement of Overriding Considerations for the 2008 EIR for the Berths 97-109 China Shipping Terminal, and is directed by the Writ of Mandate to comply with CEQA; and
5. APPROVE POLA Resolution No. 24-10374 removing conditions contained in Resolution No. 24-10336, wherein it conditionally approved the Fifth Amendment to Permit No. 999, as amended (Permit 999) with China Shipping (North America) Holding Company, Ltd. (China Shipping) ("Fifth Amendment"), and Order Resetting Compensation for the period of June 28, 2020, through June 27, 2025, ("Order Resetting Compensation"), to make both such approvals unconditional. Both the Fifth Amendment and the Order Resetting Compensation were conditionally approved by the Board on March 28, 2024, and the City Council on April 9, 2024.

Respectfully Submitted,



 AMBER M. KLESGES
Commission Secretary

cc: Trade, Travel & Tourism Committee
Councilwoman Park, Chair
Councilman McOsker
Councilman Soto-Martinez
Heleen Ramirez, Mayor's Office
Jacqueline Wagner, CAO
Sergio Carrillo, CD15

Erick Martell, Mayor's Office
Stephanie Magnien Rockwell, Harbor Representative
Jim House, CAO
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