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Eric Garcetti *Mayor, City of Los Angeles*  
Board of Harbor Commissioners  
Eugene D. Seroka  
Ambassador Vilma S. Martinez *President*  
Executive Director  
David Arian *Vice President*  
Patricia Castellanos  
Anthony Pirozzi, Jr.  
Edward R. Renwick

October 27, 2016

The Honorable City Council  
of the City of Los Angeles  
City Hall – Room 395  
Los Angeles, CA 90012

Reference: CF 09-2522

This is to hereby transmit for your information to be attached to the Council file, the Mayor approved City Administrative Officer's report relative to the Ninth Amendment to Eagle Marine Services, LTD.

Respectfully Submitted,

AMBER M. KLESGES  
Commission Secretary

0150-06030-0012

**TRANSMITTAL**

TO  
Eugene D. Seroka, Executive Director  
Harbor Department

DATE

**OCT 26 2016**

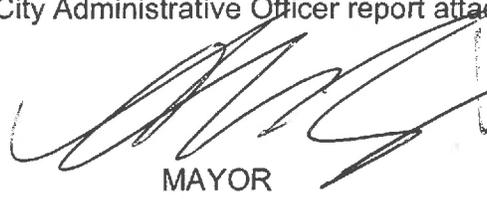
COUNCIL FILE NO.

FROM  
The Mayor

COUNCIL DISTRICT  
15

**PROPOSED NINTH AMENDMENT TO PERMIT NO. 733  
WITH EAGLE MARINE SERVICES, LTD**

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

  
MAYOR

Ana Guerrero

MAS:ABN:10170040t

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: October 26, 2016

CAO File No. 0150-06030-0012

Council File No.

Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer *DH*  
*QW*

Reference: Correspondence from the Harbor Department dated October 25, 2016; referred by the Mayor for report dated October 25, 2016

Subject: **PROPOSED NINTH AMENDMENT TO PERMIT NO. 733 WITH EAGLE MARINE SERVICES**

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### RECOMMENDATIONS

That the Mayor:

1. Approve Harbor Department (Port) Board of Harbor Commissioners Resolution No. 16-8009 authorizing the proposed Ninth Amendment to Permit No. 733 with Eagle Marine Services; and,
2. And return the document to the Port for further processing, including Council consideration.

### SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 16-8009 authorizing the Ninth Amendment (Amendment) to Permit No. 733 (Permit) with Eagle Marine Services, LTD (EMS). EMS entered into the Permit as a terminal operator with the Port of Los Angeles (POLA) for 30 years in 1993. EMS is a terminal operating subsidiary of the shipping line American President Lines (APL). The Permit with EMS/APL is on approximately 261 acres of POLA property on and contiguous to Pier 300. The Port states that Pier 300 is the second largest and one of the most vital cargo container terminals at the POLA. In addition, Pier 300 has berthing depths of 50 feet, as well as modern on-dock rail facilities, making it able to handle the largest container vessels, as it did recently with the "mega-ship" CMA-CGM Benjamin Franklin. The existing lease for EMS/APL under Permit 733 will expire in 2027. In June 2012, the Board certified a Final Environmental Impact Statement/Report (Final EIR) to improve and expand the proposed Berths 302-306 APL Container Terminal Project to be operated by EMS.

The proposed Amendment is requested to enact the following three direct actions:

- Extend the current lease term of the Permit by 16 years, from the existing end date in 2027 to a new date in 2043, a total term of 50 years (from 1993 to 2043), for the maximum time allowed by the City Charter. The Port Leasing Policy and State Law restrict the terms of any contract to no more than 50 years, and require the Permit be approved with findings that the 50 years is in the best interest of the City of Los Angeles (City), in accordance with the City Charter Section 607.

APL is a member of a global container shipping alliance that is one of the largest shipping line vessel partnerships. The Port states that due to an economic downturn, the shipping industry began the consolidation of shipping lines and formation of alliances. The alliance model can potentially remove a vessel owner's discretion to send cargo to a subsidiary terminal (such as EMS). This shift in business methodology has required port clients to compete for cargo that was formerly guaranteed to them. The Port believes that the EMS/APL offers strong strategic and economic value to the POLA. The proposed extension to the lease with EMS will allow its operations to include the following: add time to compete for cargo by making longer term commitments with shipping lines and recapture any potential investments; undertake and implement strategic plans; and maintain greater financial stability and steady revenue stream for the Port. The movement of the containerized cargo vessels through the POLA supports thousands of direct and indirect jobs in Los Angeles and the State.

- Approve the Addendum pursuant to the California Environmental Quality Act (CEQA) and the proposed changes from the Board certified 2012 Final EIR to improve and expand the proposed Berths 302-306 (Berths) APL Container Terminal Project (Project). The purpose of the EMS operated Project is to optimize and expand the terminal's cargo-handling capacity to accommodate expected demands in the future for the POLA. The Port Director of Environmental Management determined that the proposed conditions would not meet CEQA requirements and prepared an Addendum to amend the 2012 EIS/ EIR. The Addendum is necessary to ensure that any Final EIR changes or additions, resulting from the Proposed Revised Project, comply with CEQA requirements for Pier 300. The Addendum also includes a revised Mitigation Monitoring and Report Plan and ensures that all parties comply with its provisions. The Port states there are no significant environmental effects or impacts pursuant to the CEQA. The Addendum and Final EIR are available to the public on the Port's website; and,
- Continue with the Board approved EMS fees at 50 percent of the wharfage and dockage rates as stated in the 1993 POLA Tariff No. 4 (rules, rates and regulations for all the users' facilities) for non-containerized cargo and certain vessels, pursuant to the Permit and Tariff provisions.

Pursuant to Charter Section (CS) 607, Mayor and Council approval is required for a contract term that exceeds 30 years. Extending a contract term up to 50 years requires approval of findings that it is in the best interest of the City, pursuant to a two-thirds vote by Council. Pursuant to CS 606, unless Council disapproves the proposed contract within 30 days after submission to Council, the contract will be deemed approved. The City Attorney has approved the Resolution and Amendment as to form.

## **FINANCIAL IMPACT STATEMENT**

The Port states that the EMS Terminal under Permit 733 is the second highest revenue generating tenant at the POLA, with an average revenue contribution of approximately \$56 million annually over the past ten years or a total of \$560 million. According to the Port, extending Permit 733 with EMS by 16 years will increase the net operating revenue by an estimated \$1.6 billion and increase the minimum annual guaranty obligation by an estimated \$860 million. The proposed Amendment will not impact the City General Fund and all revenue will be deposited in the Harbor Revenue Fund.