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Executive Director

April 2, 2024

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

CD No. 15

Attention: Mr. Conrad Rodriguez, City Clerk's Office

Subject: RESOLUTION NO. 24-10336: FIFTH AMENDMENT TO PERMIT NO. 999 WITH CHINA SHIPPING HOLDING COMPANY, LTD. AND ORDER RESETTING COMPENSATION FOR THE PERIOD OF JUNE 28, 2020 THROUGH JUNE 27, 2025

Pursuant to Section 607(a) of the City Charter, enclosed for your approval is Resolution No. 24-10336 authorizing Fifth Amendment to Permit No. 999, as amended (Permit 999) with China Shipping (North America) Holding Company, Ltd. (China Shipping) and an Order Resetting Compensation for the period of June 28, 2020 through June 27, 2025 (Order), the effectiveness of which is expressly contingent depending on further actions of the trial court with jurisdiction over pending litigation involving the China Shipping terminal, as discussed below.

The proposed actions implement a commercial agreement between the parties to contractually bind China Shipping through a Fifth Amendment to Permit 999 to implement those CEQA mitigation measures determined to be feasible by court proceedings to date, and 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, 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 that 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 has 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 that further CEQA compliance will be required in the pending trial court remedy, as discussed herein and;
2. APPROVE POLA Resolution No. 24-10336 authorizing Fifth Amendment to Permit No. 999 with China Shipping Holding Company, Ltd., which approval is expressly contingent upon CEQA compliance as directed in the remedy ultimately ordered by the trial court with jurisdiction, which is currently set for a hearing on May 24, 2024, thus implementing and making contractually enforceable against China Shipping the 2008 mitigation measures as modified by the 2019 Supplemental Environmental Impact Report ("2019 SEIR"), the trial court ruling issued on June 27, 2022 and the Court of Appeal opinion issued on December 29, 2023. The Board's contingent approval for the Fifth 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, which was approved at the March 28, 2024 meeting of the Board of Harbor Commissioners.

Respectfully Submitted,

[Handwritten signature of Amber M. Klesges]

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 Jennifer Sapone, CAO Kevin Brunke, CD11 Tristan Noack, CLA Anissa Raja, CD15