

Permit No. 881
Factors Germaine to Consent – Transmittal No. 3

14.3 Factors Germaine to City Consent. In evaluating any Transfer Notice, it shall not be unreasonable for City to withhold or condition its consent to a Transfer based on the following factors, among others:

(a) The net worth, financial condition and creditworthiness of the Transferee and the existence of any guaranty provided by the Transferee's parent or related entity or entities;

Under Permit No. 881 with TraPac, LLC (f/k/a TraPac, Inc.) (TraPac), the minimum annual guarantee (MAG) as of January 1, 2023 is \$3,393,848 per month, increasing to \$3,466,834 per month as of October 1, 2023. For calendar year 2023, the MAG will be \$40,945,131. The MAG will remain at \$3,466,834 per month until September 28, 2024 at which point the MAG will be subject to the five-year compensation reset provision described within Permit No. 881, Section 5.6.4.

The proposed action relates to the transfer of an aggregate 49 percent of the direct and indirect interests in TraPac, the permittee under Permit No. 881. Under this transfer, (i) an approximately [22.2] percent equity interest in International Transportation, Inc. (ITI) (to be renamed TraPac Holdings, LLC substantially concurrently with the closing of the transfer), the upstream owner of TraPac, will be transferred from Mitsui O.S.K. Lines, Ltd. (MOL) to Skipjack Terminal Holdings, L.P. (Skipjack Terminal Holdings); and (ii) an approximately [34.5] percent equity interest in TraPac will be transferred from ITI to Skipjack (ECI) Holdings, LLC (Skipjack (ECI) Holdings).¹ The exact percentage of such equity interests are subject to nominal adjustments that will be determined prior to the closing of the transfer, but will in all cases result in Skipjack Terminal Holdings and Skipjack (ECI) Holdings holding in the aggregate a 49 percent direct and/or indirect equity interest in TraPac, with MOL retaining the remaining 51 percent equity interest in TraPac indirectly through its ownership of ITI. Both Skipjack Terminal Holdings and Skipjack (ECI) Holdings are entities ultimately controlled by a private fund managed by Macquarie Infrastructure Partners Inc. (MIP). MIP is a leading manager of investments in port and other infrastructure assets and an indirect subsidiary of Macquarie Group Limited (MGL).

Skipjack Terminal Holdings was only recently formed as a Delaware limited partnership on November 23, 2022, and Skipjack (ECI) Holdings was only recently formed as a Delaware limited liability company on April 11, 2023. As such, comprehensive annual financial information for Skipjack Terminal Holdings and Skipjack (ECI) Holdings specifically was unavailable as of May 2023. Therefore, the Finance Division reviewed the audited financial statements of TraPac for the periods ending December 31, 2021, 2020 and 2019 in order to evaluate the financial wherewithal of the permittee under Permit No. 881. Based upon this review, staff noted that for the 2021 calendar year, TraPac generated Earnings before Interest, Taxes, Depreciation and Amortization ("EBITDA") which exceeded its 2023 MAG obligation by more than 3 times. It is worth noting that this EBITDA figure already includes lease expenses incurred in a given year and was relied upon as a proxy for the amount of cash remaining after all operating, general and

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administrative expenses (inclusive of lease expenses) were already incurred. Furthermore, TraPac as of December 31, 2021 was a very well-capitalized entity with over 75 percent of its assets funded by equity. Lastly, as of December 31, 2021 and 2020, TraPac held sufficient cash and cash equivalents to cover its 2023 MAG. It is worth noting that the amount of cash on hand at the end of each calendar year already includes any outflows associated with the payment of lease expenses to the Harbor Department; therefore, the remaining cash on hand represents the amount available to fund operations, investments and financial transactions at the outset of the subsequent year.

Based upon the information described above, TraPac appears to be sufficiently liquid, profitable and well-capitalized to continue serving as a tenant under Permit No. 881. Although Skipjack Terminal Holdings and Skipjack (ECI) Holdings are relatively new entities, they are ultimately managed by MIP. Within a January 2023 letter to the Harbor Department, MIP certified that it will make a significant capital commitment to TraPac. Staff observed that the amount of capital committed by the funds managed by MIP would serve to support the already relatively strong capitalization of TraPac, and maintain its ability to honor TraPac's financial commitments under Permit No. 881.

(b) The character, experience and reputation of the Transferee (or its operator) in operating the business contemplated by the Transfer;

The Transferees, Skipjack Terminal Holdings, and Skipjack (ECI) Holdings, are controlled by a private fund managed by MIP, a leading manager of investments in port and other infrastructure assets and an indirect subsidiary of MGL (collectively, "Macquarie"). MIP is part of the Real Assets division of Macquarie Asset Management (MAM), an operating group of Macquarie. Transferee has no subsidiaries.

MAM is a global asset manager with more than \$582.4 billion (as of March 31, 2023) in assets under management. MIP, in turn, has a proven history as a manager of container terminal assets in North America, which are owned and operated through MIP's managed funds. Transferee will be controlled by a private fund managed by MIP. MIP is a reputable company that is listed on the New York Stock Exchange and has a proven history as a manager of container terminal assets in North America.

(c) Whether the Transfer will negatively impact the short-term or long-term development, land use or other plans of City's Harbor Department, and whether consent to such Transfer would violate any of the legal duties of City's Harbor Department, including duties owed to other tenants;

Continued use of the Permit No. 881 premises by TraPac as a terminal operator at the Port is consistent with the Port Master Plan and as an existing permitted use. There are currently no conflicting short-term or long-term impacts concerning development, land use or other plans of the Harbor Department, and no existing conflicting legal duties of the Harbor Department relating to this continued use of the permitted premises.

(d) Whether the proposed Transfer is consistent with the terms and conditions of this Agreement in existence when Tenant submitted the Transfer Notice and with the laws, rules and regulations applicable to the Premises and Tenant's use and occupancy thereof;

The proposed Transfer pertains to a change of upstream ownership, and ownership of TraPac. No changes will be made to the Permit or terminal operations under this proposed Transfer. With respect to TraPac's operations at the Port, TraPac will remain the tenant under the Permit, and the current day-to-day operations of TraPac will remain the same. The proposed Transfer is consistent with the terms and conditions of the Permit when TraPac submitted the Transfer Notice, and also with the laws, rules and regulations applicable to the Premises and TraPac's use and occupancy thereof.

(e) Whether the information provided by Tenant in connection with Subsection 14.2.1 (Transfer Notice) justifies such consent;

The letter dated December 13, 2022, as supplemented, provides all information necessary to justify such consent.

(f) The Transferee's level of commitment and specific plans to invest to improve the Premises following approval of the proposed Transfer, if any.

No alterations or improvements to the Premises are planned as a result of, or in connection with the Transfer, and any alterations and improvements currently in progress or that have been previously approved with respect to the Premises are intended to be completed as currently contemplated.