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RECOMMENDATION APPROVED;
RESOLUTION NO. 18-8246 (PERMIT 827) ADOPTED
BY THE BOARD OF HARBOR COMMISSIONERS



Executive Director's
Report to the

Board of Harbor Commissioners

February 15, 2018

AMBER M. KLESGES
Board Secretary

DATE: FEBRUARY 7, 2018

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. 18-8246 - APPROVE EIGHTH AMENDMENT TO
PERMIT NO. 827 WITH APM TERMINALS PACIFIC, LLC

SUMMARY:

Staff requests approval of the Eighth Amendment to Permit No. 827 (Permit) with APM Terminals Pacific, LLC (APMT). The Eighth Amendment to the Permit will amend the compensation provision of the Permit as necessary to effectuate the negotiated compensation reset for the period from August 1, 2017, through July 31, 2022, by (a) exempting the applicability of any Tariff No. 4 increase until after August 1, 2019, and (b) deleting permit provisions related to tenant controlled cargo movement through San Pedro Bay. APMT is financially responsible for all rental payments under the Permit.

An Order resetting compensation for the five-year period will be acted on separately.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the proposed action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(14) of the Los Angeles City CEQA Guidelines as determined by the Director of Environmental Management;
2. Find that the proposed action is in the best interest of the City and Harbor Department despite the fact that the estimated rate of return on investment does not meet stated policy targets as enacted by the Board;
3. Approve the Eighth Amendment to Permit No. 827 with APM Terminals Pacific, LLC;
4. Direct the Board Secretary to transmit the Eighth Amendment to Permit No. 827 to City Council for approval pursuant to Charter Section 606;
5. Authorize the Executive Director to execute and the Board Secretary to attest to the Eighth Amendment upon approval by City Council; and
6. Adopt Resolution No. 18-8246.

SUBJECT: APPROVE EIGHTH AMENDMENT TO PERMIT NO. 827

DISCUSSION:

Background – On August 1, 2002, Maersk Pacific Limited (Maersk) was granted Permit No. 827 and became the City of Los Angeles Harbor Department's (Harbor Department) tenant at the Pier 400 container terminal facility (Berths 401-406). Subsequently, the name of the tenant was changed to APM Terminals Pacific, LLC, which remains a wholly-owned subsidiary of A.P. Moller Maersk Group of Copenhagen, Denmark.

The Permit has a 25-year term and three, five-year options to extend. The property covered by the Permit consists of approximately 512.36 acres total (441.74 acres of container terminal [compensation acres] + 40.84 acres of IRF + 24.24 acres of storage tracks + 5.54 acres of truck queuing), with a provision to bring all tenant cargo through San Pedro Bay. Due to recent changes in the market conditions with the formation of alliances, applicability of this provision is not feasible. Therefore, it was negotiated to delete this clause.

Permit Section 3(h) requires the Board to readjust various components of rent at each five-year anniversary of the effective date. It is now time to reset compensation for the five-year period of August 1, 2017 through July 31, 2022. In addition to the five-year adjustments, the Permit also allows for readjustment to all rates as a result of any GRI of the "Merchandise Not Otherwise Specified" (NOS) rate in Tariff No. 4.

Proposed Changes under the Eighth Amendment:

- I. The Eighth Amendment (Transmittal 1) will result in deleting the provision of the Permit defining APMT controlling cargo through San Pedro Bay, since APMT does not directly control the routing of cargo.
- ii. The Eighth Amendment will provide that APMT will not be subject to any potential GRI increase, including the NOS rate, until after July 31, 2019. After that date, the percentage increase of the NOS rate adopted by the Harbor Department is reduced, but not below zero, by the sum of percentage increases previously applied to TEU rates by the five-year adjustment process, including any applicable CPI based escalation, since the date of the immediately previous NOS increase. TEU rates are then increased by the percentage resulting from this calculation.

The proposed Amendment will result in a significant increase in revenue from the terminal. Staff notes, however, that the projected rate of return from this Amendment is still lower than the Port's targeted Rate of Return (ROR). Nonetheless, given current market conditions such as the sheer size of the facility under lease compared to others in the San Pedro Bay complex, the number of acres paid for via the "compensation acres" concept, and the most recent deployment schedule of major carriers in the trans-pacific trade lanes, this proposed Amendment, as negotiated, represents the current "market rent" for this facility.

SUBJECT: APPROVE EIGHTH AMENDMENT TO PERMIT NO. 827

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an amendment to Permit No. 827 with APMT for property at Berths 401-406 (Transmittal 2). As such, the Director of Environmental Management has determined that the proposed project is categorically exempt from the requirements of CEQA in accordance with Article III Class 1(14) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The proposed terms will increase minimum annual rent 17 percent from the current \$71.6 million to \$83.8 million by the fifth reset year, with a corresponding increase in the estimated minimum rate of return from 4.93 percent to 5.58 percent. Assuming depressed calendar 2017 throughput remains flat at 1.860 million TEUs and an annual 2 percent CPI, annual revenue generated by TEU throughput will improve by 10 percent from \$77.4 million to \$85.1 million by the fifth year, with the estimated five year return up from 5.70 percent to 5.84 percent. If annual throughput returns to the ten-year APMT terminal average of 2.208 million TEUs, annual TEU revenues improve 13 percent from \$80.8 million to \$91.3 million, with corresponding rates of return of 6.11 percent and 6.26 percent.

CITY ATTORNEY:

The Eighth Amendment has been approved as to form and legality by the Office of the City Attorney.

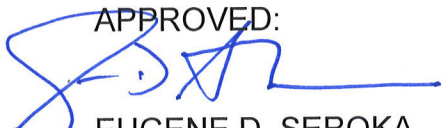
TRANSMITTALS:

- 1. Eighth Amendment
- 2. Site Map

FIS Approval: MD (initials)
 CA Approval: MD (initials)

Michael DiBernardo
 MICHAEL DIBERNARDO
 Deputy Executive Director

J. C. Hedge
 JACK C. HEDGE
 Director of Cargo & Industrial Real Estate

APPROVED:

 EUGENE D. SEROKA
 Executive Director