

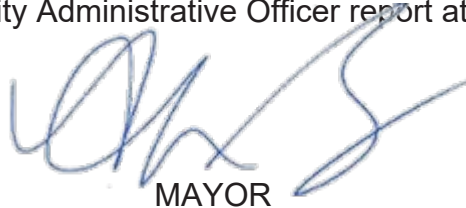
0150-06030-0015

TRANSMITTAL

TO Eugene D. Seroka, Executive Director Harbor Department	DATE 06/18/21	COUNCIL FILE NO. 09-2522
FROM The Mayor	COUNCIL DISTRICT 15	

PROPOSED 11TH AMENDMENT TO PERMIT NO. 733 WITH FENIX MARINE SERVICES, LTD.

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



MAYOR

(Ana Guerrero for)

RHL:JCY:10210138t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: June 16, 2021

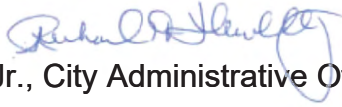
CAO File No. 0150-06030-0015

Council File No. 09-2522

Council District: 15

To: The Mayor

From: Richard H. Llewellyn, Jr., City Administrative Officer



Reference: Correspondence from the Harbor Department dated January 14, 2021; referred by the Mayor for report February 9, 2021

Subject: **PROPOSED 11TH AMENDMENT TO PERMIT NO. 733 WITH FENIX MARINE SERVICES, LTD.**

RECOMMENDATIONS

Approve Harbor Department (Port) Resolution No. 21-9750 authorizing a proposed 11th Amendment to Permit No. 733 with Fenix Marine Services, Ltd. to reflect a name change from Eagle Marine Services, Ltd. and the addition of 0.69 acres of land previously granted separately under revocable permits; 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. 21-9750 authorizing a proposed 11th Amendment (Amendment) to Permit No. 733 (Permit) with Fenix Marine Services, Ltd. (Fenix Marine) to reflect a name change from Eagle Marine Services, Ltd. (Eagle Marine) and to add 0.69 acres of land to the Permit previously granted separately under revocable permits. The 50-year term of the Permit will remain the same, effective through September 9, 2043.

Eagle Marine, now Fenix Marine, operates a containerized cargo marine terminal facility at Berths 302-305 in the Port of Los Angeles (POLA). Under the current Permit, Eagle Marine leases 291.31 acres of land, with wharf water frontage and on-dock rail, in a 50-year agreement that commenced in 1993 (C.F. 93-1302, 99-2210). Eagle Marine additionally occupies 0.69 acres of land under temporary revocable permits for use as non-exclusive right-of-way to house United States Customs and Border Protection (CPB)-required monitoring and security systems. Eagle Marine pays a fixed monthly rent of approximately \$6,789 for the space. Eagle Marine notified the Port in September 2018 that it had changed its name to Fenix Marine. Port staff reviewed documents concerning the name-change transactions and determined that the change is truly a name change and not an assignment or transfer to a different entity. In order to ensure protection of the Port's interests, the

proposed Amendment, in addition to reflecting the name change, includes provisions requiring Fenix Marine to retrospectively assume all rights, duties, liabilities, and obligations under the Permit previously the responsibility of Eagle Marine. The proposed Amendment also subsumes the CPB monitoring acreage into the Permit, increasing the land use under the Permit to a total of 292 acres, with no overall net acreage increase. The Port will correspondingly terminate Eagle Marine's revocable permits. Adding this land to the Permit from the revocable permits results in no net change in compensation to the Port, except for the addition of an annual consumer price index (CPI) factor adjustment and a five-year compensation reset in conjunction with the Permit's other rates, next due in January 2022. The proposed Amendment also updates insurance language to meet current City requirements and adds railroad protective liability insurance requirements. The Port reports that finalization of the proposed Amendment was delayed until Eagle Marine remedied arrears on its rent obligations, which it did as of September 2020.

Though the Port awarded the original Permit to Eagle Marine in 1993, the Permit specified that the term would expire 30 years after tenant occupation, which began in 1997 when Eagle Marine commenced operations. The Ninth Amendment to the Permit extended the term of the Permit to the current 50 years. At the time of the Permit's original approval, Eagle Marine was a wholly-owned subsidiary of American President Lines, Ltd. (APL), which was also the Permit guarantor. Over the years, various company purchases occurred, and Eagle Marine is now 10 percent owned by GMA CGM S.A. (CMA CGM) and 90 percent owned by Fin Topco Partnership LP, which is wholly-owned by EQT Infrastructure III and P5 Infrastructure. Eagle Marine's guarantor, APL, is 100 percent owned by CMA CGM. The Port reports that it will address the applicability of the existing Permit guaranty and guarantor at a later date.

The proposed Amendment will generate an additional \$6,789 per month under the Permit, with a CPI adjustment effective January 1, 2021, which will be mostly offset by the termination of corresponding revocable permits. This adjustment results in negligible additional revenue to the Port in 2020-21. The City Attorney has approved the proposed Amendment as to form and legality. The proposed Amendment and Permit comply with all applicable provisions of City Ordinance and permit requirements. In accordance with Charter Section 606, the Amendment requires Council approval because the Permit term exceeds five years. The Port states that the proposed action is an administrative activity and is therefore administratively exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

FISCAL IMPACT STATEMENT

The proposed 11th Amendment to Harbor Department (Port) Permit No. 733 with Fenix Marine Services, Ltd to reflect a name change and add acreage previously granted separately under revocable permits will generate negligible increased compensation to the Port in 2020-21. The proposed terms meet Port leasing and financial policies. All receipts will be deposited in the Harbor Revenue Fund. There is no impact on the City General Fund.