



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: SEPTEMBER 7, 2011

FROM: REAL ESTATE DIVISION

**SUBJECT: RESOLUTION NO. _____ - PROPOSED PERMIT
TERMINATION AND MUTUAL RELEASE AGREEMENT WITH TRI-
UNION SEAFOODS, LLC. DBA CHICKEN OF THE SEA PERMIT NO.
777 FOR PROPERTY ON TERMINAL ISLAND**

SUMMARY:

Permit No. 777 grants Tri-Union Seafoods, LLC, dba Chicken of the Sea International (COSI), use of City of Los Angeles Harbor Department (Harbor Department) property at 338 Cannery Street, Terminal Island, for the construction, operation, and maintenance of a fish and pet food processing and canning facility, and related purposes. Permit No. 777 expired on April 30, 2006, and is currently on holdover.

COSI ceased operations and vacated the premises in April 2010 and desires to terminate Permit No. 777. The tenant is obligated to demolish any buildings and restore the premises under the terms of the Permit. Several of the buildings within the premises may be historically significant. The Harbor Department is planning to develop an Environmental Impact Report (EIR) for a number of historic and non-historic buildings on Terminal Island, pending review under the Terminal Island Land Use Study. In order to allow COSI to terminate Permit No. 777, the Harbor Department has agreed to accept the premises without required demolition and restoration in exchange for payment of an amount equivalent to the amount estimated to cover demolition, restoration, and remediation costs, pursuant to the terms of the proposed Permit Termination and Mutual Release Agreement.

RECOMMENDATION:

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

1. Approve the proposed Permit Termination and Mutual Release Agreement (Transmittal 1) with Tri- Union Seafoods, LLC., dba Chicken of the Sea International;
2. Authorize the Executive Director to execute, and the Board Secretary to attest to, the proposed Permit Termination and Mutual Release Agreement; and

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3. Adopt Resolution No. _____.

DISCUSSION:

Background and Need – Permit No. 777 became effective on March 21, 1997, for a term of nine years. Permit No. 777 grants COSI use of approximately 7.6 acres of Harbor Department land at 338 Cannery Street, Terminal Island (Transmittal 3). Permit No. 777 expired on April 30, 2006, and is currently on holdover, with COSI paying \$28,057 per month.

In lieu of restoring its premises, as required by Permit No. 777, COSI has offered to return the premises to the Harbor Department with the Restoration Fee necessary to demolish all improvements and restore the premises as required.

The Environmental Management Division conducted an environmental assessment of Permit No. 777 premises, discovering lead and asbestos contamination that existed prior to the effective date of Permit No. 777. Permit No. 777 remediation provisions require that the Harbor Department be responsible for the cost of remediating any lead and asbestos contamination that occurred before the effective permit date. The assessment also determined that six of the thirteen buildings may be of historic significance (Transmittal 2).

The Harbor Department's Planning and Economic Development Division is currently preparing a Terminal Island Master Plan Amendment (Master Plan Amendment) to determine future land use for the area. Once completed, the Harbor Department will be able to develop an EIR for the Terminal Island area and identify potential re-use of the COSI buildings. Producing one EIR that addresses the potential reuse and/or demolition of all historic buildings on Terminal Island, including those of COSI, is more cost effective than producing separate environmental documents.

Due to the lengthy review process, which includes the determination of future uses for the COSI buildings, it is recommended that COSI be allowed to provide the funds equivalent to the amount for demolition of its structures and restoration of its premises, and be released from future obligations. This will enable the Harbor Department to be in possession of the Restoration Fee and buildings, defer producing the necessary environmental document until the Terminal Island Master Plan has been finalized, and relieve COSI of the monthly rental obligation of \$28,057.

Harbor Department staff have estimated the demolition, restoration, grading, environmental assessment, and associated administrative costs at \$1,536,800.

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Permit Termination and Mutual Release Agreement – The proposed agreement provides that:

- 1) COSI will pay the Restoration Fee to the Harbor Department (a total of \$1,536,800). The Restoration Fee will be comprised of the monies paid by COSI into a Restoration and Remediation Fund (\$312,628) from the inception of the permit, and COSI providing a lump sum payment for the balance (\$1,224,172);
- 2) COSI will leave the premises in a clean condition, as determined by the Harbor Department, and release any and all liens, interest, and encumbrances held by it or any other party, in and to any and all fixtures, equipment, improvements and/or personal property in, on or about the premises;
- 3) COSI will release the Harbor Department from any and all obligations arising under or out of Permit No. 777;
- 4) The Harbor Department will release COSI from any and all obligations arising under or out of Permit No. 777;
- 5) Termination of Permit No. 777 will occur upon execution of the Permit Termination and Mutual Release Agreement by the Executive Director of the Harbor Department; and
- 6) COSI's obligation to pay monthly compensation to the Harbor Department expired on August 31, 2011.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a Permit Termination and Mutual Release Agreement with COSI that would allow them relief from the obligations of Permit No. 777 with payment of a Restoration Fee. The Restoration Fee is equivalent to the amount necessary to cover the cost of demolition, restoration and environmental analysis of the site which would be included as part of the Terminal Island Plan and associated EIR. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no direct employment effect.

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FINANCIAL IMPACT:

The termination of Permit No. 777 will result in a decrease in the Harbor Department's income of \$336,684. The Harbor Department will release the Tenant's Restoration and Remediation Fund, in the amount of \$312,628, so that it may be applied towards the total Restoration Fee of \$1,536,800.

CITY ATTORNEY:

The Permit Termination and Mutual Release Agreement has been approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Permit Termination and Mutual Release Agreement
2. Historic and Non-historic Map
3. Aerial Site Map

FIS Approval: WJ (initials)

CA Approval: TR (initials)



KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

RG:AB:RV:KS:raw
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