



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: NOVEMBER 15, 2023

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ - ORDER APPROVING
COMPENSATION RESET UNDER PERMIT NO. 560 WITH VOPAK
TERMINAL LOS ANGELES, INC.**

SUMMARY:

Staff requests approval of the proposed Order resetting compensation under Holdover Permit No. 560 with Vopak Terminal Los Angeles, Inc. (Vopak). The proposed land rent for the holdover reset period of August 30, 2023 through August 29, 2028 will be \$7,007,864.50 per year (\$1,751,966.13 per quarter) an upward adjustment of 16 percent from the current annual compensation of \$6,036,080.92. The reset of compensation will be retroactively effective on August 30, 2023, followed by annual Consumer Price Index (CPI) adjustments beginning on August 30, 2024.

Permit 560 is on Holdover after its expiration on April 29, 2023 due to ongoing CEQA review for the new wharf redevelopment project as required by the California State Lands Commission Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS). Staff anticipate executing a new permit with Vopak in 2024.

RECOMMENDATION:

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

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve the Order resetting compensation to Permit No. 560 with Vopak Terminal Los Angeles, Inc.;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the Order resetting compensation under Permit No. 560; and
4. Adopt Resolution No. _____ and Order No. _____.

SUBJECT: ORDER RESETTING COMPENSATION UNDER PERMIT NO. 560

DISCUSSION:

Background: Permit 560 allows Vopak to use City of Los Angeles Harbor Department (Harbor Department) property for the operation of a marine liquid bulk terminal. Vopak currently occupies a total of 37.82 acres at Berths 187-191 in Wilmington. The Permit had a term of 30 years, which commenced on August 30, 1993. The permit expired on August 29, 2023. However, due to ongoing CEQA analysis for a new wharf required by MOTEMS, the new replacement permit has not been executed. Staff anticipates a new permit to be finalized in 2024; however, the Holdover Permit requires that compensation be reset every five years. Compensation is comprised of annual land rent, subject to reset, and all applicable charges pursuant to Tariff No. 4.

Staff has reached a tentative agreement with Vopak to reset the compensation during the holdover period. Section 3(b) of Permit 560 states that the compensation during the holdover shall be at the same rate of rent and upon the same terms and conditions as set forth in the agreement. As further described in Permit 560, section 3(e), these terms and conditions include the renegotiation of rent for every five (5) year period of the Permit and the ability of the parties to mutually agree upon such adjusted rent. Permit 560 does not have a 150 percent holdover rent clause.

The terms of the compensation reset are for the period from August 30, 2023 through August 29, 2028 as required under the permit. Compensation will be adjusted to \$7,007,864.50 per year (\$1,751,966.13 per quarter) from current annual compensation of \$6,036,080.92 effective August 30, 2023, followed by annual CPI adjustments on August 30. The proposed increase is a 16 percent increase from the current rent. This compensation amount is based on the Harbor Department receiving a 10 percent annual rate of return on the market value of waterfront land of \$50 per square foot (s.f.), and the market value of backland of \$40 per s.f. All subsurface pipeline right-of-way is discounted by 50 percent.

Due to the delays caused by the pandemic and prolonged CEQA analysis for Vopak's MOTEMS wharf redevelopment project, the permit expired and was placed on holdover. CEQA review is scheduled to be completed in 2024.

Vopak and Harbor Department staff are also in negotiations for a new permit to allow tenant to amortize the cost of MOTEMS wharf redevelopment project. The term is for ten years with options for two additional ten-year periods. Staff anticipates issuing a draft environmental impact report in the first quarter of 2024 and completing the permit negotiation following completion of the CEQA assessment in 2024.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Order resetting compensation, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

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SUBJECT: ORDER RESETTING COMPENSATION UNDER PERMIT NO. 560

FINANCIAL IMPACT:

If the proposed Order is approved, effective August 30, 2023, annual compensation under Permit No. 560 would increase by \$971,784, or 16 percent, from \$6,036,081 currently to \$7,007,865, as proposed. Effective August 30, 2024 and annually thereafter, rent would be subject to CPI increases until either the end of the five-year period or a new MOTEMS-compliant permit is signed. Vopak will continue to pay quarterly rent under Permit No. 560 as well as all applicable charges under Tariff No. 4 for use of its premises.

CITY ATTORNEY:

The proposed Order was prepared and approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Order
2. Site Map

FIS Approval: MB
CA Approval: SO

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APPROVED:

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