

DATE: OCTOBER 5, 2011

FROM: REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ – PROPOSED FIFTH AMENDMENT
TO PERMIT NO. 827 WITH APM TERMINALS PACIFIC, LTD. –
TRANSFERRED MERCHANDISE – WHARFAGE**

SUMMARY:

On June 16, 2011, the Board of Harbor Commissioners (Board) approved temporary and permanent Orders to amend Port of Los Angeles (POLA) Tariff No. 4 (Tariff), Items 520 and 550-033, exempting the assessment of wharfage charges on qualifying Transferred Merchandise for the one-year period of July 1, 2011 through June 30, 2012 (Board Order Nos. 11-7081 and 11-7082, respectively). However, compensation terms of Permit No. 827 do not allow APM Terminals Pacific, Ltd. (APMT) to participate in such an exemption unless the permit is amended.

The proposed change contains language that allows the Transferred Merchandise wharfage exemptions to apply to Permit No. 827 under any future Tariff amendments for such exemptions upon written notice from the Executive Director at his or her sole discretion.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the Fifth Amendment to Permit No. 827 with APM Terminals Pacific Ltd., implementing the provisions of Tariff No. 4, Items 520 and 550-033, as amended and approved by the Board on June 16, 2011 and City Council on August 17, 2011;
2. Direct the Board Secretary to transmit the amendment to City Council for approval, pursuant to Section 606 of the City Charter;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the Fifth Amendment upon approval by City Council; and
4. Adopt Resolution No. _____.

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DISCUSSION:

Transferred Merchandise is merchandise received at a municipal wharf or wharf premise by land transportation and subsequently removed from a municipal wharf or wharf premise by land transportation. On June 16, 2011, the Board approved temporary and permanent Orders to amend the POLA Tariff to exempt wharfage on qualifying Transferred Merchandise for the period of July 1, 2011 through June 30, 2012.

The City Council subsequently approved the Tariff amendment and the associated Ordinance, with an effective date of October 1, 2011. The required California Association of Port Authorities review and approval process has also been completed.

As indicated at the time of the Board's approval, APMT's Permit No. 827 overrides elements of the Tariff, including amendments. Therefore, its permit requires an amendment under separate action in order to effectuate the Transferred Merchandise wharfage exemption.

The proposed Fifth Amendment (Transmittal 1) will provide a benefit to merchandise discharged off a vessel at the Port of Long Beach, trucked to a POLA container terminal to be transported by rail to an inland destination. With the approval of this Fifth Amendment, the Board would continue to provide Common Carriers (Carriers), operating vessels in an alliance with other Carriers' operational efficiency, resulting in additional cost savings to the Carriers. Maximizing the use of on-dock rail, and avoiding the drayage of containers to the Union Pacific Railroad or Burlington Northern Santa Fe off-dock rail yards in Long Beach and Los Angeles, also minimizes air pollution and improves air quality in the San Pedro Bay. The proposed Fifth Amendment to Permit No. 827 is recommended for approval to implement the recently amended Tariff provisions under Items 520 and 550-033.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a Fifth Amendment to Permit No. 827 with APMT to implement the provisions of Tariff Items 520 and 550-003, which exempt the assessment of wharfage on qualifying Transferred Merchandise. 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 impact for the five-county region.

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FINANCIAL IMPACT:

The estimated forgone Transferred Merchandise revenue for Fiscal Year 2011/2012 is estimated at \$106,000, based on the projected annual Transferred Merchandise TEUs for the terminal. There is no expected impact to the adopted revenue budget, as this proposal was anticipated and included in the adopted budget.

CITY ATTORNEY:

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


TRANSMITTAL:

- 1. Fifth Amendment to Permit No. 827

FIS Approval: KK (initials)

City Attorney: ML (initials)


 KARL K.Y. PAN
 Interim Director of Real Estate

For 
 KATHRYN McDERMOTT
 Deputy Executive Director

APPROVED:


 GERALDINE KNATZ, Ph.D.
 Executive Director

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BL395mnm APMT Amendment