

TWELFTH AMENDMENT OF PERMIT NO. 692  
BETWEEN THE CITY OF LOS ANGELES  
AND  
YUSEN TERMINALS LLC

PERMIT NO. 692 between THE CITY OF LOS ANGELES, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board"), and YUSEN TERMINALS LLC ("Tenant"), is hereby amended a twelfth time as follows:

1. Subsection (a) of Section 2 is deleted in its entirety, and replaced with the following:

“(a) Description. The premises subject to this Agreement comprise Parcels No. 1, No. 2, and No. 4, and No. 5 (which Parcel No. 5 is provided in as-is, where-is condition), Parcels No. A through F, and Berths 212-224. As to Parcel No. 5, inclusion of such area in the Premises through the Twelfth Amendment of this Agreement shall supersede any prior use and/or occupancy agreements for such area, provided that issuance of such Twelfth Amendment shall not affect rights of either party which have accrued or obligations which remain to be performed or rights and/or obligations which provide they continue after termination or expiration of such prior use and/or occupancy agreements, or which continue by operation of law.

Further as to Parcel No. 5 only, subject to Tenant's prior compliance with the provisions of Section 8 and full restoration pursuant to Sections 8(b) and 8(c) of such Parcel No. 5 to the condition it was in on Tenant's first occupancy on October 27, 2018, City or Tenant may delete such Parcel No. 5, in whole or in part, from the premises, upon the giving of at least thirty (30) days' written notice to the other party, with such deletion becoming effective on the date Executive Director provides written notice to Tenant of Tenant's compliance with Section 8 and any other applicable provisions of this Agreement. Any such deletion is not intended to and shall not cancel, waive or otherwise alter any rights, requirements, duties or obligations which may exist between City and Tenant in previous entitlements issued with respect to Parcel No. 5.

The parcels comprising the premises are delineated and more particularly described on Drawing No. 1-2473 – Revision 2, which is on file in the office of the Chief Harbor Engineer of the Harbor Department of City ("Harbor Engineer"), and as depicted in Exhibit "A-4" hereto.

The premises consist of three berths: Berths 212–213; Berths 214–216; and Berths 217–224. Tenant has the "preferential" right to use Berths 212-224 and the backlands granted. The "preferential" right to use a berth means that if two ships arrive at berth simultaneously, one invited by a preferential user and one invited by a secondary user, the holder of the preferential right may bring its vessel to berth first and unload it so long as such unloading is carried out continuously in accordance with the practice in the trade in Southern California. A right to use a berth "secondarily" means that the secondary user has priority over tertiary and temporary users. If a vessel invited by a preferential user

arrives at berth while a vessel invited by the secondary user is being unloaded, the secondary user must immediately vacate the berth provided, however, the preferential and secondary user shall cooperate to permit conclusion of the cargo operations in progress if such operations can be concluded shortly.

The term "premises" as used in this Agreement, shall include all structures owned by or under the control of Board within said parcels, including all improvements erected by Tenant's predecessors which are made available for Tenant's use, whether on or below the surface, and such structures as City may construct for Tenant. The structures City will construct on the premises are described in Section 7. No other structure shall be considered to be a part of the premises except to the extent that Tenant's maintenance, restoration, and indemnity and insurance obligations shall extend in addition to all buildings or improvements Tenant owns or are subject to its control on the premises.

2. For purposes of determining compensation due and owing by Tenant to City pursuant to Section 4 of this Agreement, the description of the premises as set forth in this Twelfth Amendment shall be deemed applicable as of May 1, 2020.
3. Section 4, "Compensation," is amended to add the following subsection:

“(x) Compensation for Parcel No. 5. Applicable as of May 1, 2020 to September 30, 2020, and subject to Section 2(a) of this Agreement (application of which, in the case of any partial deletions of Parcel No. 5, shall result in a proration of the amounts following), Tenant shall pay Eighty-Two Thousand, Twenty-Six Dollars and Nineteen Cents (\$82,026.19) per month for use of Parcel No. 5, in accordance with the terms of this Agreement. Thereafter, compensation for Parcel No. 5 shall be adjusted as follows. For the period commencing October 1, 2020 and ending December 31, 2020, Tenant shall pay compensation of One Hundred Thirty-Five Thousand, One Hundred One Dollars and Ninety-Six Cents (\$135,101.96) at a rate of \$0.28 per square foot per month for use and occupancy of Parcel No. 5. For the period commencing January 1, 2021 and ending September 30, 2021, Tenant shall pay a monthly rent of One Hundred Forty-Nine Thousand, Five Hundred Seventy-Seven Dollars and Seventeen Cents (\$149,577.17) at a rate of \$0.31 per square foot per month for use and occupancy of Parcel No. 5.

Commencing October 1, 2021, compensation for Parcel No. 5 shall be readjusted using the process set forth in Section 4(i) of the Agreement.”

4. Section 5(a), "Permitted Uses," is amended to include:

“On Parcel No. 5, only, repair and storage of container chassis and container handling equipment, which equipment includes but is not limited to utility tractor rigs and tophandlers.”

5. Section 9(c), "Insurance," and Section 9(d), "Accident Reports," are deleted in their entirety and replaced with the following:

"(c) Insurance. In addition to, and not as a substitute for, or limitation of, any of the indemnity obligations imposed by this Agreement, Tenant shall procure and maintain at its expense and keep in force at all times during the term of this Agreement the types and amounts of insurance specified on Insurance, Exhibit "K", attached hereto and incorporated by reference herein. The specified insurance shall also, either by provisions in the policies, by City's endorsement form or by other endorsement attached to such policies, include and insure City, its Harbor Department, its Board and all of City's officers, employees, and agents, their successors and assigns, as additional insureds, against the areas of risk described in Exhibit "K" and below, with respect to Tenant's acts or omissions in its operation, use and occupancy of the Premises or other related functions performed by or on behalf of Tenant in, on or about the Harbor District. The types of insurance which are required must meet the following conditions during the term of this Agreement and any holdover periods:

(1) Commercial General Liability. Commercial general liability insurance, including contractual liability and property damage insurance written by an insurance company authorized to do business in the State of California, or approved by the California Department of Insurance as a surplus lines insurer eligible to do business in California, rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if a Best's Rating is not available) with Tenant's normal limits of liability, but not less than set forth in Exhibit "K" for each accident or occurrence. Where Tenant operates watercraft, liability coverage for such craft must be provided as follows:

(i) Hull and machinery coverage for the value of each vessel which will call at the Premises during the term of this Agreement, if any; and

(ii) Protection and indemnity coverage with combined single limits as set forth in Exhibit "K" per occurrence for bodily injury, illness, death, loss of or damage to the property of another, Jones Act risks or equivalent thereto internationally, and pollution liability to which it is agreed that the additional insured provisions as required and described below must be included. Pollution liability shall include coverage for bodily injury, including death and mental anguish, property damage, defense costs and cleanup costs. Such coverage shall contain a defense of suits provision and a severability of interest clause.

The submitted policy shall, in addition, provide the following coverage either in the original policy or by endorsement substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that City, Board, their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all operations, uses, occupations, acts and activities of the insured under Permit No. 692, and under any amendments, modifications, extensions or renewals of said Permit regardless of whether such operations, uses, occupations, acts and activities occur on the Premises or elsewhere within the Harbor District.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by City is excess coverage;

"In the event of one of the named insureds incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to the Risk Manager of City's Harbor Department with copies to the City Attorney's Office."

(2) Fire Legal Liability. In addition to and concurrently with the aforesaid insurance coverage, Tenant shall also secure and maintain, either by an endorsement thereto or by a separate policy, fire legal liability insurance in the amounts set forth in Exhibit "K", covering legal liability of Tenant for damage or destruction to the works, buildings and improvements owned by City provided that said minimum limits of liability shall be subject to adjustments by the Executive Director to conform with the deductible amount of the fire insurance policy maintained by the Board, with waiver of subrogation in favor of Tenant so long as permitted by the Board's fire insurance policy.

(3) Automobile Liability. Where Tenant utilizes any vehicles, Tenant shall procure and maintain automobile insurance with limits of liability not less than set forth in Exhibit "K" covering injuries or death resulting from each accident or claim arising out of any one claim or accident. This insurance shall cover all owned, non-owned, and/or hired automobiles.

(4) All Risk Insurance. Fire and extended coverage insurance covering a percentage of the replacement value, as set forth in Exhibit "K", of the works, buildings and improvements erected or owned by Tenant on

the Premises, with such provision in the policies issued to cover the same, or in riders attached thereto, as will provide for all losses the amount stated in Exhibit "K" to be payable to Board to be held in trust for reconstruction. In the event of loss or damage by fire to any of such buildings or improvements, Tenant shall undertake replacement or reconditioning of such items within ninety (90) days following any such loss. In the event Tenant shall undertake such replacement or reconditioning within said period of ninety (90) days, such proceeds shall be released by Board to Tenant as payments are required for said purpose. Upon the completion of such replacement or reconditioning to the satisfaction of the Executive Director, any balance thereof remaining shall be paid to said Tenant forthwith. In the event Tenant fails to undertake such replacement or reconditioning within said period of ninety (90) days, such proceeds shall be retained by City.

(5) Environmental Impairment Liability Insurance. Should Tenant's operations involve the storage or use of any type of hazardous materials or pollutants, the Tenant shall be required to maintain environmental impairment liability insurance which shall include coverage for bodily injury, property damage, including third-party claims for on-site and off-site bodily injury and property damage, clean-up and defense, with a limit of at least the amount set forth in Exhibit "K" per occurrence, which is to remain in effect at least five (5) years after the termination of the Agreement.

(6) Railroad Protective Liability. Where Tenant's operations involve work within fifty (50) feet of railroad tracks, Tenant shall procure and maintain railroad protective liability insurance in which Pacific Harbor Line (PHL), acting for itself, is named the insured with Tenant. The minimum limits of railroad protective liability insurance shall be the limits normally carried by Tenant by not less than set forth in Exhibit "K" combined single limit for property damage and bodily injury including death. If the submitted policies contain aggregate limits, Tenant shall provide evidence of insurance protection for such limits so that the required coverage is not diminished in the event that the aggregate limits become exhausted. Tenant shall also provide comprehensive general liability coverage with additional insured requirements as previously indicated, however, the railroad exclusion shall be deleted.

(7) Workers' Compensation. Tenant shall secure the payment of compensation to employees injured while performing work or labor necessary for and incidental to performance under this Agreement in accordance with Section 3700 of the Labor Code of the State of California. Tenant shall file with the City one of the following: 1) a certificate of consent to self-insure issued by the Director of Industrial Relations, State of California; 2) a certificate of Workers' Compensation insurance issued by an admitted carrier; or 3) an exact copy or duplicate thereof of the policy certified by the Director or the insurer. Such documents shall be

filed prior to delivery of Premises. Where Tenant has employees who are covered by the United States Longshore and Harbor Workers' Compensation Act, Tenant shall furnish proof of such coverage to the City. It is suggested that Tenant consult an insurance professional of its choosing to determine whether its proposed operation methods will render its employees subject to coverage under such Act. All Workers' Compensation insurance submitted to City shall include an endorsement providing that any carrier paying benefits agrees to waive any right of subrogation it may have against City.

(8) Insurance Features. Such insurance procured by Tenant shall include the following features:

(i) Notice of Cancellation. For each insurance policy described above, Tenant shall give to the Board of Harbor Commissioners a ten (10) days' prior written notice of cancellation or reduction in coverage for nonpayment of premium, and a thirty (30) days' written notice of cancellation or reduction in coverage for any other reason, by written notice via registered mail and addressed to the City of Los Angeles Harbor Department, Attn: Risk Manager and the City Attorney's Office, 425 S. Palos Verdes Street, San Pedro, California 90731.

(ii) Acceptable Evidence and Approval of Insurance. Electronic submission is the required method of submitting Tenant's insurance documents. Tenant's insurance broker or agent shall obtain access to KwikComply at <http://kwikcomply.org> and follow the instructions to register and submit the appropriate proof of insurance on Tenant's behalf.

(iii) Renewal of Policies. Prior to the expiration of each policy, Tenant shall show through submitting to KwikComply that the policy has been renewed or extended or, if new insurance has been obtained, submit the appropriate proof of insurance to KwikComply. If Tenant neglects or fails to secure or maintain the required insurance, or if Tenant fails to submit proof of insurance as required above, the City's Harbor Department may, at its option and at the expense of Tenant, obtain such insurance for Tenant.

(iv) Certified Copies of Policies. Immediately upon procuring any and all policies of insurance required herein, Tenant must request from Tenant's insurance carrier(s) full certified copies of such policies of insurance. Tenant shall thereafter provide such full certified copies of such policies to City within thirty (30) days of Tenant's receipt of such policies from Tenant's insurance carrier(s). Tenant's obligation to provide such copies shall survive the Expiration Date regardless of whether Tenant receives such policies prior to or after the Expiration Date. Tenant shall further

provide written notice to City of any change of terms of any policies of insurance required herein within thirty (30) days of any such change.

(v) Modification of Coverage. The Executive Director, or designee, at the Executive Director's discretion, may require that Tenant increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Tenant. The modification of coverage shall occur no less than every five (5) years of the term to insure that the coverage amounts are consistent with industry standards at the time of the modification for the Permitted Uses of the Premises.

(vi) Accident Reports. Tenant shall report in writing to Executive Director within fifteen (15) days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Fifty Thousand Dollars (\$50,000) to property, occurring upon the Premises, or elsewhere within the Harbor District, if Tenant's officers, agents or employees are involved in such an accident or occurrence while undertaking the Permitted Uses. Such report shall contain to the extent available: (1) the name and address of the persons involved; (2) a general statement as to the nature and extent of injury or damage; (3) the date and hour of occurrence; (4) the names and addresses of known witnesses; and (5) such other information as may be known to Tenant, its officers or managing agents.

(9) Right to Self-Insure. The required coverage above shall provide first dollar coverage except that the Executive Director may permit a self-insured retention or self-insurance in those cases where, in the Executive Director's judgment, such retention or self-insurance is justified by the net worth of Tenant. The retention or self-insurance shall provide that any other insurance maintained by the Department shall be excess of Tenant's insurance and shall not contribute to it. In all cases, regardless of any deductible, retention, or self-insurance, Tenant shall have the obligations of an "insurer" under the California Insurance Code and said insurance shall be deemed to include a defense of suits provision and a severability of interest clause. Upon written approval by the Executive Director, Tenant may self-insure if the following conditions are met:

(i) Tenant has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Tenant must have a formal resolution of its board of directors authorizing self-insurance;

(ii) Tenant agrees to protect the City, its boards, officers, agents and employees at the same level as would be provided by full insurance with respect to types of coverage and minimum limits of liability required by this Agreement;

(iii) Tenant agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier;

(iv) Tenant agrees that any insurance carried by Department is excess of Tenant's self-insurance and will not contribute to it;

(v) Tenant provides the name and address of its claims administrator;

(vi) Tenant submits its most recently filed 10-Q and its 10-K or audited annual financial statements for the three most recent fiscal years prior to the Executive Director's consideration of approval of self-insurance and annually thereafter;

(vii) Tenant agrees to inform Department in writing immediately of any change in its status or policy which would materially affect the protection afforded Department by this self-insurance; and

(viii) Tenant has complied with all laws pertaining to self-insurance.

6. Section 9, "Insurance," is amended to add the following subsection:

"(g) Increased Insurance Risks. Following the Effective Date, should an event occurring in or about the Premises cause either cancellation or increased rates with respect to any insurance that City may have on the Premises or on adjacent premises, or cause either cancellation or increased rates with respect to any other insurance coverage for the Premises or adjacent premises, upon receipt of written notice from City that cancellation of insurance or increased insurance rates is threatened or has occurred, Tenant immediately shall take appropriate steps to ensure that City is not adversely affected. In City's sole reasonable discretion, such steps may include Tenant: correcting the condition; providing any necessary insurance; paying the increased cost of City's insurance; and/or indemnifying City against any uninsured or underinsured loss on a claim."

7. The effective date of this Twelfth Amendment shall be upon execution by the Executive Director and Board Secretary after approval of the City Council of the Resolution approving this Amendment.



Except as amended herein, all remaining terms and conditions of Permit No. 692, as previously amended, shall remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this Twelfth Amendment to Permit No. 692 between the City of Los Angeles and Yusen Terminals LLC on the dates to the left of their respective signatures.

THE CITY OF LOS ANGELES,  
by its Board of Harbor Commissioners

Dated: \_\_\_\_\_, 2020

By \_\_\_\_\_  
EUGENE D. SEROKA  
Executive Director

Attest \_\_\_\_\_  
AMBER M. KLESGES  
Board Secretary

YUSEN TERMINALS LLC

Dated: July 13, 2020

By \_\_\_\_\_  
ALAN M. CORRIE President/CEO  
(Print/type name and title)

Attest Hyun Jung Yoon  
HYUN JUNG YOON, CCSO  
(Print/type name and title)

APPROVED AS TO FORM AND LEGALITY

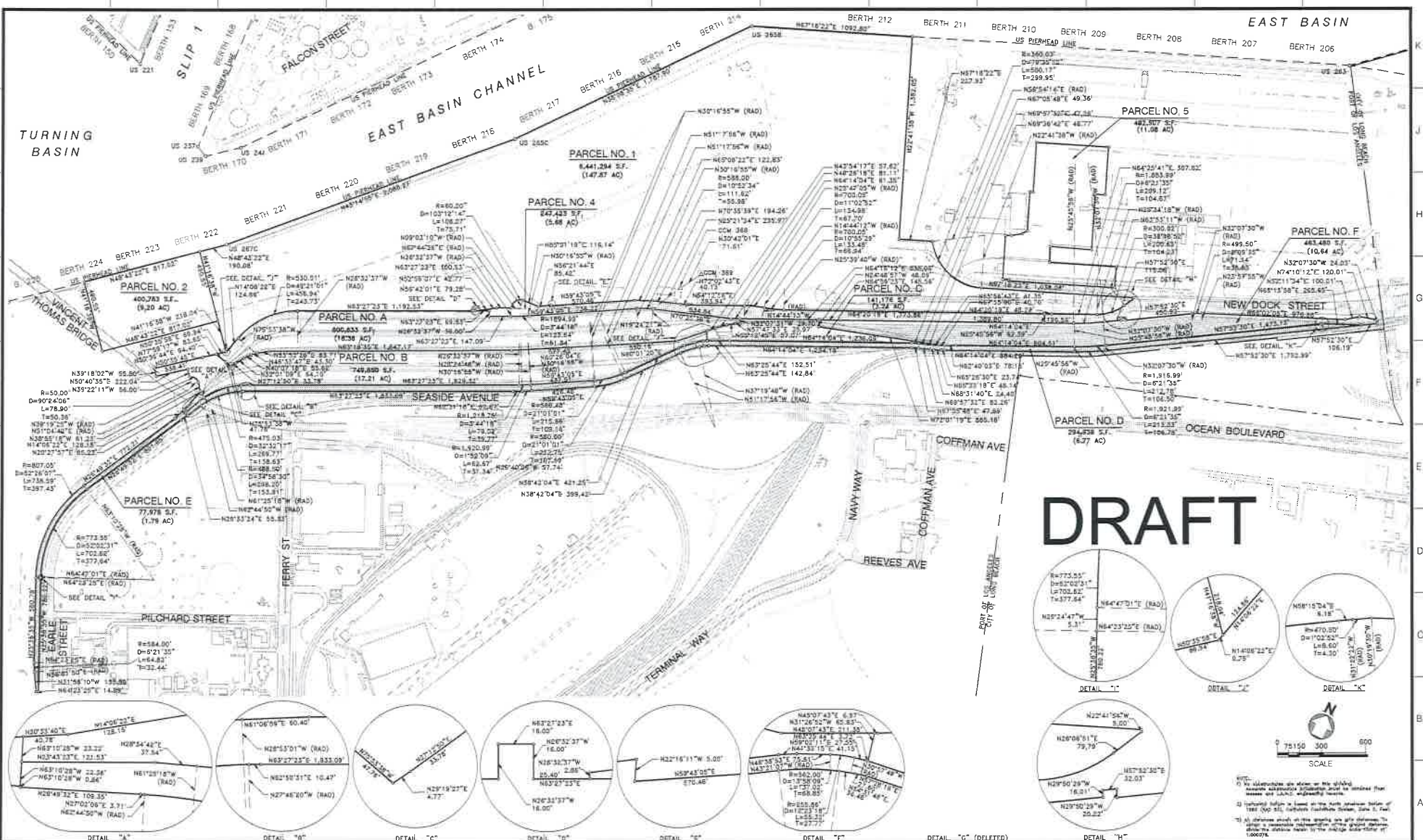
July 15, 2020

MICHAEL N. FEUER, City Attorney  
JANNA B. SIDLEY, General Counsel

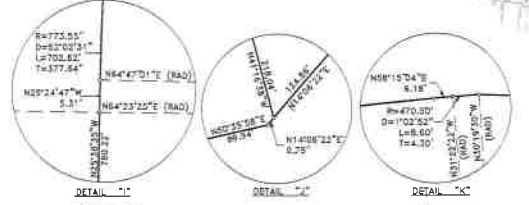
By Steven Y. Otera  
STEVEN Y. OTERA, Assistant

SYO/ta 06/25/2020

Rev. 06/23/14



# DRAFT



NOTE:  
 (1) All measurements are shown on this drawing assume additional information as needed from owner or L.A.C.D. engineering notes.  
 (2) Existing utility to be shown on this drawing shall be shown as of 1981 SAN SII, including California System, San S. Fuel.  
 (3) All distances shown on this drawing are given in feet. To avoid a possible misinterpretation of the above distances, the distance shown is to the multiple decimal of 0.00074.

NO.	DATE	DRAWN	REVISIONS	NO.	DATE	DRAWN	REVISIONS
1	1/11/18	PHH	REDUCED PARCEL NO. 3 AND ADDED PARCEL NO. 4	2	02/01/18	PHH	COLLECTED PARCEL NO. 3 AND ADDED PARCEL NO. 4

NO.	DATE	DRAWN	REVISIONS	NO.	DATE	DRAWN	REVISIONS
1	1/11/18	PHH	REDUCED PARCEL NO. 3 AND ADDED PARCEL NO. 4	2	02/01/18	PHH	COLLECTED PARCEL NO. 3 AND ADDED PARCEL NO. 4

PERMIT MAP - AUTHORITY NO. P882

YUSEN TERMINALS, LLC



PHONE NUMBER  
1-2473



**This section to be completed by Risk Management**

<input type="checkbox"/> No insurance required, only indemnification <input type="checkbox"/> Amendment does not require change to existing contract's insurance requirements	
<b>INSURANCE REQUIREMENTS</b>	<b>LIMITS (Per Occurrence)</b>
<input checked="" type="checkbox"/> <b>General Liability</b> <input type="checkbox"/> Deletion of railroad exclusion <input type="checkbox"/> Terminal Operator's Liability <input type="checkbox"/> Garage keepers Legal Liability <input type="checkbox"/> Host Liquor Liability <input type="checkbox"/> Explosion, collapse and underground hazards <input checked="" type="checkbox"/> Fire Legal Liability (Limits \$250K per occ)	\$1M
<input checked="" type="checkbox"/> <b>Auto Liability (all autos)</b> <input type="checkbox"/> On Hook Coverage	\$1M
<input checked="" type="checkbox"/> <b>Workers' Compensation/Employer's Liability</b> <input checked="" type="checkbox"/> USL&H *where watercraft/vessels are used. <input checked="" type="checkbox"/> Waiver of Subrogation	STATUTORY
<input type="checkbox"/> <b>Professional Liability</b> <input type="checkbox"/> Medical Malpractice <input type="checkbox"/> Law Enforcement Legal Liability <input type="checkbox"/> Technology Errors & Omissions (E&O)	\$
<input type="checkbox"/> Railroad Protective Liability naming Pacific Harbor Line as the named insured	\$
<input checked="" type="checkbox"/> <b>Ocean Marine Liability *where watercraft/vessels are used.</b> <input checked="" type="checkbox"/> Protective & Indemnity <input checked="" type="checkbox"/> Jones Act <input checked="" type="checkbox"/> Hull & Machinery <input type="checkbox"/> Ship Builders/Repairers Liability	\$1M
<input checked="" type="checkbox"/> <b>Property/All Risk Insurance</b>	100% replacement value over \$250K
<input type="checkbox"/> Environmental Impairment Liability	\$
<input type="checkbox"/> <b>Builder's Risk</b> (Reference Specification for exclusions)	Value of the project
<input type="checkbox"/> Fine Arts Insurance	Actual cash value
<input type="checkbox"/> Aviation/Airport Liability <input type="checkbox"/> Aircraft Liability (passenger liability per seat) <input type="checkbox"/> Unmanned Aircraft Systems Liability	\$

Date Reviewed: 5/29/2020

By: Chrizelle Makaena for:  
Risk Manager

RM Staff:GT