



**THE PORT  
OF LOS ANGELES**

Executive Director's  
Report to the  
Board of Harbor Commissioners

**DATE: SEPTEMBER 28, 2011**

**FROM: BUSINESS DEVELOPMENT BUREAU**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ CONSENT TO ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN APM TERMINALS PACIFIC LTD. AND CALIFORNIA UNITED TERMINALS, INC.**

**SUMMARY:**

On August 5, 2010 the Los Angeles Board of Harbor Commissioners (Board) approved the Third Amendment to APM Terminals Pacific, Ltd. (APMT), Permit No. 824 which included the City of Los Angeles Harbor Department's (Harbor Department) consent to APMT's sublease of a portion of the premises to California United Terminals, Inc. (CUT). The Third Amendment also provided for APMT's option to assign to CUT, APMT's right to pursue expansion of the premises (Pier 500), subject to the Harbor Department's environmental assessment under the California Environmental Quality Act (CEQA) and other applicable laws. In August of 2011, APMT exercised its option to assign the Pier 500 expansion rights to CUT. The proposed Board action is the approval of the Harbor Department's Consent to the Assignment and Assumption Agreement, which provides for CUT's right to submit an Application for Discretionary Project (ADP) and commence the planning, development and environmental assessment process for the proposed Pier 500.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners:

1. Approve the proposed Consent to Assignment and Assumption Agreement between APM Terminals Pacific, Ltd. and California United Terminals, Inc. ;
2. Direct the Board Secretary to transmit the proposed Consent to the Los Angeles City Council for approval pursuant to Los Angeles City Charter Section 606;
3. Upon approval by the City Council, authorize the Executive Director to execute and the Board Secretary to attest to the proposed Consent; and
4. Adopt Resolution No. \_\_\_\_\_.

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**DISCUSSION:**

Background – Permit No. 827 grants APMT use of approximately 512 acres of land, berth and facilities for the operation of a container terminal and ancillary operations (premises), which was assessed in the Supplemental Environmental Impact Report for the Pier 400 Container Terminal and Transportation Corridor Project certified by the Board on October 5, 1999.

Permit No. 827 provides APMT an option to pursue expansion of the terminal premises in the future (commonly referred to as Pier 500) subject to environmental assessment by the Harbor Department under the CEQA and other applicable laws. The Third Amendment, which was approved by the Board on August 5, 2010, allowed that upon exercise of the option by APMT, APMT may assign the Pier 500 development rights to CUT. In the event that the premises expansion rights are exercised, the permit provides that the parties will cooperate to develop a project plan on which the Harbor Department shall conduct an environmental assessment which may include the preparation of an environmental impact report/environmental impact statement subject to compliance with CEQA, the National Environmental Policy Act (NEPA) and other applicable laws.

In August of 2011, APMT exercised its option to expand the premises (Pier 500) and assign the expansion rights to CUT. The parties entered into an Assignment and Assumption Agreement, and have requested that the Harbor Department sign a Consent to their Assignment and Assumption Agreement (Transmittal 1). The Assignment and Assumption Agreement between APMT and CUT allows CUT to pursue with the Harbor Department the development of an additional parcel up to 200 acres, and to commence the process of obtaining environmental assessment, approvals, clearances and permits in accordance with applicable laws to entitle the Pier 500 parcel for container terminal use, all subject to the terms and conditions of Permit No. 827 Sections 2(j) and 11(d)(2). The Assignment and Assumption Agreement also provides that CUT will work with the Harbor Department to negotiate and enter into a lease term sheet and new permit directly with the Harbor Department to occupy the Pier 500 parcel, subject to applicable environmental assessment, approvals, clearances and permits.

Need for Harbor Department Consent – The Third Amendment to APMT Permit provides that APMT's right to assign the Pier 500 expansion rights is conditioned upon APMT being in compliance with all terms, conditions and obligations of the Permit and upon Tenant's Guarantor continuing to guarantee the performance by the Tenant and Subtenant of all terms and conditions of the permit. Harbor Department staff, including the Deputy Executive Director, Business Development, have validated that the

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conditions have been met. Based upon this information, staff recommends that the Board approve the Consent to the Assignment and Assumption Agreement, which provides for the Harbor Department to engage in the planning and development process with CUT and to perform an environmental assessment of proposed Pier 500.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of Consent to Assignment and Assumption Agreement between APMT and CUT for the assignment of Pier 500 expansion rights to CUT. The actual expansion of Pier 500 will be subject to separate environmental review. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from CEQA in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

**ECONOMIC BENEFITS:**

Approval of the proposed Consent will have no direct employment impact for the five-county region.

**FINANCIAL IMPACT:**

Approving the Consent will provide CUT with the option to pursue with the Harbor Department the development of an additional parcel up to 200 acres. The initial financial impact will include the costs (amounts yet to be determined) of the Harbor Department staff and consultants to perform conceptual designs and planning studies with CUT and to perform an environmental assessment of the proposed Pier 500. The financial impact of the proposal to create Pier 500 would be assessed at that time and incorporated into a proposed lease that would be subject to Board approval. Approving the Consent does not commit the Harbor Department to develop Pier 500.

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**CITY ATTORNEY:**

The Consent to Assignment and Assumption Agreement has been approved as to form and legality by the Office of the City Attorney.

**TRANSMITTAL:**

1. Consent to Assignment and Assumption Agreement

FIS Approval: EF (initials)

CA Approval: JMC (initials)



KATHRYN McDERMOTT  
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.  
Executive Director

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