



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

DATE: AUGUST 2, 2017

FROM: CARGO & INDUSTRIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ – ORDER RESETTING COMPENSATION
UNDER PERMIT NO. 529 WITH INTERMODAL CONTAINER
TRANSFER FACILITY JOINT POWERS AUTHORITY**

SUMMARY:

Staff requests approval of the Order resetting compensation under Permit No. 529 (Permit), between the City of Los Angeles Harbor Department (Harbor Department) and Intermodal Container Transfer Facility Joint Powers Authority (JPA). The JPA in turn subleases the property to the Union Pacific Railroad Company (UPRC). The Permit is a 50-year lease of approximately 147 acres for a classification yard. This reset covers the five-year period of December 1, 2016 through November 30, 2021 and reflects the current market value of the property which will be reflected as an increase in the Guaranteed Annual Rent (GAR) and the container charge.

The Order will increase the amount of the GAR by 31 percent to \$11,724,327.00 in the first year, and increase the container charge by 45 percent to \$31.00 in the first year. This reflects the current market value of \$18.29 per square foot at a 10 percent rate of return. An annual step increase of 2 percent per year will be added to simulate an annual Consumer Price Index (CPI) increase, as no CPI provisions exist within the current Permit.

RECOMMENDATION:

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

1. Find that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines as determined by the Director of Environmental Management;
2. Approve the Order resetting compensation under Permit No. 529 with Intermodal Container Transfer Facility Joint Powers Authority for the five-year period of December 1, 2016 to November 30, 2021;
3. Authorize the Board Secretary to attest to the Order resetting compensation to be paid by Intermodal Container Transfer Facility Joint Powers Authority pursuant to Section 5(g) of Permit No. 529; and
4. Adopt Resolution No. _____ and Order No. _____.

SUBJECT: COMPENSATION RESET UNDER PERMIT NO. 529 WITH INTERMODAL CONTAINER FACILITY JOINT POWERS AUTHORITY

DISCUSSION:

Background/Context - Between 1982 and 1984, the Harbor Department, the Port of Long Beach (POLB), and Southern Pacific Transportation Company (acquired by UPRC in 1996) jointly developed and financed the Intermodal Container Facility (ICTF) through a public/private partnership. The JPA was created and funded by both the Harbor Department and POLB to administer that partnership. The ICTF was specifically designed to provide near-dock infrastructure required to handle the rapidly growing intermodal container shipping demand and to enhance the flow of container traffic through the Ports of Los Angeles and Long Beach. The ICTF operates 24 hours per day, seven days per week, and had an average throughput volume of approximately 378,152 containers in the last three Permit Years.

The ICTF totals approximately 147 acres, located entirely on Harbor Department property within the City of Los Angeles. The property is leased by the Harbor Department to the JPA who in turn subleases to the UPRC. The JPA Permit term extends through 2034.

JPA Permit Adjustment Period - Article VII, Section 607 (b) of the City Charter requires "Every franchise, concession, permit, license, or lease shall include a procedure to adjust the compensation periodically, but in no case shall the period between adjustments exceed five years."

This requirement is addressed through two methods covered in Section 5(g) of the Permit which calls for "Renegotiation of Guaranteed Annual Rent in each Adjustment Period, with the rent to be mutually agreed upon between the Tenant and the Board..."

Further, Section 5(g) (3) of the Permit calls for:

"After Board has established the new Guaranteed Annual Rent for the Premises for an Adjustment Period, whether or not Tenant exercises its option to pay the Graduated Guaranteed Annual Rent, the Container Charge payable by Tenant in each Permit Year in that Adjustment Period shall be determined by dividing the Guaranteed Annual Rent for each of the five (5) Permit Years by the average of the total number of Movements in the three (3) Permit Years immediately preceding the Adjustment Period..."

The Permit provides negotiations to adjust the rent shall be conducted with the subtenant without the participation, consent, or approval of the tenant. The Harbor Department has agreed with the subtenant, UPRC, on the compensation reset for the current period. Staff requests to reset compensation for the 2016-2021 permit period to a revised GAR of \$11,724,327.00 for the first year. This reflects an increase of 31 percent from the current GAR of \$8,964,648. Thereafter, the parties have agreed to a 2 percent annual adjustment in lieu of a CPI based adjustment, since no CPI mechanism exists in the current permit. Container charges will be increased to \$31.00 per unit, an increase of 45 percent from the current charge of \$21.32 per unit.

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Compensation Type	Current Amt.	Proposed Amt.	Increase
Guaranteed Annual Rent	\$8,964,648.00	\$11,724,327.00	31%
Container Charge Per Unit	\$21.32	\$31.00	45%

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Order resetting compensation under Permit No. 529 with JPA, which is an administrative activity. As such, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of CEQA in accordance with Article II, Section 2(f), of the City of Los Angeles CEQA Guidelines.

FINANCIAL IMPACT:

The Order resetting compensation (Transmittal 1) for the period of December 1, 2016 through November 30, 2021 will increase the amount of rent for the Permit premises (Transmittal 2) as follows:

PERIOD	Guaranteed Rent at 10% ROR	Market Value Per SF	Container Charge
12/1/2016 - 11/30/2017	\$11,724,327.00	\$18.29	\$31.00
12/1/2017 - 11/30/2018	\$11,958,813.54	\$18.66	\$31.62
12/1/2018 - 11/30/2019	\$12,197,989.81	\$19.03	\$32.26
12/1/2019 - 11/30/2020	\$12,441,949.61	\$19.41	\$32.90
12/1/2020 - 11/30/2021	\$12,690,788.60	\$19.80	\$33.56
Total Rent 5-Year Period	\$ 61,013,868.56		
Past Three Years' Average Container Moves	378,152	per year	

An annual step increase of 2 percent has been added to simulate an annual CPI increase of the median CPI over the last five years. No CPI provisions exist within the current Permit.

As stipulated in Section 5 of the Permit, the Order resetting compensation, as well as the resetting of the container charge, is retroactive to December 1, 2016. There is no projection to exceed the GAR within the 2016 to 2021 compensation period.

This recommended resetting of compensation is in keeping with Board Policy of a 10 percent rate of return on the current market value of land.

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CITY ATTORNEY:

The Order resetting compensation has been approved as to form and legality by the Office of the City Attorney.


TRANSMITTALS:

1. Order
2. Site Map




JACK C. HEDGE
Director of Cargo & Industrial Real Estate

FIS Approval: *MB* (initials)
CA Approval: *MB* (initials)



MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

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