



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

**DATE: AUGUST 30, 2016**

**FROM: WATERFRONT & COMMERCIAL REAL ESTATE**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FIFTH AMENDMENT AND  
COMPENSATION RESET UNDER PERMIT NO. 560 WITH VOPAK  
TERMINAL LOS ANGELES, INC.**

**SUMMARY:**

Staff requests approval of the Fifth Amendment and the Order resetting compensation under Permit No. 560 with the Vopak Terminal Los Angeles, Inc. (Vopak). The proposed reset is for the period of August 30, 2013 to August 29, 2018. The annual compensation will remain at its current rate of \$3,215,064 from August 30, 2013 through December 31, 2015, then, increase to \$3,692,843.20 starting January 1, 2016. This compensation amount is based on the City of Los Angeles Harbor Department (Harbor Department) receiving a 10 percent annual rate of return on the market value of waterfront land at \$29 per square foot (s.f.), and on the market value of backland at \$20 per s.f. All subsurface pipeline rights of way remain discounted by 75 percent. The proposed Fifth Amendment also includes a provision that adjusts compensation rates annually based upon the Consumer Price Index (CPI) up to a maximum of three percent beginning on August 30, 2016.

**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. Find that it is in the best interest of the City of Los Angeles Harbor Department to deviate from the Leasing Policy on the subsurface rate;
3. Approve the Fifth Amendment to Permit No. 560 with the Vopak Terminal Los Angeles, Inc.;
4. Find that the City of Los Angeles Harbor Department and the Tenant have agreed on compensation to be paid by Tenant during the five-year period commencing August 30, 2013 and ending August 29, 2018;
5. Approve the Order resetting compensation to Permit No. 560 with Vopak Terminal Los Angeles, Inc.;

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6. Direct the Board Secretary to transmit the Fifth Amendment to Permit 560 to the City Council for approval pursuant to Charter Section 606 of the City Charter;
7. Authorize the Executive Director to execute and the Board Secretary to attest to the Fifth Amendment upon Board approval contingent upon approval by City Council;
8. Authorize the Board Secretary to attest to the Order resetting compensation to be paid by Vopak Terminal Los Angeles, Inc. pursuant to the Permit No. 560;
9. Adopt Order No. \_\_\_\_\_; and
10. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background: Permit No. 560 allows Vopak the use of 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, as depicted on the attached map (Transmittal 1). The Permit is a 30-year term permit, which commenced on August 30, 1993. The 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.

By Order No. 09-7006, dated August 13, 2009, the Board approved a tiered compensation reset rate culminating with the current rental amount of \$3,215,064 per year, ending August 13, 2013. In 2010, the Harbor Department and Vopak actively began discussing the potential relocation of Vopak, which resulted in the prolonged negotiations. This prolonged process impacted the scheduled compensation reset due to the uncertainty of the scope and timing of Vopak's final premises. In April 2015, it was determined Vopak would remain at its current location. The compensation reset for August 30, 2013 through August 29, 2018 is past due and is now necessary as required under the Permit.

Proposed Action: Staff requests Board approval of the Fifth Amendment (Transmittal 2) and the Order resetting compensation under Permit No. 560 with Vopak (Transmittal 3). The proposed compensation for the five-year period from August 30, 2013 through August 29, 2018 is structured in three tiers:

1. From August 30, 2013 through December 31, 2015, the annual compensation will remain at its current rate of \$3,215,064.
2. From January 1, 2016 through August 29, 2016, the annual compensation will increase to \$3,692,843.20 (Transmittal 4): the compensation amount is based on a 10 percent annual rate of return on the market value of waterfront land at \$29 per square foot (s.f.), and \$20 per s.f. on backland with all subsurface pipeline rights of way discounted by 75 percent.

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3. From August 30, 2016 through August 29, 2018, per the proposed Fifth Amendment, the annual compensation will be adjusted by CPI annually. All applicable charges pursuant to Tariff No. 4 will continue to apply.

The previous compensation reset in 2008 represented peak land values of \$29 for waterfront land prior to the economic downturn. Land value for waterfront land has recovered to pre-recession levels for this compensation reset evaluation date of August 2013. The annual rental value, based on a 10 percent rate of return, of \$2.90 per s.f. is identical to the 2013 compensation reset applied to Shell's marine oil terminal, which is comparable to Vopak's marine oil terminal.

Staff negotiated an annual backland rental value of \$2.00 per s.f., based on a respective land value for backland of \$20 and a 10 percent rate of return. Backland market value in August 2013 varied between \$14, based on the much larger proposed BNSF SCIG premises (100+/- acres), and \$25, for smaller acreage parcels below ten acres. Vopak's backland premises are 22.08 acres. The proposed compensation reset will increase Vopak's land rent by 13 percent.

The proposed Fifth Amendment also introduces CPI adjustment into the Permit, consistent with the Harbor Department Leasing Policy. The first CPI adjustment shall occur on August 30, 2016, for an adjustment period of August 30, 2016 through August 29, 2017, and annually each year thereafter based on the month of June which precedes the annual compensation adjustment date for the remaining agreement term. The CPI adjustment on August 30, 2016 will be 1.2 percent.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of the Fifth Amendment and the Order resetting compensation under Permit No. 560 with Vopak. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II, Section 2(f), of the City of Los Angeles CEQA Guidelines.

**FINANCIAL IMPACT:**

Approval of this Order setting compensation under the Permit for the five-year period of August 30, 2013 through August 29, 2018 will increase guaranteed compensation to \$3,692,843.20 in January 1, 2016 and plus any CPI adjustments starting on August 30, 2016.

Additionally, Vopak pays all applicable charges under Tariff No. 4 for use of its premises. For the most recent compensation year (2015), wharfage and dockage charges totaled approximately \$2,502,502 and Total compensation received was \$5,717,566.

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**CITY ATTORNEY:**

The Office of the City Attorney has prepared and approved the Fifth Amendment and Order resetting compensation as to form and legality.

**TRANSMITTALS:**

1. Site Map
2. Fifth Amendment
3. Comp Reset Order
4. Rental Calculation

  
MICHAEL J. GALVIN  
Director of Waterfront & Commercial Real Estate

FIS Approval: MB (initials)  
CA Approval: [Signature] (initials)

  
FOR MICHAEL DiBERNARDO  
Deputy Executive Director

APPROVED:

  
FOR EUGENE D. SEROKA  
Executive Director

MJG:ER:HP:KK:raw  
Author: Kevin Kim  
BL605raw Vopak 5<sup>th</sup> Amend & Comp Reset