

DATE: DECEMBER 13, 2022

FROM: CARGO & INDUSTRIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ - ORDER APPROVING
COMPENSATION RESET UNDER PERMIT NO. 827 WITH APM
TERMINALS PACIFIC, LLC**

SUMMARY:

Staff requests approval of the Order resetting compensation under Permit No. 827 (Permit) between the City of Los Angeles Harbor Department (Harbor Department) and APM Terminals Pacific, LLC (APMT). The reset covers the five-year period from August 1, 2022, through July 31, 2027. As a result of this Order, total annual guaranteed compensation will increase by at least \$93.7 million, or 23.4 percent, from \$401.1 million over the prior five-year period to \$494.8 million over the next five-year period. Provided below is a summary:

- Minimum Annual Guarantee (MAG) per acre of the container terminal premises (441.74 acres) will increase from \$185,000 to \$210,000.
- Annual rent for the intermodal rail facility (40.84 acres) will increase from \$2,032,525 per year as of July 31, 2022, to the following rate schedule:
 - August 1, 2022: \$2,175,615
 - August 1, 2023: \$2,175,615
 - August 1, 2024: \$2,175,615
 - August 1, 2025: \$2,318,772
 - August 1, 2026: \$3,220,152
- Per container charge rate schedule (i.e., TEU rate) reflects a wholesale 7.04 percent increase consistent with the General Rate Increase which took effect August 1, 2022.

Effective August 1, 2023, the MAG and TEU rates will be subject to annual increases based upon changes in the Consumer Price Index (CPI), subject to an annual minimum of 2 percent and a maximum of 7 percent.

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RECOMMENDATION:

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

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve the Order resetting compensation under Permit No. 827 with APM Terminals Pacific, LLC for the period of August 1, 2022 to July 31, 2027;
3. Authorize the Board Secretary to attest to the Order resetting compensation under Permit No. 827; and
4. Adopt Resolution No. _____ and Order No. _____.

DISCUSSION:

Background - Under Permit No. 827, APMT uses and occupies nearly 513 acres of Harbor Department property. The Permit has a 25-year term expiring July 31, 2027, and three, five-year options to extend. The premises are comprised of approximately 512.36 acres total (441.74 acres of container terminal [MAG Acres] + 40.84 acres of Intermodal Rail Facility (IRF) + 24.24 acres of storage tracks + 5.54 acres of truck queuing).

The Permit requires that compensation be readjusted in five-year intervals. The proposed action concerns the reset period from August 1, 2022, through July 31, 2027. The following rent components are subject to reset: MAG, which is the minimum amount of cargo throughput charges due; TEU rates, which is a charge per twenty-foot equivalent unit that varies based on the number of TEUs handled per acre (i.e. more TEUs handled lowers the rate); and IRF which is the rent charged on rail acreage. The compensation structure includes 441.74 of MAG acreage and 40.84 acres of IRF acreage. The remaining 29.78 acres are “non-compensation” acres pursuant to the terms of the Permit.

APMT and Harbor Department representatives diligently negotiated the terms of the reset over the past year. The terms of the negotiated reset are outlined below. Staff recommends the Board approve the reset as proposed as it reflects the fair market value of the premises and avoids a protracted, and possibly lengthy, appraisal process set forth in the Permit as an alternate method to determine the reset amount.

As noted above, the guaranteed compensation will increase by at least \$93.7 million, or 23.4 percent, to \$494.8 million over the next five-year period.

Provided below are the details of this compensation reset.

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Item	Rates as of July 31, 2022	Proposed rates August 1, 2022 - July 31, 2027
MAG/Acre	\$185,000	\$210,000
IRF Rate	\$2,032,525	Year 1: \$2,175,615 Year 2: \$2,175,615 Year 3: \$2,175,615 Year 4: \$2,318,772 Year 5: \$3,220,152
TEU Rate	\$42.16 5200 TEU efficiency bracket	\$45.13 5200 TEU efficiency bracket
Rate Adjustments	<ul style="list-style-type: none"> TEU rates are subject to CPI increase (maximum of 4.5%) through July 31, 2022 The permit contains no other mechanism for adjustments beyond July 31, 2022, other than the 5-year reset and a General Rate increase 	<ul style="list-style-type: none"> MAG and TEU rates are subject to CPI increases (minimum 2%/Maximum 7%)

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a compensation reset under Permit No. 827 with APMT for a five-year period, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed Order would result in higher guaranteed compensation and higher variable compensation per TEU over five-year period from August 1, 2022 through July 31, 2027. Guaranteed compensation (inclusive of MAG and intermodal rail compensation) will increase by at least \$93.7 million, or 23.4 percent, from \$401.1 million over the prior five-year period to \$494.8 million over the next five-year period. Additionally, TEU rates will increase by 7.04 percent effective August 1, 2022. Thereafter, effective August 1, 2023, TEU rates will increase annually by the change in CPI, subject to a minimum of 2 percent and a maximum of 7 percent.

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CITY ATTORNEY:

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

TRANSMITTALS:

1. Site Map
2. Order

FIS Approval: *MB*

CA Approval: SO

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APPROVED:

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ES:MD:MK:raw
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BL975raw APMT Comp Reset