



Executive Director's
Report to the

Board of Harbor Commissioners

DATE: JANUARY 24, 2024

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ – SECOND AMENDMENT AND ORDER APPROVING THE OPTION TO EXTEND PERMIT NO. 905 WITH FISHERMAN'S PRIDE PROCESSORS, INC DBA NEPTUNE FOODS

SUMMARY:

Staff requests approval of an Order and Second Amendment concerning the first of two five-year options to extend Permit No. 905 (Permit 905) with Fisherman's Pride Processors, Inc, dba Neptune Foods, (Neptune) for the five-year period of March 27, 2024, through March 26, 2029. The Order and Amendment are subject to payment of the \$105,026.13 option fee.

Under Permit 905, Neptune operates a seafood processing facility on Terminal Island for a term of ten years with two, five-year options to renew, for a total potential aggregate term of 20 years. The current monthly rent is \$88,671.69.

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 has been previously evaluated pursuant to the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(i) of the Los Angeles City CEQA Guidelines;
2. Approve the Second Amendment to Permit No. 905;
3. Approve the Order extending the term of Permit No. 905 for five additional years with Fisherman's Pride Processors, Inc, dba Neptune Foods;
4. Direct the Board Secretary to transmit the Second Amendment and the Order to Permit No. 905 to the City Council for approval pursuant to Section 606 of the City Charter;
5. Authorize the Board Secretary to attest to the Order approving the extension of Permit No. 905; and
6. Adopt Resolution No. _____ and Order No. _____.

SUBJECT: SECOND AMENDMENT AND ORDER TO APPROVE THE EXTENSION OF TERM TO PERMIT NO. 905 WITH FISHERMAN'S PRIDE**DISCUSSION:**

Background - Permit 905 was granted to Neptune effective March 27, 2014, for a term of ten years with two, five-year options, exercisable by the tenant (maximum term 20 years). The premises are comprised of 193,825 square feet of City of Los Angeles Harbor Department (Harbor Department) property located at 888 Ways Street in Fish Harbor on Terminal Island (Transmittal 1) for the construction, operation, and maintenance of a seafood processing facility.

Extension Option - Per the terms of the Permit, Neptune has two unilateral options to renew the Permit for two successive five-year periods for a total aggregate term of 20 years. Neptune can exercise each option no sooner than 180 days and no later than 60 days prior to the expiration provided (a) it has made a payment to the Harbor Department of 10 percent of the estimated annual base rent of the first year of each option period (i.e. \$30,638 for the first option period and \$33,006 for the second option period) (Option Fee) on or before the effective date of the Permit; and (b) the Harbor Department determines that it is a tenant in good standing, as defined in the Leasing Policy of the Harbor Department. Per the terms of the Permit, these extensions become effective only upon adoption of an Order of the Board of Harbor Commissioners granting such extension.

Need for Amendment

- a) Option Fee Due Date: Neptune notified the Harbor Department of its desire to exercise the first extension option and remitted the Option Fee; however, it remitted the Option Fee at the time of exercising the option, rather than prior to the effective date of the Permit. Neptune requested that the Harbor Department honor the extension request despite the late payment. For the Harbor Department to process the extension request, a Permit amendment is required to modify the due date for the option fee as set forth in this action. Due to the need for this amendment, staff also increased the option fee from \$30,638 to \$105,026.13 for the first option period to reflect 10 percent of actual base rent due over the past 12-month period rather than use an estimate. Also, the option fee for the second option period is increased from \$33,006 to \$124,858.04 under the proposed amendment.
- b) Good Standing Review. At the time Neptune exercised the option it was not a tenant in good standing due to a series of unauthorized improvements and trespass activity. Since that time, Neptune has resolved the trespassing infractions, and has made significant progress to cure the unauthorized improvements, such as securing the necessary permits and finalizing repairs. Staff is confident the work will be completed by the March 27, 2024, expiration date. The proposed Order, which affects the extension, is conditional and takes effect upon Neptune fully remedying the unauthorized improvements. If the infractions are not cured by March 27, 2024, the permit will expire.

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Notwithstanding the above permit infractions, staff determined it is in the best interest of the Harbor Department to process the extension as requested, on a conditional basis. Neptune's operations are integral to the success of the commercial fishing industry at the Port of Los Angeles and as well as retaining jobs associated with that business sector.

Current Compensation – As required by the terms of Permit 905, the adjustment of rent for the upcoming five-year period of March 27, 2024, through March 26, 2029, is required. Negotiations are underway. Neptune's compensation under Permit 905 has two components: base rent and percentage rent. Base rent is subject to annual Consumer Price Index and five-year readjustments. Neptune currently pays a monthly base rent of \$88,671.69, excluding percentage rent which varies every year depending upon the amount of fish caught. Staff will present a separate and independent action to reset compensation at an upcoming Board meeting.

Proposed Action – Staff recommends the Board approve the Order and Second Amendment.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Order and Second Amendment with Neptune to approve tenant's first option to extend Permit No. 905 for a five-year period, which is an activity for which the underlying project has been previously assessed in Addendum 2 to the Fisherman's Pride Processors Inc. Final Initial Study and Mitigated Negative Declaration (SCH# 2013121027), which was considered by the Board of Harbor Commissioners on June 4, 2020. Therefore, the Director of Environmental Management has determined that the proposed action has been previously evaluated pursuant to the requirements of CEQA in accordance with Article II Section 2(i) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed Order and Second Amendment will enable Neptune's continued occupancy of the premises for an additional five years from March 27, 2024, to March 26, 2029, under Neptune's first extension option within Permit No. 905 pending the completion of needed repairs. If the five-year extension is granted, Neptune will pay a one-time extension fee of \$105,026.13, and will continue to pay base rent of at least \$88,671.69 per month, pending completion of compensation reset negotiations for the five-year period from March 27, 2024, through March 26, 2029.

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CITY ATTORNEY:

The Order and Second Amendment to approve the five-year extension under Permit No. 905 has been reviewed and approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Site Map
2. Order
3. Second Amendment

FIS Approval: MB
CA Approval: SD

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Michael DiBernardo
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APPROVED:

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