



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: AUGUST 11, 2017

FROM: EXECUTIVE OFFICE

SUBJECT: RESOLUTION NO. _____ - REVENUE ALLOCATION AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND GENERAL ELECTRIC COMPANY FOR THE DATA PORTAL PROJECT

SUMMARY:

Staff is requesting approval of a Revenue Allocation Agreement (Agreement) between the City of Los Angeles Harbor Department (Harbor Department) and General Electric (GE) Company, through its GE Transportation Division (GET), to address the parties' partnership arrangement for the Data Portal (Portal) project, for which a pilot program was implemented. The Portal is a first-of-its-kind, common user portal to provide a single information window to support enhanced maritime supply chain performance that was jointly developed with GET. The proposed terms include the anticipated revenue allocation and marketing outreach to commercialize the Portal.

The business terms include an exclusivity agreement, revenue sharing arrangements, and general business terms to manage the relationship between the Harbor Department and GET.

The Agreement's revenue sharing arrangement is for an initial term of three years, followed by a second two year term, and concluding with an option for the City to purchase a subscription for use of the Data Portal for an additional 10 years thereafter, via separate agreement.

A concurrent but separate Board Report amending and restating the portal pilot project agreement to increase the term from one year to three years and increase the not-to-exceed compensation amount under that agreement by an additional \$11,781,370, for a total not-to-exceed compensation amount of \$13,100,420 will also be presented to the Board.

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 exempt from the requirements of the California Environmental

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Quality Act (CEQA) under Article II Section 2(f) and Article III Class 6 of the Los Angeles City CEQA Guidelines;

2. Approve the Agreement with General Electric Company;
3. Direct the Board Secretary to transmit the Agreement to the City Council for approval pursuant to Section 373 of the Charter of the City of Los Angeles Section 10.5 of the Los Angeles Administrative Code;
4. Authorize the Executive Director to execute and the Board Secretary to attest to the Agreement upon approval by the City Council; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background and Context – The highly competitive maritime shipping industry continues to face challenging worldwide trading conditions. To weather these challenges the shipping industry has experienced mergers and acquisitions, the formation of larger vessel alliances, and the deployment of ultra large container vessels all aimed at reducing cost. While these industry changes have yielded economies of scale, it has led to new operational challenges for the supply chain, due to the increasing container volume surges at marine terminals requiring close coordination between supply chain stakeholders. Supply chain information is currently provided through multiple and separate sources. It is not uncommon for supply chain stakeholders to need access to more than a dozen different websites for the information to manage their day-to-day operations.

On November 3, 2016 the Board approved Agreement No. 16-3425 with GE Transportation in the not-to-exceed amount of \$1,319,050 to develop a first-of-its-kind, common user Portal. The Portal was developed to provide supply chain stakeholders with a single information window to support the efficient movement of cargo through the supply chain. A concurrent but separate Board Report amending and restating the portal pilot project agreement to increase the term from one year to three years and increase the not-to-exceed compensation amount under that agreement by an additional \$11,781,370, for a total not-to-exceed compensation amount of \$13,100,420 will also be presented to the Board.

Since the Portal went live in May of 2017 as a pilot project, participating supply chain stakeholders have been able to view integrated supply chain data approximately up to two weeks prior to the vessel's arrival at the Port of Los Angeles (Port). In contrast,

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using information sources currently available, data is typically only available three or four days prior to vessel arrival at the Port. The feedback provided by participating supply chain stakeholders has been very positive, and participants have expressed the desire to expand the Portal to include additional container terminals and shipping lines.

Proposed Agreement – The proposed Agreement (Transmittal 1) sets forth the partnership arrangement between the Harbor Department and GET to commercialize the Portal. The proposed terms include an exclusivity agreement, revenue sharing based on geographic distribution of the Portal, shared promotional activities and marketing commitments, publication guidelines, auditing rights, liability allocation, and term and termination provisions. The proposed Agreement will have revenue sharing terms of three years, with a two year extension term and a subsequent licensing period for 10 years.

The breakdown of the proposed revenue sharing agreement is as follows:

- Exclusivity: During the term of the Agreement, neither the Harbor Department nor GET will, without written consent of the other party, engage in the commercialization of any competing product to Harbor Departments' customers or GET customers.
- GET Revenue Allocation: For the first three (3) year revenue sharing period, GET shall pay the Harbor Department 10 percent (10%) of any Net Revenue received by GET for subscriptions sold to outside the Port of Los Angeles. During the following two (2) year revenue sharing term this percentage decreases to 5 percent (5%). For subscriptions GET sells to customers using the data portal at the Port of Los Angeles (other than those described below under "POLA Charge"), GET will pay the Harbor Department fifty percent (50%) of any Net Revenue received.

GET shall pay the Harbor Department two percent (2%) of any Net Revenue received by GET for customization of the Portal, where the sale occurs during the first three (3) years of a customer purchasing its initial subscription to the Data Portal. During the two (2) year revenue sharing term, GET will pay the Harbor Department one percent (1%) of any Net Revenue from any such sale that occurs within the first three (3) years of a customer purchasing its initial subscription to the Data Portal.

- POLA Charge: During the five (5) year revenue sharing term (3 years plus 2 years), the Harbor Department shall pay GET fifty percent (50%) of any charges

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received by the Harbor Department from the Port's terminals for access to and use of the Portal.

- Promotion Commitment: The Harbor Department agrees to use its commercially reasonable efforts to support and cooperate with GET's promotion of the Portal to potential customers, including, but not limited to, promotion activities as described below.
- Promotion Activities: Promotion Activities will include the following:
 1. Identifying and connecting GET with potential customers;
 2. Attending meetings with GET and potential customers;
 3. Providing written or verbal recommendation in support of the Portal;
 4. Attending joint promotional events and create joint press releases;
 5. Allowing GET and potential customers to tour the Port of Los Angeles;
 6. Participation in user acceptance testing for future production releases and innovation testing opportunities;
 7. Provide ongoing feedback on possible product enhancement and user experience;
 8. Assist with data harvesting at the Port of Los Angeles; and
 9. Assist with other promotional and sales support activities.
- Publications: The parties will establish a steering committee consisting of three members from each party to discuss promotional activities and commercial strategies related to the Portal.
- Audit: Each party shall keep and maintain full, complete and accurate books of accounts and records relating to the reports provided by each party, and shall allow reasonable access to such books of accounts and records for the purpose of determining the accuracy of payment due or paid.
- Term: The Agreement shall become effective as of the date the Agreement is signed by the Executive Director and remain in full force and effect during the revenue sharing period of five (5) years. At the end of the 5 year revenue sharing period, the City will have the option to purchase a 10-year subscription service to the Data Portal during which time the Department will pay GET 50% of the charges received by the Harbor Department for use of the Data Portal by the Port's terminals. The start of the revenue sharing period will be July 1, 2018.

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ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Agreement with GET to address the parties' partnership arrangement for the Data Portal Project. As an administrative activity, 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) and Article III Class 6 of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Expenditures for the Portal are covered in Agreement No. 16-3425 with a not to exceed amount of \$13,100,420. This Agreement No. 16-3425 will be presented concurrently, as a separate action, with this proposed revenue sharing agreement.

Whether the Harbor Department is able to fully recoup or surpass the expenditures already incurred or may be incurred is indeterminable at this time as any revenues derived from commercialization of the GET portal is dependent on dynamic market conditions and factors affecting its demand. However, the Harbor Department and its customers will benefit from the value of an integrated supply chain information portal to maximize the efficiency of its maritime operations.

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CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved the Revenue Allocation Agreement as to form and legality.

TRANSMITTALS:

1. 1. Revenue Allocation Agreement

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

FOR 
MICHAEL DIBERNARDO
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director