

DATE: JULY 25, 2023

FROM: GOODS MOVEMENT

**SUBJECT: RESOLUTION NO. _____ APPROVAL OF FOURTH
AMENDMENT TO PACIFIC HARBOR LINE OPERATING AGREEMENT**

SUMMARY:

Staff requests approval of the Fourth Amendment to Operating Agreement No. 1989 (Agreement) between the City of Los Angeles Harbor Department (Harbor Department) and Pacific Harbor Line, Inc., which will extend the term of the Agreement from December 31, 2024, to December 31, 2025. Pacific Harbor Line (PHL) is a shortline railroad that is the current Port of Los Angeles (POLA)-Port of Long Beach (POLB) complex rail operator (PRO). The PRO provides rail services for POLA terminals, which also includes interchanging trains with the BNSF Railway (BNSF) and Union Pacific Railroad (UPRR). The Harbor Department and the POLB each have an operating agreement with PHL. Staff of both ports are currently developing a joint request for proposals (RFP) for selecting the next PRO in advance of the expiring agreements with PHL. The proposed Amendment will enable staff to complete the RFP process prior to the amended expiration date of the Agreement. There are no financial impacts to the Harbor Department as PHL will continue to pay rent.

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 Fourth Amendment to Agreement No. 1989 with PHL to extend the term from its current expiration of December 31, 2024 to December 31, 2025;
3. Direct the Board Secretary to transmit the Resolution and Fourth Amendment to the City Council for approval pursuant to Section 373 of the City Charter and Section 10.5 of the City Administrative Code; and
4. Adopt Resolution No. _____.

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DISCUSSION:

PHL is a Class III/shortline railroad as defined by the Surface Transportation Board, and provides rail services for terminals in both ports, including interchanging trains with the BNSF and UPRR. The following briefly describes PHL services:

- UPRR container (intermodal) trains: The UPRR arrives/departs 12,000'-15,000' container (intermodal) trains to/from the Alameda Corridor via their Dolores Yard. Via a contract with the UPRR, PHL moves cuts (segments) of these long trains to/from all POLA and POLB container terminals.
- BNSF intermodal trains: Via a contract with the BNSF, PHL moves some full trains and cuts to/from the Alameda Corridor and POLA-POLB container terminals.
- Within container terminals: Via contracts with the terminals, PHL moves railcars to/from storage and loading yards (these are defined as on-dock railyards).
- Non-container Terminals: Via contracts with the terminals, PHL moves non-container railcars to/from various terminals in the POLA to interchange (handoff) with the UPRR and BNSF at locations in (POLA Berth 200 Railyard) and outside the POLA (BNSF Watson Yard, POLA Manual Yard, and UPRR Mead Yard).
- Train Dispatching: PHL is responsible for dispatching services (train traffic control) within the POLA-POLB complex and adjacent area, including the south end of the Alameda Corridor. These dispatching services also include the necessary seamless interface with the dispatching of the Alameda Corridor itself, which is currently handled by the UPRR and BNSF via their dispatching center located in San Bernardino.

Unlike our terminal leases, the Harbor Department does not lease the rail infrastructure to PHL but rather permits PHL to perform rail operations within and directly adjacent to the POLA via an operating agreement. PHL operates on rail infrastructure primarily owned by the Harbor Department, and on some rail trackage jointly owned with the POLB. The POLA rail infrastructure encompasses about 134 acres, which includes the 35-acre Berth 200 Railyard where PHL is based and stores/stages trains (see attached map).

In addition to paying for the rail services described above, the UPRR and BNSF pay annually for PHL's train dispatching costs and the needed maintenance and repair (M&R) of Harbor Department rail infrastructure outside the terminals' permit areas. The UPRR, BNSF, POLB, and the Harbor Department approve PHL's annual dispatching and M&R budgets.

The Harbor Department and POLB jointly selected PHL as the PRO in 1997. The Agreement was last amended in June 2010 and expires December 31, 2024. The Harbor Department and the POLB have been meeting biweekly and conducting outreach to terminals and the BNSF/UP to aid in the development of an RFP for selecting a PRO in advance of the expiring agreements with PHL. Despite the efforts thus far and deployment

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of resources, the ports' staff have determined that a one-year extension of the current Agreement is needed to provide sufficient time to authorize commencement of operations with the selected PRO. This authorization is preceded by the following necessary activities: RFP development (with POLB); evaluation/selection (with POLB), agreement negotiations (with POLB), Board of Harbor Commissioners approval, City Council approval, and sufficient transition (overlapping implementation) time with existing PHL operations, if PHL is not selected as the next PRO. The Harbor Department and POLB will execute their own separate operating agreements with the selected PRO. The respective scope of services will be similar, but not identical due to differences in rail facilities. The POLB approved their extension with PHL on July 24.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the Fourth Amendment to Agreement No. 1989 with PHL for a one-year extension, 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:

The Harbor Department does not pay for any PHL costs as described above. As a condition of the existing operating agreement, PHL pays an annual fee to the Harbor Department for use of the Berth 200 Railyard, with an annual escalation computed using the year-over-year change in the Consumer Price Index (CPI). As approved in the Third Amendment to the Agreement, the CPI inflation factor is capped at 3 percent until May 31, 2024. The calendar year (CY) 2023 fee is \$122,175.73. For CY2024, the annual fee inflation factor will be prorated as follows: (i) January to May 2024 - CPI (for October 2023) with 3% cap; and (ii) June to December 2024 - CPI (for October 2023). The CY2025 fee will be computed using an uncapped CPI factor.

CITY ATTORNEY:

The Office of the City Attorney has prepared and approved the Fourth Amendment as to form and legality.

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TRANSMITTALS:

1. Fourth Amendment to PHL Agreement
2. POLA-POLB Rail Network Map

FIS Approval: MB
CA Approval: kfm



KERRY CARTWRIGHT, P.E.
Director of Goods Movement

Michael DiBernardo

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APPROVED:

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