



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

DATE: JANUARY 27, 2016

FROM: CARGO & INDUSTRIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ - PROPOSED SEVENTH
AMENDMENT TO PERMIT NO. 827 WITH APM TERMINALS PACIFIC,
LLC FOR CREDIT TO OFFSET COSTS RELATED TO THE *CMA CGM
BENJAMIN FRANKLIN***

SUMMARY:

Staff requests the Board of Harbor Commissioners (Board) approve the proposed Seventh Amendment to Permit No. 827 with APM Terminals Pacific, LLC (APMT) to provide a one-time credit to APMT in the amount of \$241,837 to be applied towards rent due and payable for the month immediately following the month in which the amendment becomes effective.

Following discussions among principals of APMT, CMA CGM and the City of Los Angeles Harbor Department (Harbor Department) and subsequent execution of a Letter of Intent between those entities on November 1, 2015 (LOI), CMA-CGM committed the Ultra Large Container Vessel (ULCV) *CMA CGM Benjamin Franklin (Benjamin Franklin)* to call at APMT's premises at Pier 400. The LOI obligated APMT to pay CMA CGM, the vessel's owner, an incentive which totaled approximately \$483,675. APMT has requested the Harbor Department's assistance to share this cost by paying half (\$241,837).

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

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. Approve the Seventh Amendment to Permit No. 827 with APM Terminals Pacific, LLC;
3. Direct the Board Secretary to transmit the Seventh Amendment to the City Council for approval pursuant to Charter Section 606 of the City Charter;
4. Authorize the Executive Director to execute and the Board Secretary to attest to the Seventh Amendment upon approval by City Council; and
5. Adopt Resolution No. _____.

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Background/Context – Currently, container vessels are generally segregated into seven size categories, ranging from “feeder vessels” at the small end of the range, and “ultra-large container vessels” or “ULCVs” at the largest end of the range. ULCVs are those vessels with capacity to carry 14,501 Twenty-foot Equivalent Units (TEUs) or more. The *Benjamin Franklin* was delivered to CMA CGM, its owner, in November of 2015. She is not only a ULCV, but currently one of the largest ULCVs in the world, capable of carrying up to 18,000 TEUs.

Both the size of ULCVs and the amount of containers they carry present significant infrastructure and logistical issues. ULCVs require navigational channels and berths of depths and lengths limited ports and terminals possess. Similarly, the height and width of ULCVs mandate use of the largest container cranes in operation, in multiple array. Additionally, the sheer numbers of containers being loaded and unloaded from ULCVs requires the existence and effective deployment of skilled labor and infrastructure, including rail and truck, to efficiently move cargo from the wharf into the delivery chain without creating material congestion.

As of a few months ago, a ULCV had never called at a North American port.

In August and September of 2015, however, CMA CGM, APMT, and the Harbor Department initiated discussions related to the *Benjamin Franklin* potentially calling at APMT's premises at Pier 400 (Transmittal 1). Ultimately, those discussions proved successful and resulted in the execution on November 1, 2015, of the Letter of Intent (LOI) attached hereto as Transmittal 2.

Pursuant to the LOI, on December 26, 2015, CMA CGM caused the *Benjamin Franklin* to call at APMT's premises at Pier 400. The call resulted in the completion of 11,204 lifts, a North American record. It also was completed 13 hours ahead of schedule. As these statistics would suggest, notwithstanding the fact that the call constituted the first time a ULCV had visited a North American port, it was a significant success for CMA CGM, APMT, and the Harbor Department. Indeed, one respected industry publication, the Journal of Commerce, described the call as “flawless.”

The Harbor Department garnered significant value from the *Benjamin Franklin's* call, in the form of a unique, real-time ability to demonstrate to the shipping lines and vessel sharing alliances who populate the sector that provides a full 80 percent of Harbor Department revenue, that its tenant operators and facilities, and its relationships with the other key stakeholders in the labor, infrastructure and supply chain communities are capable of delivering in the most cutting-edge, demanding and logistically challenging of circumstances. This demonstrated capability is anticipated to favorably factor into the routing decisions of such vessel lines and alliances.

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Section 2 of the LOI required APMT alone to provide a one-time \$75/container credit on each container operated by CMA CGM or its affiliates. Following the *Benjamin Franklin's* call, the parties to the LOI determined that 6,449 containers were subject to this credit, resulting in a total payment due from APMT to CMA CGM of \$483,675.

APMT has requested, as set forth in Transmittal 3, that the Harbor Department provide 50 percent of this credit amount, or \$241,837. While the LOI does not obligate the Harbor Department to render a credit to APMT, the Harbor Department received significant value from the *Benjamin Franklin's* call as discussed above, which it would not have received but for APMT's significant participation in the negotiation of the LOI, and in devoting substantial resources of its own to ensure the success of the call. It is for these reasons that staff recommends that the Board approve this recommendation. If approved, the \$241,837 will be applied to APMT's compensation obligations under Permit No. 827, as a one-time credit, pursuant to the attached Seventh Amendment.

APMT provided notice in November 2015, pursuant to Section 12(l) of Permit No. 827, that it had converted from a California corporation to a Delaware limited liability company called APM Terminals Pacific LLC, as reflected in the Seventh Amendment. The conversion was accomplished in accordance with California Corporations Code §§ 1150-1160 (conversion of corporation to a limited liability company), which states: "An entity that converts into another entity pursuant to this chapter is for all purposes other than for the purposes of Part 10 (commencing with Section 17001) of, Part 10.20 (commencing with Section 18401) of, and Part 11 (commencing with Section 23001) of, Division 2 of the Revenue and Taxation Code, the same entity that existed before the conversion." For purposes of Permit No. 827 and its administration by the Harbor Department, the conversion resulted in a name change only; the entity that is the Harbor Department's tenant remains the same.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a Seventh Amendment to Permit No. 827 with APMT to provide a one-time rent credit to assist APMT with costs associated with the *Benjamin Franklin's* call at the terminal, which is an administrative activity. As such, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The incremental containerized cargo moved through the Port of Los Angeles generated incremental revenue to the Harbor Department of \$778,481. The cost of this one-time rent credit to APMT related to the *Benjamin Franklin's* call at the Port of Los Angeles is \$241,837, resulting in a net gain of \$536,644.

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CITY ATTORNEY:

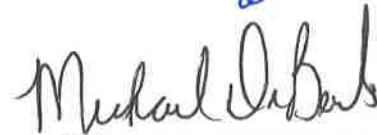
The Office of the City Attorney has prepared and approved the Seventh Amendment (Transmittal 4) as to form and legality.

TRANSMITTALS:


1. Site Map
2. Letter of Intent
3. January 8, 2016 APMT Letter
4. Seventh Amendment

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


JACK C. HEDGE
Director of Cargo & Industrial Real Estate


MICHAEL DiBERNARDO
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APPROVED:


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