



Executive Director's

Report to the
Board of Harbor Commissioners

DATE: APRIL 12, 2023

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ - APPROVE THE FIRST AMENDMENT TO PERMIT NO. 953 WITH EVERGLADES COMPANY TERMINAL, INC.

SUMMARY:

Staff requests approval of the First Amendment to Permit No. 953 (Permit 953) between Everglades Company Terminal, Inc. (Everglades) and the City of Los Angeles Harbor Department (Harbor Department), which would extend the term by two years, for a total aggregate term of five years. Under the proposed First Amendment, the expiration date would change from October 10, 2024, to October 10, 2026. All other terms, conditions, and obligations would remain unchanged.

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 generally and categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(14) of the Los Angeles City CEQA Guidelines;
2. Approve the First Amendment to Permit No. 953 with Everglades Company Terminal, Inc.;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment; and
4. Adopt Resolution No. _____.

DISCUSSION:

Under Permit 953, approved by the Board on September 2, 2021, Everglades uses and occupies Berths 121 to 127 (Transmittal 1) to operate a marine container terminal for a term of three years, effective October 11, 2021 through October 10, 2024. As approved in 2021, Permit 953's term is fixed, and not subject to extension. This amendment seeks the addition of a holdover provision that would address that deficiency and allow the terms and conditions of the document, including compensation, insurance and indemnity, to remain in place on and following October 10, 2024, given that the Harbor Department is currently preparing an environmental assessment for the long-term use and redevelopment of the terminal, consistent with the Notice of Preparation issued by the Harbor Department in 2014. Inclusion of holdover provisions in Department permits is routine, and serves the interests noted here – continued application of agreed-upon terms and conditions should occupancy extend beyond the expiration date of the term.

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While staff aims to have that assessment complete prior to the expiration of the current term of the Permit, it is unknown at this time whether all required approvals will be in place by that date. In an abundance of caution, staff recommends a two-year extension of Permit 953 to ensure continuity of operations at Berths 121-127 beyond October 10, 2024. The amendment includes a holdover provision giving the Executive Director the discretion to increase payments under the Permit should the Tenant not vacate the Premises upon expiration. Once environmental entitlements are in place, staff will return to the Board with a successor permit for the terminal that would cover long-term occupancy and redevelopment activities.

Under the proposed First Amendment (Transmittal 2), the expiration date would change from October 10, 2024, to October 10, 2026. All other terms, conditions and obligations would remain unchanged.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of First Amendment to Permit 953 between Everglades and the Harbor Department for operation of an existing marine container terminal at Berth 121-127, which is an activity that can be seen with certainty to have no possibility of a significant effect on the environment, and an activity that involves the amendment of any permit to use an existing structure or facility involving negligible or no expansion of use. Therefore, the Director of Environmental Management has determined that the proposed actions are generally and categorically exempt from the requirements of CEQA in accordance with Article II Section 1 and Article III Class 1 (14) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed Amendment would extend Permit 953 by two years, from three years currently to five years, as proposed. Under the proposed Amendment, Permit 953 would expire on October 10, 2026 rather than October 10, 2024.

Currently, based upon the Minimum Annual Guarantee and West Basin Intermodal Container Facility compensation in effect as of January 1, 2023, Permit 953 is estimated to generate \$82.9 million in guaranteed compensation over the three-year period through October 10, 2024. If the proposed Amendment is approved, Permit 953 would then be estimated to generate \$142.8 million in guaranteed compensation through October 10, 2026, an increase of \$59.9 million, or 72.3 percent, relative to current levels.

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COMPANY TERMINAL, INC

CITY ATTORNEY:

The proposed First Amendment to Permit 953 has been reviewed and approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Site Map
2. First Amendment

FIS Approval: MB
CA Approval: SO

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APPROVED:

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