



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

DATE: AUGUST 7, 2014

FROM: REAL ESTATE

**SUBJECT: ORDER NO. _____ - FIFTH AMENDMENT TO PERMIT NO. 888
WITH EVERPORT TERMINAL SERVICES INC. - CHANGE IN TWENTY-
FOOT EQUIVALENT UNIT RATE SCALE**

SUMMARY:

Evergreen Line (Evergreen) and COSCO have started a new jointly operated container service using 13,000 Twenty-Foot Equivalent Unit (TEU) size vessels. The Evergreen terminal at the Port of Los Angeles (Port), leased by Everport Terminals Services, Inc. (Everport) cannot physically handle such vessels due to their size. To ensure the additional container volumes resulting from these larger vessels remain at the Port, staff recommends amending Permit No. 888, revising the existing TEU per acre rate schedule and adding applicable conditions. The first vessel deployed in the new joint service between Evergreen and COSCO called at APM Terminals on June 11, 2014.

The proposed action would result in increased container volumes at the Port while minimizing revenue impacts to the City of Los Angeles Harbor Department (Harbor Department).

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Approve the Fifth Amendment to Permit No. 888 with Everport Terminals Services, Inc.;
2. Direct the Board Secretary to transmit the Fifth Amendment to the City Council for approval pursuant to Section 606 of the City Charter;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the Fifth Amendment upon approval by City Council; and
4. Adopt Order No. _____.

DISCUSSION:

Background – The shipping industry, in an ongoing effort to return to sustained profitability and provide the import and export community with an expanded scope of

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service, have consolidated container services and formed mega shipping alliances. Evergreen and COSCO recently started a new joint transpacific container service using 13,000 TEU size vessels. The existing terminal leased by Everport (Transmittal 1) cannot accommodate such vessels due to water depth limitations at their berth requiring Evergreen and its joint service partner to utilize other terminals, including those at the Port of Long Beach. To address this issue, the Harbor Department and Everport negotiated a revised TEU/acre rate schedule recognizing the need to have those vessels remain at the Port (current versus proposed rate schedule is attached as Transmittal 2). The first vessel deployed in the new joint service between Evergreen and COSCO called at APM Terminals on June 11, 2014.

Current Compensation – The compensation structure currently in effect under Permit No. 888 has three major components, along with a provision for annual adjustment of rent based on the Consumer Price Index (CPI). The existing compensation structure is detailed below:

- 1) Payment of TEU Rates: TEU rates are assessed based on a sliding scale on per acre volume brackets. Upon reaching a higher TEU per acre volume on the scale, the applicable rate applies from the first TEU up to the TEU volume of 4,999 TEU per acre. Thereafter, incremental TEU rates are applied to volume of TEUs over the 4,999 TEU per acre, as detailed on Transmittal 2 under current rates.
- 2) Minimum Annual Guarantee (MAG): The MAG is the aggregate minimum annual payment of TEU charges per acre that Everport is obliged to make to the Harbor Department. A MAG payment is required only if the total TEU payments (Item 1 above) do not exceed the MAG amount.
- 3) Terminal Island Container Transfer Facility (TICTF): Compensation for the use of TICTF (on-dock rail) is \$62,641 per acre per year, based on 23.88 TICTF acres.
- 4) Rate Adjustment and Tariff Increases: All rates are subject to an annual rate adjustment based upon CPI and Board-approved Tariff increases. The annual CPI adjustments have a floor of zero and a cap of three percent. Tariff-based rate increases are reduced by CPI adjustments, since the prior Tariff increases are applied on January 1 of each calendar year.

Renegotiation of Compensation – The goal of both parties was to ensure that the additional container volumes resulting from the deployment of larger ships would stay in the Port, while at the same time provide the opportunity for Everport to reduce their overall cost for the incremental compensation rate brackets over 4,999 TEU per acre. Recognizing the limitations of the existing terminal facilities, a revised TEU/acre rate schedule was negotiated as detailed in Transmittal 2 under proposed rates, which provides Everport with a greater per TEU computation benefit when ships controlled by Evergreen, due to their size, call at other Port container terminals.

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Under the negotiated compensation methodology, and notwithstanding existing incentive programs (empty, transferred incentives), all the TEUs handled through the Everport facility, as well as any TEUs handled by Evergreen controlled vessels calling at other Port facilities, due to their size, will count toward the negotiated Everport compensation schedule. If the total volume of TEUs per acre is 4,999 or less, a single TEU rate is applied, as detailed in Exhibit F of Transmittal 3. If the total volume of TEUs per acre is greater than 4,999, the TEU rates corresponding to different compensation brackets are applied to the remaining TEUs. This compensation methodology is used to obtain an average TEU rate with respect to all TEUs handled by Evergreen controlled vessels at any Port facility, due to their size. The average TEU rate is then applied only to those TEUs handled at the Everport facility for compensation calculation purposes. Compensation is reconciled yearly based on actual TEU volumes handled versus billed during the year. A sample calculation is illustrated in Transmittal 4 based upon 2014 compensation rates with CPI factored in.

ENVIRONMENTAL ASSESSMENT:

The proposed action is a financial program aimed at preventing cargo diversion to other ports. The proposed action will not allow tenants to exceed the current terminal capacity and operations will remain consistent with existing lease provisions. As such, the action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II, Section 1 of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

The movement of containerized cargo through the Port supports over 30,000 direct jobs and 50,000 indirect jobs in the five-county region. The economic benefit of this program will be the preservation of a portion of these existing jobs, some of which would be lost if cargo is diverted to competing ports.

FINANCIAL IMPACT:

In an alliance with COSCO, Evergreen has started to operate 13,000 TEU vessels that cannot call at the Everport terminal due to berth constraints. If no action is taken to encourage these large vessels operated by Evergreen to dock at another Port terminal, they would be handled at the COSCO facility in Long Beach. The first of these large Evergreen-controlled vessels arrived at the APM Terminal on June 11, 2014. Large vessels controlled by Evergreen are estimated by the Harbor Department's Business & Trade Development Division to handle 450,000 TEUs annually, 270,000 of which would be diverted from the Everport terminal and previously carried on smaller vessels. If no action is taken, the loss of the 270,000 TEUs is expected to reduce revenue from the Everport terminal to \$43.4 million, a decline of \$3.2 million from calendar year 2013 revenue of \$46.6 million, which was based on 1.2 million TEUs. Under the proposed amendment, when the 450,000 TEUs are handled at another Port terminal (APM Terminals assumed), and are combined with TEUs handled at the Everport terminal, along with changes to Everport terminal incremental rates to establish the final charge

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applied to TEUs handled by the Everport terminal, the resulting TEU charge further reduces Everport terminal revenue from \$43.4 million to \$37.8 million (a discount of \$5.6 million). This \$5.6 million decline of revenue from the Everport terminal is more than offset by \$7.5 million of additional revenue generated by the APM Terminal on the 450,000 Evergreen-controlled TEUs. Annual revenue under this proposal is estimated to be \$45.3 million (\$37.8 + \$7.5) versus calendar year 2013 of \$46.4 million. The proposed action reduces the expected revenue loss of \$3.2 million (\$46.6 - \$43.4) to \$1.3 million (\$46.6 - \$45.3). The estimated rate of return generated by the Everport terminal, excluding incremental revenues generated by Evergreen TEUs handled elsewhere in the Port, exceeds Board policy targets.

CITY ATTORNEY:

The Fifth Amendment to Permit No. 888 is subject to approval as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Site Map
2. Current vs. Proposed Rate Schedule
3. Fifth Amendment to Permit No. 888
4. Sample Calculation Illustration


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APPROVED:

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