



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

**DATE: MAY 25, 2016**

**FROM: EXECUTIVE OFFICES**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FIRST AMENDMENT TO AGREEMENT NO. 2634 AMONG THE CITY OF LOS ANGELES HARBOR DEPARTMENT, THE CITY OF LONG BEACH HARBOR DEPARTMENT, AND THE WEST COAST MARINE TERMINAL OPERATOR AGREEMENT, FEDERAL MARITIME COMMISSION AGREEMENT NO. 210178**

**SUMMARY:**

Staff requests approval of a first amendment to Federal Maritime Commission (FMC) Agreement No. 210178 among the Harbor Departments of the Cities of Los Angeles, Long Beach and the West Coast Marine Terminal Operators Association (WCMTOA), City of Los Angeles Harbor Department Agreement No. 2634 (Agreement), which provides immunity from federal anti-trust laws, as provided for under the Shipping Act of 1984, so that the City of Los Angeles Harbor Department (Harbor Department), the Port of Long Beach (collectively "Ports") and WCMTOA may collect and exchange information, engage in discussion and reach agreement with respect to the administration and operation of environmental programs, supply chain efficiencies at the terminals, and reduce and/or prevent congestion at the Port's facilities. Although there currently exists an FMC discussion agreement among the Ports that has been utilized to discuss issues of joint interest involving infrastructure and environmental programs (FMC Agreement No. 201219), the proposed amendment to the Ports' agreement with WCMTOA will allow for a more robust discussion regarding congestion and efficiency issues in the San Pedro Bay complex.

The FMC filing fee associated with this Agreement is the financial responsibility of the Ports and WCMTOA, wherein the \$851 filing fee will be evenly split three-ways among the entities.

**RECOMMENDATION:**

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

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;

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2. Approve the Amended Agreement among the Harbor Departments of the City of Los Angeles, the City of Long Beach, and the West Coast Marine Terminal Operators Association;
3. Authorize the Executive Director to execute and Board Secretary to attest to said Agreement, for and on behalf of the Board;
4. Authorize the Office of the City Attorney to file the Agreement with the Federal Maritime Commission; and
5. Adopt the foregoing as Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background and Context - The Shipping Act of 1984 (Shipping Act), among other laws, grants immunity from the anti-trust laws of the United States to marine terminal operators so that they may confer with each other and agree upon services, rates, practices, and other operational decisions related to the common carriage of goods by water in the foreign commerce of the United States. In order to receive this immunity, however, the parties must file notice with the FMC in the form of a written agreement outlining the topics and actions the parties will be undertaking together. The Ports and the members of WCMTOA are considered marine terminal operators under the Shipping Act and must comply with its requirements.

Need for the Agreement – The two Ports have an existing Agreement (Transmittal 1), with WCMTOA, which needs to be amended in order to expand the discussion authority to include congestion and efficiency issues. The Agreement authorizes the parties to collect and exchange information, engage in discussions, and reach agreement with the respect to the administration and operation of a variety of programs in a manner that will benefit the Los Angeles/Long Beach port community. The amended Agreement will authorize discussion and implementation of operational and/or administrative measures intended to reduce and/or prevent congestion on and near marine terminal premises and/or at the gates to/from such terminals and to increase the efficiencies of such terminals and the Ports.

Term and Cost of the Revised Agreement - The Agreement has an open-ended term, subject to termination upon written notification from one party to the others of their intent to cancel the Agreement. The revised Agreement (Transmittal 2) will be filed with the FMC and there is a 45-day waiting period before the Agreement will become effective.

While the Agreement contains no specific financial obligations, there is a filing fee of \$851, which will be shared by the three parties, for a cost to the Harbor Department of \$283.67.

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**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of a First Amendment to FMC Agreement No. 21078 between the Ports and WCMTOA to allow for more robust discussion between the parties regarding congestion and efficiency, which is an administrative action. This action is limited to approval of the Amendment and any programs or projects resulting from the discussions would be subject to separate environmental review pursuant to CEQA. As such, 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) of the Los Angeles City CEQA Guidelines.

**FINANCIAL IMPACT:**

The proposed revised Agreement is subject to a filing fee of \$851, pursuant to 46 C.F.R. 535.401(g). The Ports and WCMTOA will be sharing the cost of the filing fee equally, so the Harbor Department's share of the fee will be \$283.67. There are no additional on-going direct financial obligations under the Agreement. Funds in the amount of \$283.67 are available in Center 0120, Account 54290, Program 000 in the Fiscal Year 15/16 budget.

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**CITY ATTORNEY:**

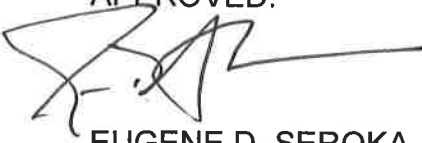
The Office of the City Attorney has prepared and approved the revised Agreement as to form and legality.

**TRANSMITTALS:**

1. Agreement No. 2634 (Redline Version)
2. First Amendment to Agreement No. 2634

  
FOR MICHAEL DiBERNARDO  
Deputy Executive Director

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

APPROVED:  
  
EUGENE D. SEROKA  
Executive Director

MAD/ci  
Author: M. DiBernardo  
Board Meeting: June 2, 2016