



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

DATE: APRIL 12, 2023

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ – APPROVAL OF
THIRD AMENDMENT TO PERMIT NO. 907 WITH SSA PACIFIC, INC.**

SUMMARY:

Staff requests approval of the proposed Third Amendment to Permit No. 907 (P907) between the City of Los Angeles Harbor Department (Harbor Department) and SSA Pacific, Inc. (SSA), a Washington Corporation, for the extension of P907 by five years with one mutual option to extend the permit by an additional five years. The Harbor Department granted SSA P907 on November 19, 2014, for use of approximately 14.72 acres of property located at Berths 53-55 and adjacent wharf and backland (Fruit Terminal) for the docking of vessels for the assembling, distributing, loading, and unloading of palletized fresh fruit cargo. The First Amendment to P907 reduced SSA's premises by 0.76 acres; the Second Amendment extended the permit to October 31, 2022; and the proposed Third Amendment will again extend the permit to October 31, 2027. Compensation will be adjusted by the change in the Consumer Price Index (CPI) beginning October 31, 2023, and annually thereafter with compensation resets occurring every five years.

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 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. Find that the expected rate of return of 4.9 percent is reasonable given the seasonal use of Berths 53-55 and adjacent wharf and backland due to the unique nature of the break-bulk fruit operations, the density of high-paying seasonal jobs in the local area, the need for such a facility at the Port of Los Angeles to support the U.S. West Coast market, the existing condition of the premises including the restrictive load limits on the wharf, and the ability to use the premises during the remainder of the year for other Port of Los Angeles requirements;
3. Approve the Third Amendment to Permit No. 907 with SSA Pacific, Inc.;
4. Direct the Board Secretary to transmit the proposed Permit with SSA Pacific, Inc. to the City Council for approval pursuant to Section 606 of the City Charter;

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5. Authorize the Executive Director to execute and the Board Secretary to attest to the Third Amendment of Permit No. 907; and
6. Adopt Resolution No. _____.

DISCUSSION:

Background - The proposed Third Amendment to P907 is for the extension of the permit by five years, with one mutual option to extend the permit by another five years. P907 grants SSA preferential use of Berths 53-55 (Transmittal 1) and the adjacent wharf from December 1st through April 30th of each year, and warehouse office spaces with ten parking spaces all year. Currently, annual rent is paid based upon the greater of the Minimum Annual Guarantee (MAG) or the total cumulative Tariff No. 4 charges for wharfage and dockage during the fruit season. SSA's MAG for 2022 was \$441,120.81, and the wharfage and dockage for 2021 was \$464,497. In 2022, SSA's wharfage and dockage increased significantly to \$772,206 due to the shifting of the fruit shipment from reefer containers to bulk shipment due to container terminal congestion and delays. The wharfage and dockage are expected to return to 2021 levels going forward. The original MAG was set based on estimated minimum volumes expected from fruit growers for the seasonal business.

The palletized fruit business, primarily for Chilean fruits and vegetables, is a seasonal business conducted during winter and early spring. South American fruit growers transport fruit to the Port of Los Angeles to provide fruit to the region during the winter months while domestic growers are not producing enough product to supply the consumer market. Over time, containerization has shifted market share away from bulk carrier services making the longevity of continued fruit transport in a palletized bulk carrier mode uncertain. The supply chain financials are sustainable at the current annual volumes, but any significant decline could cause unsustainable supply chain economics. This business is vital to augment supply in the Southern California regions and beyond and is an important job producer for the Port of Los Angeles.

SSA's operations at the berths are generally limited to fruit and vegetable cargo because the wharf cannot handle heavy-lift operations. Moreover, the operations are seasonal, and as a result, any major capital improvement in the wharf or any other improvements are cost prohibitive. In addition, it is anticipated that the fruit trade in traditional reefer vessels will not see a major increase in the future and may not remain steady. Continuing use of the facility at Berths 53-55 is recommended, as long as supply chain economics support this mode of trade.

SSA plans to convert all their diesel forklifts to battery electric in the 2023-24 season, reduce vessel calls to 19 vessels per year from 24 calls today, and SSA will ensure that their fumigation will meet the modified operations plan presented to USDA and other stakeholders. The operational parameters are attached to the amendment as Exhibit H-1.

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Making a five-year commitment to allow for continued operations of the Fruit Terminal helps maintain volumes necessary for sustainable economics within this supply chain. Providing flexibility to align with the long-term uncertainty of the business is critical to allow SSA to continue investing in this business with the protection to limit losses in case of an unexpected shift in transportation modes for South American fruit producers.

The First Amendment to P907 reduced SSA's premises by 0.76 acres, allowing the adjacent tenant to expand its permit premises. The Second Amendment extended the permit to October 31, 2022.

Compensation - SSA will pay monthly tariff charges during the fruit season. Following the conclusion of the fruit season in late-May/early-June, the Harbor Department will reconcile the total cumulative tariff charges received for the season. Should total cumulative Tariff charges fall below the MAG, the Harbor Department will invoice SSA for the deficit; otherwise, no billing action will be taken. The wharfage and dockage for 2021 and 2022 were \$464,497 and \$772,206 respectively. The MAG is subject to annual increases based on CPI, with a floor of three percent and a cap of five percent, which is currently capped at 2 percent. Any Tariff charges incurred from May 1st through November 30th of each year will be additional rent; however, it will not apply to the MAG reconciliation.

Deviations from the Leasing Policy:

Rate of Return - The Board's current targeted rate of return of 10 percent on land and 12 percent on improvements (blended rate for the P907 premises of 11.03 percent), is not met by the proposed permit extension. The projected rate of return for this permit is 4.9 percent. The rate of return in 2014 was approximately 3.75 percent, and the actual rate of return for P907 was 6.89 percent.

Despite the projected rate of return deficiency, the proposal is reasonable given the seasonal use of Berths 53-55; the unique nature of the breakbulk fruit operations; the density of high-paying seasonal jobs in the local area; the need for such a facility at the Port of Los Angeles to support the U.S. West Coast market; the existing condition of the premises, including the restrictive load limits on the wharf which cannot handle heavy-lift operations; and the ability to use the premises during the remainder of the year for other Port of Los Angeles requirements. The Harbor Department will be able to increase its rate of return on this property by utilizing the facility during the off-season for temporary uses (such as other light breakbulk cargos, cruise vessels, lay-berthing, filming, parking, staging, or entertainment activities).

Environmental Obligations - SSA has been a tenant in good standing since May 1999. There is no environmental baseline report for the premises. The improvements on the premises are the property of the Harbor Department. Previously, the Board has determined (Order No. 14-7167) that it was reasonable for the Harbor Department to assume the liability for the condition of the premises other than for contamination caused by SSA or its affiliates.

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ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the Third Amendment to P907, which is an activity involving the renewal of a permit to use land involving negligible or no expansion of use. Additionally, the Amendment includes environmental operating parameters as conditions on Tenant's use of the Premises. Therefore, the Director of Environmental Management has determined that the proposed action is categorically exempt from the requirements of CEQA in accordance with Article III Class 1(14) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed Third Amendment (Transmittal 2) will extend the permit by five years and increases the MAG by five percent, from \$441,120.81 to \$463,176.85. Additionally, the MAG will be subject to annual increases based on CPI, with a floor of three percent and a cap of five percent. The proposed CPI floor of three percent and a cap of five percent each exceed the existing floor of zero percent and a cap of two percent. The Harbor Department will be able to increase revenues by renting a portion of the premises during the off-season to temporary users. The proposed Amendment is expected to achieve a 4.9 percent rate of return for the five months of seasonal use.

CITY ATTORNEY:

The proposed Third Amendment to Permit No. 907 has been approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

- 1. Site Map
- 2. Third Amendment

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 MICHAEL J. GALVIN
 Director of Waterfront & Commercial Real Estate

FIS Approval: *MB*
 CA Approval: *SO*

Michael DiBernardo
 MICHAEL DiBERNARDO
 Deputy Executive Director

APPROVED:

Marla Bleavins
 EUGENE D. SEROKA
 Executive Director