



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

**DATE: MAY 29, 2019**

**FROM: ENVIRONMENTAL MANAGEMENT**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - FIRST AMENDMENT TO THE PORT OF LOS ANGELES CLEAN TRUCK PROGRAM DRAYAGE SERVICES CONCESSION AGREEMENT**

**SUMMARY:**

Staff requests approval of a proposed First Amendment to the Clean Truck Program (CTP) Drayage Services Concession Agreement (Concession Agreement) to extend the existing term by two years. A time extension is requested to allow certain key 2017 Clean Air Action Plan (CAAP) Update elements to be implemented in over the next 12 – 18 months. The Concession Agreement is currently a five-year agreement that contains terms and conditions that must be met by a licensed motor carrier (LMC) in order to provide drayage services at Port of Los Angeles (Port) terminals. All of the Concession Agreements are set to expire on September 30, 2019. With approval of this proposed First Amendment, the new expiration date would be September 30, 2021. The proposed Board action is to approve the First Amendment to CTP Concession Agreement, and to authorize the Executive Director to execute each individual Concession Agreement Amendment with LMCs. The City of Los Angeles Harbor Department (Harbor Department) anticipates generating approximately \$2 million in revenue from Annual Truck Fees and Concession Agreement Fees each year going forward.

**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 administratively exempt from the requirements of the California Environmental Quality Act under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;

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2. Approve the First Amendment to Port of Los Angeles Clean Truck Program Drayage Services Concession Agreement;
3. Direct the Board Secretary to transmit the First Amendment to the City Council for approval pursuant to City Charter Section 606;
4. Authorize the Executive Director to execute the Port of Los Angeles Clean Truck Program Drayage Services Concession Agreement First Amendment with individual licensed motor carriers on the Board-approved form and the Board Secretary to attest to said Amendments, for and on behalf of the Board; and
5. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background/Context – The CTP, a key component of the CAAP, has been successful in improving air quality at the Port by requiring the use of cleaner trucks equipped with 2007 U.S. Environmental Protection Agency compliant or newer engines (clean trucks). Emissions from trucks are now 96 percent lower in the Port and surrounding communities since 2008. In order to accomplish this achievement, the Harbor Department established a Concession Program and developed a Concession Agreement that specifies conditions that must be met by LMCs to provide drayage services at Port terminals. The Concession Agreement establishes a contractual relationship between the Harbor Department and the Concessionaires (an LMC that obtains a Port Drayage Services Concession to provide drayage services at the Port), and is designed to facilitate achievement of the Harbor Department's environmental, operational, safety and security objectives. Concessionaires are responsible for operating trucks that meet stringent emission standards, as well as for vehicle maintenance, insurance, security, and safety measures.

The first CTP Concession Agreement established in 2008 was legally challenged by the American Trucking Association in July 2008. The lawsuit was heard and ruled upon by the District Court, the Appellant Court, and finally the U.S. Supreme Court (Supreme Court). As a result of this lawsuit, although the 2008 Concession Agreement was considered enforceable, several provisions contained in the 2008 Concession Agreement were determined by the courts to be unenforceable, including the Employee Driver Hiring requirement, the Truck Route and Off-Street Parking requirement, and the Placarding requirement.

The 2008 Concession Agreement was effective up to a term of five years and all 2008 Concession Agreements, were set to expire on September 30, 2013. However, due to the timing of the Supreme Court ruling in June 2013, the Harbor Department and Concessionaires entered into Amendments to extend the 2008 Concession Agreement

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an additional year to September 30, 2014, as well as to delete the provisions found to be unenforceable by the courts.

In 2014, the Board approved the current Concession Agreement that covers the period, from October 1, 2014, through September 30, 2019. It was designed to continue achieving the environmental, operational, safety and security objectives established under the 2008 Concession Agreement, though it was updated and streamlined for ease of use by LMCs and to reflect direction from the Supreme Court. It was developed with stakeholder involvement including members of the trucking community as well as community groups, advocacy groups and regulatory agencies, including Natural Resources Defense Council, Coalition for Clean Air, California Trucking Association, Harbor Trucking Association, the Teamsters, truck drivers, trucking companies, the California Air Resources Board, the Port of Long Beach, and terminal operators at the ports of Los Angeles and Long Beach.

There are approximately 1,351 CTP Concession Agreements between the Harbor Department and LMCs. All of these agreements are set to expire on September 30, 2019.

Various options for CTP management were considered and are detailed in Transmittal 2. A time extension is requested to allow certain key 2017 CAAP Update elements to be implemented in over the next 12 – 18 months. With approval of this First Amendment, the new expiration date will be September 30, 2021. Prior to the recommendation of future CTP changes, staff from the Harbor Department and the Port of Long Beach will conduct stakeholder outreach and coordination among the industry, community, advocacy groups and agencies. The Harbor Department can coordinate with this CTP outreach process to include discussions about the next 5-year Concession Agreement to develop a thoughtful approach to its improvements. Future 2017 CAAP Update implementation actions will be presented to the Board (and possibly City Council) for approval as legally necessary. Therefore, staff recommends extension of the current agreement to allow time to complete outreach and develop the CTP and new concession elements.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is the approval of the first amendment to the CTP Concession Agreement, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

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**FINANCIAL IMPACT:**

The Harbor Department anticipates generating approximately \$2 million in revenue from Annual Truck Fees and Concession Agreement Fees in FY 18/19. The current annual expenditure of the CTP is approximately \$650,000 in consultant fees plus staff time. The Harbor Department will continue to collect the annual \$100 truck fee for the estimated 18,000 trucks signed up in the Concession Program as well as any new Concession Agreement Fees resulting in approximately \$2 million in revenue each year.

**CITY ATTORNEY:**

The Office of the City Attorney has reviewed and approved as to form and legality the First Amendment to the CTP Concession Agreement.

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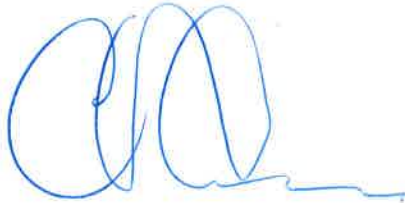
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**TRANSMITTALS:**

1. Proposed First Amendment to Drayage Services Concession Agreement
2. Clean Truck Program Management Options

FIS Approval: MB  
CA Approval: gpc



CHRISTOPHER CANNON  
Director of Environmental Management



MICHAEL DiBERNARDO  
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA  
Executive Director

CC/yo  
AUTHOR: Teresa Pisano

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