THE PORT OF LOS ANGELES

Executive Director's Report to the Board of Harbor Commissioners

**DATE:** **DECEMBER 2, 2014**

**FROM:** **REAL ESTATE**

**SUBJECT:** **ORDER NO. _____ – RESETTING COMPENSATION UNDER PERMIT NO. 750 WITH SA RECYCLING, LLC**

## SUMMARY:

Permit No. 750 with SA Recycling, LLC (SAR) provides for the operation of a scrap metal processing and transport facility at Berths 210-211 on Terminal Island for a period of 30 years, commencing on August 31, 1994 and ending August 30, 2024. Permit No. 750 requires that the fixed rent portion of compensation be reset every five years.

The proposed Order resetting the fixed rent compensation is for the five-year period of August 31, 2014 through August 30, 2019. The financial responsibility to pay compensation under Permit No. 750 is the tenant's. The proposed Order increases the latest current fixed rent by 2.127 percent, reflective of this year's increase in the Consumer Price Index (CPI) - All Urban Consumers for the Los Angeles-Riverside-Orange County, California area, 1982-84=100 (using the May 2014 Index figure over May 2013 Index figure). The fixed rent will then continue to be adjusted annually by the change in CPI, except in the year where there is a five-year readjustment, for the remaining four years of the reset period and through the remainder of the term.

## RECOMMENDATION:

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

1. Adopt the Order resetting compensation with SA Recycling, LLC for the period of August 31, 2014 through August 30, 2019;

2. Authorize the Board Secretary to attest to the Order resetting compensation; and

3. Adopt Order No. _____.

## DISCUSSION:

Background/Context: Permit No. 750 with SAR grants use of City of Los Angeles Harbor Department (Harbor Department) property consisting of 800 linear feet of wharf and 25.46 acres (1,109,174 square feet.) of land at Berths 210-211, as highlighted on Transmittal 1.

The fixed rent portion of compensation was due to be reset August 31, 2014. Although compensation reset negotiations commenced in a timely fashion, negotiations did not conclude until after the August 31, 2014 reset date. Therefore the proposed fixed rent compensation rate will be applied retroactively to the August 31, 2014 reset date.

**SUBJECT: COMPENSATION RESET WITH SA RECYCLING, LLC**

Current Compensation: For the five-year period of August 31, 2009 through August 30, 2014, the fixed annual rent portion of compensation was set at $1,774,680 for year 1 and $2,440,182.96 for years 2 through 5 of the compensation period, equating to an annual average of $2,307,082. This average would equate to a land value of approximately $20.80 per square foot, based on a ten per cent rate of return.

In addition to the fixed rent, Permit No. 750 requires SA to pay Tariff No. 4 charges.

Compensation Reset: For the five-year period of August 31, 2014 through August 30, 2019, the proposed Order resetting compensation immediately applies this year's CPI increase of 2.127 percent to the current annual fixed compensation of $2,440,182.96, retroactively to August 31, 2014. The CPI adjustment will equate to a land value of approximately $22.47 per square foot for year 1 of this compensation period. This land value is equitable to the market rental value given the lack of linear wharf length and high draft which encumbers the utility of the wharf for larger vessels.

Additionally, SAR has agreed to have the change in CPI applied annually for the remainder of the permit term, except any year where there is a five-year readjustment. The application of the CPI will at no time be less than 0 percent and at no time more than 2.5 percent. The addition of annual CPI escalators will drive the fixed rental amount to be more reflective of market values during this compensation period.

A historical look at the proposed and the previous Board approved revenue adjustments, beginning with the most recent, is as follows:

| Order No. | Date | Period | Fixed Annual Rent |
|---|---|---|---|
| Proposed | NA | 8/31/14-8/30/19 | $2,492,086 (Year 1) |
| 7063 | 9/27/2010 | 8/31/09 -08/30/14 | $2,307,082 (avg) |
| 6899 | 2/01/2007 | 8/31/04-8/30/09 | $1,774,680 |
| 6729 | 5/23/2001 | 8/31/99-8/30/04 | $1,500,000 |

Recommendation: Set compensation for the 2014-2019 permit period based on an annual CPI adjustment commencing retroactively to August 31, 2014 and reoccurring every year for the remainder of the permit excluding adjustment at the next compensation reset in 2019. There will be a 2.5 percent cap on every annual adjustment, and in no year shall there be a negative adjustment.

This resetting of compensation (Transmittal 2) is in keeping with the Board adopted Rate of Return Policy and Leasing Policy.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action involves resetting the fixed rent portion of compensation for Permit No. 750 with SAR. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

**SUBJECT: COMPENSATION RESET WITH SA RECYCLING, LLC**

## ECONOMIC BENEFITS:

This Board action will have no employment impact.

## FINANCIAL IMPACT:

The Order resetting compensation for the period of August 31, 2014 through August 30, 2019 will increase the amount of fixed rent in year 1 as follows:

| | Current Annual Fixed Rent | Proposed 2014-2015 Fixed rent | Adjusted Difference |
|---|---|---|---|
| **Land** | $2,440,182.96 | $2,492,085.65 | **$51,902.69** |

The Order resetting compensation is retroactive to August 31, 2014.

## CITY ATTORNEY:

The Order resetting compensation has been reviewed and approved as to form and legality by the Office of the City Attorney.

## TRANSMITTALS:

1. Site Location Map
2. Order

**FIS Approval:** ___ **(initials)**
**CA Approval:** ___ **(initials)**

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APPROVED:

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