

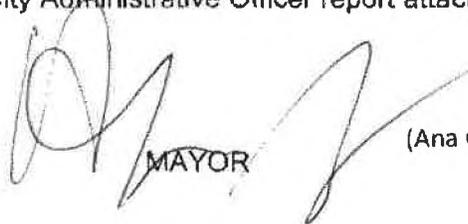
0150-09708-0002

**TRANSMITTAL**

TO Eugene D. Seroka, Executive Director Harbor Department	DATE MAY 07 2015	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	

**PROPOSED SECOND AMENDMENT TO PERMIT NO. 897  
WITH CATALINA CHANNEL EXPRESS INC.**

Transmitted for further processing and Council consideration.  
See the City Administrative Officer report attached.



MAYOR

(Ana Guerrero)

MAS:ABN.101500891

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: May 6, 2015

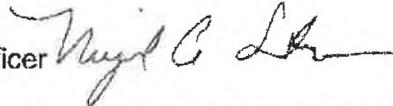
CAO File No. 0150-09708-0002

Council File No. .

Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Correspondence from the Harbor Department dated April 15, 2015; referred by the Mayor for report dated April 17, 2015

Subject: **PROPOSED SECOND AMENDMENT TO PERMIT NO. 897 WITH CATALINA CHANNEL EXPRESS INC.**

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### SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 15-7789 authorizing a proposed Second Amendment (Amendment) to Permit No. 897 with Catalina Channel Express, Inc. (Catalina) to construct, at their own cost, an administrative office and freight facility to process and transport freight to and from Catalina Island. The proposed construction of the office and warehouse facility space will allow Catalina to relocate its reservations center and approximately 35 to 40 jobs from the City of Long Beach to San Pedro. In March 2012, the Mayor and Council approved Permit No. 897, which authorized the Port of Los Angeles (POLA) to lease a different berth to Catalina to continue operating public passenger vessel ferry services and a facility to transport tourist and commuters between San Pedro and Catalina Island under a 25-year contract agreement, from 2012 to 2037 (C.F. 12-0344). The previous relocation to the land parcels provided additional space for Catalina's ferry services, maintenance, handling, storage and forwarding of various items of merchandise and goods that are shipped to and from Catalina Island. Pursuant to the Permit, any tenant improvements that Catalina makes on the leased property during the contract term will become the property of the POLA at the end of the contract agreement, at the option of the Port. The proposed Amendment will not extend the term of the current Permit which expires in March 2037.

### BACKGROUND

Catalina has been operating its passenger ferry services since July 1981 under various permits and had a ten-year lease agreement (Permit 768) that expired in 2005. Subsequent to Permit 768 expiration, Catalina was under a "hold-over status" (month-to-month) until approval of new Permit No. 897 (C.F. 12-0344). The Port negotiated and approved Permit 897 with Catalina because of the scheduled relocation to the new terminal site and the update of the contractual provisions. Under Permit 897, Catalina had to relocate from its previous facilities at Berth 96 to new facilities at Berth 95 because of the scheduled expansion and redevelopment of the China Shipping Holding Company (China Shipping). China Shipping is one of the POLA's largest shipping lines and container terminals and had planned to expand its container terminal operations to meet future business capacity.

Catalina, which had occupied land and water spaces at Berth 95 and 96, agreed to relocate its facility to the contiguous POLA Berth 95 premises to accommodate the future expansion of China Shipping. According to the Port, Catalina has invested approximately \$5 million in developing and implementing the relocation, which included most of the improvements at the new terminal site and adaptive reuse of an existing POLA building. In the First Amendment, the Port and Catalina clarified and implemented changes to the Permit premises as part of a settlement agreement and adjustment to rental compensation to settle all claims associated with the relocation of Catalina and resolves any overpayment of the rent under prior Permit No. 768.

**PROPOSED SECOND AMENDMENT TO CATALINA PERMIT**

The proposed Second Amendment to the Catalina Permit will allow for additional lease of POLA land for the construction and operation of a new administrative office and warehouse facility to process and transport freight to and from Catalina Island. Catalina will use the additional space to relocate its reservations call center and 35 to 40 positions from Long Beach to its POLA property in San Pedro. In addition, the Port states that Catalina’s freight activities and construction of the new building and related water/ramp improvements may result in 10 additional positions. The Port anticipates that the relocation of the freight services also will reduce marine traffic in the area.

Catalina currently occupies more than 180,000 square feet of land and water spaces in San Pedro to operate a cruise terminal facility for passenger operations. According to the Port, Catalina is requesting an additional three POLA land parcels (Parcels 8, 9A and 9B) comprised of approximately 55,442 square feet or 1.3 acres and one optional area comprised of 8,883 square feet. The optional area will be contingent upon the potential expansion by Catalina in the future. The three land parcels and optional area will include a total of 64,325 square feet or approximately 1.5 acres. The proposed annual compensation to the POLA for the three parcels of land will be approximately \$128,659. The designated areas, compensation and uses for the proposed Amendment are as follows:

Designated Area	Area (Square Feet)	Compensation (Square Feet per Year)	Annual Rent	Proposed Uses
Parcel 8	26,155	\$ 1.00	\$ 26,155.00	Truck Operations & parking
Parcel 9A	22,151	\$ 3.50	\$ 77,528.50	New Warehouses/Offices
Parcel 9B	7,136	\$ 3.50	\$ 24,976.00	Employee Parking
<b>Total</b>	<b>55,442</b>	<b>--</b>	<b>\$128,659.50</b>	<b>Annual Rent</b>
Option Area (Projection)	8,883	--	--	If added for future expansion for parking.
<b>Total Premises</b>	<b>64,325</b>	<b>--</b>	<b>--</b>	<b>If Option area is added</b>

As part of the Permit, Catalina paid the Port for the lease of the property with either a fixed minimum compensation amount or percentage compensation (percentage of gross receipts). Beginning in July 2023, the Port states that compensation for Catalina will be amended and the Tenant will be responsible for paying the higher of the two charges for fixed minimum compensation or percentage compensation. According to the Port, the fixed minimum compensation will be adjusted annually by the Consumer Price Index (CPI), pursuant to the Permit.

The Port states that the rental compensation assessment is consistent with POLA policy, which is based on a minimum 10 percent rate of return (ROR) on the 2012 estimate, for per square foot for land value and submerged land value. The Port states that Parcel 8 is underneath the Vincent Thomas Bridge (Bridge) and partially impeded by a California Department of Transportation's (Caltrans) access easement. Caltrans' employees and their contractors are responsible for bridge repair, maintenance and inspections of the easement. The easement's market value is assessed at \$10 per square foot, because the land area may have to be vacated at any time due to Caltrans' need to perform maintenance on the Bridge. As designated in the above chart, the Port's policy for a minimum 10 percent ROR is \$1.00 per square foot. According to the Port, Catalina has been made aware that they may be temporarily denied access to Parcel 8 if a bridge repair is needed by Caltrans during the term of the Permit. Catalina has acknowledged and accepted the potential risk due to the easement and that the POLA will not be responsible for any business interruption costs or claims. The Port states that Parcels 9A and 9B are valued at \$35 per square foot and charged \$3.50 per square foot based upon the POLA 10 percent ROR. The Option Area provides Catalina a right of first refusal for leasing the land area should it become available to expand employee parking. The Port states that currently the land is being used by the POLA for the China Shipping Project.

The Port states that Catalina will construct an administrative office and warehouse which will be between 18,000 and 20,000 square feet. Catalina will pay an estimated cost for constructing the additional tenant improvements in an amount not less than \$3,500,000. The Port will provide a total investment of \$1,780,000 which will include rental credit and costs as compensation due and payable under the terms of the proposed Permit. The proposed investment will include \$280,000 in wharf improvements in order to allow use of the barges by Catalina at their current premises and \$1,500,000 in rental credit because of the shorter period that Catalina has to amortize its costs or receive a return on its investment. Catalina will be allowed to apply rental credits up to 50 percent of its annual rent until its investment has been fully compensated. The Port states that it did not want to amend the terms of the Permit to allow for the typical 30 to 40 years normally allowed to provide a return on amortize building cost investment and development.

The original Permit 897 to the Catalina contract identified the square feet of land and water spaces leased at POLA Berth 95 and the First and Second Amendments updated the Permit to reflect the additionally leased POLA property size. The following table shows the dates and estimated amounts from July 2012 to July 2019 and the re-adjustment of the re-adjustment of the higher of the fixed minimum amount or percentage compensation (percentage of gross receipts) until July 2037:

Permit Year	Periods Covered	Fixed Minimum Amount Due Per Month
Year 1	July 25-2012 -- July 24, 2013	\$ 5,027
Year 2	July 25, 2013 to November 30, 2013	\$ 5,865
	December 1, 2013 to April 30, 2014	\$ 6,838
	May 1, 2014 to July 24, 2014	\$ 7,777
Year 3	July 25, 2014 – July 24, 2015	\$ 8,753
Year 4	July 25, 2015 – July 24, 2016	\$ 9,730
Year 5 - 7	July 25, 2016 – July 24, 2019	\$ 10,707
Year 8 - 13	July 25, 2019 – July 24, 2024	Re-adjust to Market Rate every five years
Year 13-25	July 24, 2037	Re-adjust to Market Rate every five years

In July 2019, the Permit's minimum monthly amount due to the Port will be readjusted every five years based on the market rates and CPI at that time. According to the Port, Catalina will pay approximately two percent of the gross receipts attributable to the freight operations beginning in 2023. The Port states that the cumulative additional compensation estimated through the end of the contract term will be approximately \$8,500,000 or higher. The Port estimates that the administrative office and warehouse freight facility may have an additional 25 years of useful life after the end of the lease term that could be available to rent to other tenant contractors.

### **CITY CONTRACT COMPLIANCES**

The City Attorney has reviewed and approved the proposed Amendment to the lease agreement as to form. The original Agreement and proposed Amendment are in compliance with applicable provisions of City Ordinances and contracting requirements. Since the proposed lease agreement is a property lease, the request is not subject to the provisions of Charter Section 1022. The Port states that the environmental impacts of the project were assessed in a previous project, Avalon Freight Services Relocation Project, which was prepared and adopted in accordance with the California Environmental Quality Act (CEQA) by the Board in January 2015. Therefore, the Port Director of Environment Management has determined that the proposed action is an administrative action and therefore is exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(i) of the Los Angeles City CEQA Guidelines. In accordance with Charter Section 606, Council approval is required because the term of the proposed agreement exceeds five years.

### **RECOMMENDATION**

That the Mayor, approve Harbor Department (Port) Resolution No. 15-7789 authorizing a proposed Second Amendment to Permit No. 897 (Permit) with Catalina Channel Express, Inc. (Catalina) to implement changes to the Permit to construct, at their own expense, an administrative office and warehouse freight facility to process and transport freight to and from Catalina Island, and return the document to the Port for further processing, including Council consideration.

### **FISCAL IMPACT STATEMENT**

Approval of the Second Amendment to the Permit between the Harbor Department (Port) and Catalina will lease three additional land parcels (comprised of approximately 55,442 square feet or 1.3 acres at an annual compensation to the POLA of \$128,659. Catalina may lease one optional area comprised of 8,883 square feet in the future, contingent upon the potential expansion by Catalina. The costs for the optional land area will be assessed on the market value of the land at the time of lease. Catalina will spend no less than \$3.5 million for additional tenant improvements. The Port will provide approximately \$1.5 million in rental credits to be applied for no more than 50 percent of any single years rent and \$280,000 in wharf improvements in order to allow use of the barges by Catalina at their current premises. The proposed Amendment's compensation will be readjusted every five-year period in relationship to the requirements of the Permit. The lease terms will not extend the term of the current Permit which expires in March 2037. Approval of the proposed Amendment complies with the Harbor Department's adopted Financial Policies and the proposed resolution will have no impact on the City's General Fund.

**TIME LIMIT FOR COUNCIL ACTION**

In accordance with Charter Section 606, "Process for Granting Franchises, Permits, Licenses and Entering into Leases," unless Council takes action disapproving a contract that is longer than five years within 30 days after submission to Council, the contract will be deemed approved.

*MAS:ABN:10150089*