

0150-10448-0000

**TRANSMITTAL**

TO  
Eugene D. Seroka, Executive Director  
Harbor Department

DATE  
**AUG 24 2015**

COUNCIL FILE NO.

FROM  
The Mayor

COUNCIL DISTRICT  
**15**

**PROPOSED FIRST AMENDMENT TO PERMIT NO. 353 WITH  
THE CITY OF LOS ANGELES DEPARTMENT OF GENERAL SERVICES**

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



MAYOR

Ana Guerrero

MAS:ABN:10160012f

REPORT FROM

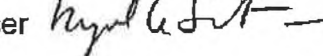
## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

---

Date: August 21, 2015

CAO File No. 0150-10448-0000  
Council File No.  
Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer 

Reference: Correspondence from the Harbor Department dated June 25, 2015; referred by the Mayor for report on June 31, 2015

Subject: **PROPOSED FIRST AMENDMENT TO PERMIT NO. 353 WITH THE CITY OF LOS ANGELES DEPARTMENT OF GENERAL SERVICES**

---

### SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 15-7813 authorizing a proposed First Amendment (Amendment) to Permit No. 353 (Permit 353) with the City of Los Angeles' (City) Department of General Services (GSD) to consolidate additional premises (properties) under Permit 353. GSD, as the tenant, will pay rent to the Port of Los Angeles (POLA). The proposed Amendment will take existing properties under Port Order Nos. 2130, 2680, and 3469 (Orders) and include those properties in Permit 353. The Port states that Permit 353 is for a contract term of 50 years, which began in January 1975 and will expire in December 2024. The Port initially entered into Permit 353 with GSD for the purpose of construction, maintenance and operation of a sewer pipeline and right-of-ways on POLA land, which serves San Pedro, Wilmington, and the POLA. According to the Port, the sewer line is operated by the Department of Public Works, Bureau of Sanitation (Public Works), and includes approximately 15,000 square feet of land, 131,955 square feet of subsurface land, and 20,800 square feet of submerged land (water). Public Works is charged rent for the pipeline network within the Harbor District and its connection to the Public Works Terminal Island Treatment Plant in San Pedro. The Port states that GSD handles the contract and is financially responsible to make rental payments under Permit 353 for Public Works. Funding for Permit 353 comes from the Public Works budget and the Special Funds Sewer Construction Maintenance (SCM) Fund.

The Port states that the proposed Amendment will include the following:

- Add the properties covered under the Orders (2130, 2680, and 3469) into Permit 353;
- Adjust rental compensation to reflect current fair market value of the land to \$32 per square foot from \$12 per square foot for Permit 353 and the Orders, with a 10 percent rate of return, which will generate an annual rental amount of \$237,840 (See Chart below). The exception to the rental compensation was for Order 2680, which was reset to \$22 per square foot in 2013;
- Reconcile the rental rate under the proposed Amendment to the Permit and Orders; and,
- Include an annual Consumer Price Index (CPI) adjustment factor.

## **BACKGROUND**

The Port states that the rents for the POLA lands are pursuant to the State Tidelands Trust Agreement (State Tideland Trust) between the City and Port. In 1911, the State granted the City control over all state tidelands and submerged lands in the San Pedro-Wilmington area to establish, improve, and conduct a harbor for commerce and navigation. Under the City Charter, the Port Board is the grantee-in-trust of public trust lands by grant from the California State Lands Commission. The rental compensation for the occupancy of lands under the State Tideland Trust, when used for municipal purposes, may be adjusted annually based upon the Board policy on the current rate of return for the rental and lease of POLA properties (above land and subsurface and submerged lands) and the fair market value of the lands. The Port is requesting to readjust rental of the lands under the proposed Orders and Permits according to the current fair market values.

## **DISCUSSION**

The proposed Amendment will consolidate and add Order Nos. 2130, 3469 and 2680 into Permit 353 to facilitate the management of the activity under one Permit (see Attachment). The Office of the City Attorney states that two of the contracts, Order Nos. 2130 and 3469, have a 50-year contract limitation that could not be amended or reset for a rental reset, pursuant to Charter Section 607, "Limitations on Franchises, Concessions, Permits, Licenses and Leases." The Port states that it initially granted Public Works lands for a sewer right-of-way, respectively, under Order No. 2130 (in 1947), Order No. 2680 (in 1956) and Order No. 3469 (in 1965). The Orders and Permit are reset every five years. According to the Port, the rents were last reset for Order Nos. 2130 and 3469 in 2011, with no change to annual rents, and for Order No. 2680 in 2013. Permit 353 is currently due for a proposed compensation reset from the retroactive date of January 2015 through December 2019. The Port is requesting to consolidate the three Orders into Permit 353, because of the multiple contract dates, periods and rental compensation.

The proposed Amendment to Permit 353 will help to facilitate the administration and compensation process for the Permit because the properties are used for similar purposes. The properties will be used for construction, maintenance and operation of subsurface sanitary sewer pipelines and appliances for a sewage pumping plant. Other reasons for the consolidation include the following: the Orders have exceeded their 50-year contract terms and cannot be extended; Permit 353 and the Orders, with the exception of Order No. 2680, are due for a reset of compensation amounts, which is normally considered for reset every five years. The proposed Amendment will adjust rents to reflect the current fair market land value to approximately \$32 per square foot for all the properties, for a rental amount of approximately \$237,840 per year. The Port states that the proposed rental rate for Permit 353 will be considered for readjustment or reset during every five-year term.

The Port states the current rent has not been adjusted since 1993, with the exception of Order No. 2680, and requests to increase the rental amount and to reconcile Permit 353 and the three Orders. The Port states that the proposed Amendment to Permit 353 will include an annual rent based on the following: a current land value of \$32.00 per square foot; the Board's policy directive for a 10 percent rate of return; a negotiated submerged value of \$10.67 per square foot; and, a subsurface land value of \$32.00 per square foot, which will include a 50 percent discount. In addition, the proposed rent will

Include an annual CPI adjustment. The Port states that the proposed reset of Permit 353 and Orders will result in a net gain in the fixed land rent revenues over the next five-year contract period. According to the Port, the proposed contract term and rent increase adjustment has been negotiated with both Public Works and GSD with an effective contract date of January 1, 2015.

The following spreadsheet shows the rental calculation for the adjusted rent pursuant to the consolidation from Orders Nos. 2130, 2680, and 3469 into Permit 353. GSD (Tenant) will pay annual rent for the proposed Amendment to Permit 353 in the amount of \$237,840, for five years, effective retroactively to January 1, 2015. Every subsequent year, effective January 1, 2016, Permit 353 will include an annual CPI adjustment. The spreadsheet includes land type and value, area size, and (subsurface) discount rates and annual rent amount for Permit 353 and the respective Orders:

Parcel	Land Type	Area (Sq. Ft.)	Land Value (Sq. Ft.)	BOHC Rate of Return	Agreement 1106 Port's %	Subsurface Discount Rate	Annual Rent
<b>P353 - Drawing No. 2-2123-1 Exhibit "A-1" to the Permit, as amended</b>							
Parcel 1	Submerged	20,800 s.f.	\$10.67	10%	100%	0%	\$22,194
Parcel 2	Subsurface	1,200 s.f.	\$32.00	10%	100%	50%	\$1,920
Parcel 3	Subsurface	38,815 s.f.	\$32.00	10%	100%	50%	\$62,104
Parcel 4	Subsurface	14,162 s.f.	\$32.00	10%	100%	50%	\$22,659
Parcel 5	Subsurface	32,238 s.f.	\$32.00	10%	100%	50%	\$51,581
Subtotal							\$160,458
<b>P353 - Drawing No. 5-4225-1 Exhibit "A-2" to the Permit, as amended</b>							
Parcel 1	Subsurface	5,855 s.f.	\$32.00	10%	100%	50%	\$9,368
<b>O2130 - Drawing No. 5-1839-2 Exhibit "B-1" to the Permit, as amended</b>							
Parcel 1	Land	6,000 s.f.	\$32.00	10%	61%	0%	\$11,712
<b>O3469 - Drawing No. 45486-1 Exhibit "B-2" to the Permit, as amended</b>							
Parcel 1	land	9,001 s.f.	\$32.00	10%	61%	0%	\$17,570
Parcel 2-4	Subsurface	3,794 s.f.	\$32.00	10%	61%	50%	\$3,703
<b>O2680 - Drawing No. 2-2451 Exhibit "B-3" to the Permit, as amended</b>							
Parcel 1	Subsurface	35,891 s.f.	\$32.00	10%	61%	50%	\$35,030
Total Annual Rent							\$ 237,840

BOHC – Board of Harbor Commissioners

## Budget Impact

GSD is designated as the citywide property manager and leasing agent whose responsible includes to negotiate and execute agreements of real property for facilities and infrastructure (i.e., sewer facilities). The respective Permit and Orders are administered by GSD on behalf of Public Works. Funding is paid from the budget of Public Works. In June 2015, Public Works entered an amended Interdepartmental Order (IDO) with the Port to increase encumbrance of funds for lease payments for Fiscal Year 2015 for the consolidation and addition of properties from Orders Nos. 2130, 2680 and 3469 to Permit 353 sewer pipeline and right-of-ways on POLA land. The Port states that the IDO lease contract will be funded from Public Works Special Funds' Sewer Construction Maintenance (SCM) Fund No. 760. According to Public Works, the Special Funds are self-supported from various sewer services fees and the Enterprise Fund. The impact to the General Fund cannot be measured at this time



## **Contract Compliance**

The City Attorney has approved the proposed Amendment to Permit 353 as to form. The proposed Amendment is in compliance with all applicable provisions of City Ordinances and contracting requirements. The Port Director of Environmental Management has determined that the proposed Amendment includes the consolidation of Port properties into Permit 353 and therefore is considered an administrative activity that 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.

The above referenced Resolution No. 15-7813 authorizing the proposed Amendment and this report incorporate revised information received from the Port subsequent to the initial request submittal.

## **RECOMMENDATION**

That the Mayor approve Harbor Department (Port) Board of Harbor Commissioners (Board) Resolution No. 15-7813, authorizing a proposed First Amendment (Amendment) to Permit No. 353 with the City of Los Angeles' Department of General Services (GSD) and Department of Public Works, Bureau of Sanitation (Public Works) to consolidate additional Port-leased properties under Order Nos. 2130, 2680, and 3469 into Permit No. 353 and return the document to the Port for further processing, including Council consideration.

## **FISCAL IMPACT STATEMENT**

The proposed First Amendment (Amendment) to Permit No. 353 with GSD and Public Works will consolidate Order Nos. 2130, 2680, and 3469 into Permit 353. The Port entered the original lease contracts with Public Works in 1975 for a period of 50 years until 2024. The Amendment will facilitate the management of sewer pipelines and right-of-ways used for similar purposes and increase the rent amount to reflect the current fair market value of the land to \$32 per square foot from the previous \$12 per square foot for the Permit and Orders, with a 10 percent rate of return, for an annual rental amount of \$237,840. The proposed rent will also include an annual Consumer Price Index adjustment factor. The funding for the proposed Amendment to the Permit will be administered by GSD on behalf of Public Works. Funding for the lease contract with the Port will continue to be paid from the Fiscal Year budget of Public Works Special Funds Sewer Construction Maintenance (SCM). The impact to the General Fund cannot be measured at this time. Receipts will be deposited into the Harbor Revenue Fund.

## **TIME LIMIT FOR COUNCIL ACTION**

Pursuant to Charter Section 606, "Process for Granting Franchises, Permits, Licenses and Entering into Leases," and Charter Section 370, "Contracts Required to be in Writing and Signed," unless the Council takes action disapproving the franchise, permit, license or lease within 30 days after submission of it to Council, the franchise, permit, license or lease will be deemed approved.