

0150-11001-0000

**TRANSMITTAL**

|   |                            |                  |
|---|----------------------------|------------------|
| TO<br>Eugene D. Seroka, Executive Director<br>Harbor Department | DATE<br><b>SEP 27 2017</b> | COUNCIL FILE NO. |
| FROM<br>The Mayor   | COUNCIL DISTRICT<br>15     |                  |

**PROPOSED SUCCESSOR PERMIT NO. 910 WITH U. S. BORAX, INC.**

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

  
Ana Guerrero  
MAYOR

RHL:ABN:10180022t

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: September 21, 2017

CAO File No. 0150-11001-0000

Council File No.

Council District: 15

To: The Mayor

From: Richard H. Llewellyn, Jr., Interim City Administrative Officer

Reference: Correspondence from the Harbor Department dated July 28, 2017; referred by the Mayor for report dated August 14, 2017

Subject: **PROPOSED SUCCESSOR PERMIT NO. 910 WITH U. S. BORAX, INC.**

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### RECOMMENDATIONS

That the Mayor:

1. Approve Harbor Department (Port) Board of Harbor Commissioners Resolution No.17-8141 authorizing a proposed successor Permit No. 910 with U. S. Borax, Inc.; and,
2. Return the document to the Port for further processing, including Council consideration.

### SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 17-8141 authorizing a proposed First Amendment to successor Permit No. 910 (Permit) with U. S. Borax, Inc. (Borax), to occupy and use the following Port of Los Angeles (POLA) properties adjacent to private property owned by Borax: 1) submerged land; 2) railroad "spur" tracks; and 3) an employee parking lot. An industrial "spur" is a type of secondary track used by railroads to allow customers at a location to load and unload railcars without interfering with other railroad operations. Borax will lease a total of 104,651 square feet (sf) of POLA properties, as follows: the berthing of vessels; unloading, loading, processing and distributing refined and dry bulk materials, spur track operations; parking and storage; and all other Permit-approved Borax activities.

The proposed Permit is a successor agreement to previous Permit Nos. 27, 24 and Revocable Permit 1570. In Fiscal Year (FY) 2016/17, Borax paid the Port more than \$94,500 in rent and \$63,000 in dockage fees. A dockage is a charge by ports for the length of water frontage used by a vessel tied-up at a wharf. Port staff negotiated the following features to the proposed Permit with Borax to: combine all permits; update the spur track properties to reflect Borax's current uses; update the terms and conditions of the Permit; and charge the current market rents for Port property.

The current Permit is for 30 years. Permit 910 will include a proposed annual base rent amount of approximately \$240,549 per year, subject to annual Consumer Price Index (CPI) and five-year rental adjustments. The Port states that rental rates increased because of the increases in rail use and per square footage market rental rates. The proposed dockage fees of \$63,000 are expected to remain the same amount as in previous Permits. Total annual revenue is expected to exceed \$300,000, including the dockage fees of \$63,000, which is separate from the proposed Permit's rental amount.

Below is a further breakdown of the proposed Permit's land use, square footage (sf), land value per square foot (psf), rate of return, discounts and annual rent amount:

| Land Use          | Size (sf)      | Land Value (psf) | Rate of Return | Discounts * | Annual Rent      |
|-------------------|----------------|------------------|----------------|-------------|------------------|
| Submerged land    | 27,900         | \$30             | 10%            | 67%         | \$ 27,900        |
| Rail spur (north) | 36,770         | \$30             | 10%            | 20%         | \$ 88,248        |
| Rail spur (south) | 15,662         | \$30             | 10%            | 55%         | \$ 21,144        |
| Parking Lot       | 34,419         | \$30             | 10%            | 0%          | \$103,257        |
| <b>TOTAL</b>      | <b>114,751</b> |                  |                |             | <b>\$240,549</b> |

\* Port Discounts are for lands that are shared for roadside and tenant access and also for submerged lands.

Borax will be responsible for paying all applicable charges under the Port's appropriate Tariff rules and regulations and maintenance, repairs and improvement costs. According to the Port, the exception will be a 50 percent discount on dockage fees only for Borax-owned and controlled vessels. Other vessels will pay the full amount. The Port states that proposed compensation conforms to the Port's rate of return policy of 10 percent on the land.

The City Attorney has approved the proposed Permit as to form and legality. Mayor and Council approval is required pursuant to Charter Section 606 because the lease term exceeds five years. The Port Director of Environmental Management has determined that the proposed action does not provide any improvements or expansion of Port parcels or the Borax facility they support and is therefore exempt from the California Environmental Quality Act (CEQA) and the appropriate Los Angeles City CEQA Guidelines.

## BACKGROUND

In August 1963, the Board approved initial Permit 24 for 50 years, ending in August 2013, for submerged land parcel for the vessels entering and exiting the adjacent Borax-owned property and vessels. The Board approved subsequent Permits 27 and 1570 for use as railroad spur tracks and land use for an employee parking lot. Permit 910 combines provisions from the other three Permits.

## FISCAL IMPACT STATEMENT

Approval of the proposed Permit between the Harbor Department (Port) and U.S. Borax is for a 30-year successor Permit. Borax will pay the Port \$240,549 in rent per year, subject to an annual CPI and five-year rental adjustments. Borax will pay approximately \$63,000 in dockage charges, the same as in previous Permits. Total annual revenue is expected to exceed \$300,000. The proposed compensation conforms to the Port's rate of return policy of 10 percent on the land.

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

DATE: July 28, 2017

TO: The Honorable Eric Garcetti, Mayor  
City of Los Angeles

FROM: Amber M. Klesges, Commission Secretary  
Harbor Department / Mail Stop 260 *AMK*

SUBJECT: CHARTER SECTION 606 – PROPOSED SUCCESSOR PERMIT NO. 910  
WITH U.S. BORAX, INC.

In accordance with Executive Directive No. 4, attached for your review is Resolution No. 17-8141 authorizing approval of Permit No. 910 with U.S. Borax, Inc., which was approved by the Board of Harbor Commissioners on July 20, 2017.

It is respectfully recommended for the City Administrative Office to review, report, and return to the Harbor Department for further processing to City Council for final consideration.

Please feel free to contact me for any inquiries regarding the transmitted documents at (310) 732-2642 or [aklesges@portla.org](mailto:aklesges@portla.org)

cc: Mandy Morales, Mayor's Office (3 encs.)  
David Reich, Mayor's Office  
Erick Martell, Harbor Representative  
City Attorney