

RECOMMENDATION APPROVED;  
RESOLUTION NO. 17-8141 (PERMIT 910) ADOPTED  
BY THE BOARD OF HARBOR COMMISSIONERS



Executive Director's  
Report to the

Board of Harbor Commissioners

July 20, 2017

*Amber M. Klesges*  
AMBER M. KLESGES  
Board Secretary

7-20-17  
13

DATE: JULY 6, 2017

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. 17-8141 - APPROVE SUCCESSOR PERMIT  
NO. 910 WITH U.S. BORAX, INC.

**SUMMARY:**

Staff requests approval of successor Permit No. 910 (P-910) with U.S. Borax, Inc. (Borax) for occupancy and use of 27,900 square feet (sf) of submerged land; 36,770 sf of land for the northerly railroad spur tracks for transit and storage of railcars; 15,662 sf of land for the southerly railroad spur tracks for transit and loading/unloading of railcars; and 34,419 sf of land for a parking lot. P-910 is a successor term permit to Permit No. 27, Permit No. 24, and Revocable Permit No. 1570.

City of Los Angeles Harbor Department (Harbor Department) staff has negotiated a 30-year successor permit for uses associated with the operation of the Borax terminal adjacent to the P-910 premises. Borax paid the Harbor Department over \$94,500 in rent and over \$63,000 in dockage in the past fiscal year. Borax will be financially responsible for a new base rent of \$240,548.70 per year, which is subject to annual Consumer Price Index (CPI) and five-year rental adjustments as well as responsible for all dockage charges which are expected to remain at over \$63,000 in the coming years.

**RECOMMENDATION:**

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

1. Find that the proposed action is exempt from the requirements of the California Environment Quality Act (CEQA) under Article III Class 1(14) of the Los Angeles City CEQA Guidelines as determined by the Director of Environmental Management;
2. Approve Permit No. 910 with U.S. Borax, Inc.;
3. Direct the Board Secretary to transmit Permit No. 910 to City Council for approval pursuant to Charter Section 606 of the City Charter;
4. Authorize the Executive Director to execute and the Board Secretary to attest to Permit No. 910 upon approval by City Council; and
5. Adopt Resolution No. 17-8141.

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**DISCUSSION:**

Background – On August 14, 1963, the Board approved Permit No. 24 for a 50-year term effective September 1, 1963, and ending August 31, 2013. This permit, currently on holdover, is for a submerged land parcel used for vessel ingress and egress to and from the adjacent Borax-owned private property, docking and mooring of vessels, and maintenance dredging. In addition to the rent of \$19,440 per year, Borax also pays half the dockage rate set forth in Port of Los Angeles Tariff No. 4 for vessels owned by Borax and full Tariff charges for cargo and vessels not owned by Borax.

Further, on September 18, 1963, the Board approved Permit No. 27 for a 50-year permit term effective October 2, 1962, and ending October 1, 2012. This permit, currently on holdover, is for use of the railroad spur track located at Rear Berths 171-173 on Mormon Island (see attached Exhibit A2). The current rent is \$16,224 per year.

Finally, Revocable Permit No. 1570 covers land use for employee parking on 34,419 sf at Fries and Falcon Avenues in Wilmington. This Revocable Permit commenced on January 1, 1985, and the current rent is \$58,874 per year.

Staff negotiated to combine all the permits, update the spur track premises to reflect Borax's current uses, update the terms and conditions of use, and charge market rent for the Harbor Department property. The proposed transaction will not result in any new additional uses.

Summary of Significant Terms under P-910 (Transmittal 1):

Term: 30 years

Premises: 27,900 sf of submerged land; 36,770 sf of land for the northerly railroad spur tracks for transit and storage of railcars; 15,662 sf of land for the southerly railroad spur tracks for transit and loading/unloading of railcars; and 34,419 sf of land for a parking lot (Transmittal 2).

Use: The premises shall be used for all legal uses associated with the operation of the terminal on the adjacent property (owned by Borax and not part of the premises), including the berthing of vessels; the unloading, loading, processing and distribution of refined and dry bulk materials; spur track operations; parking and storage; and all lawful activities related and incidental thereto.

Compensation: Annual base rent will be \$240,548.70 per year subject to annual CPI and five-year rental adjustments. Such rent is established from land value of \$30 per sf. Rental rates increased significantly according to increased exclusive rail use and increased market rental rates, which are further described in the summary below:

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Land Use	Size (sf)	Land Value	ROR	Discounts	Annual Rent	Quarterly Rent
Submerged land	27,900	\$30.00	10%	67%	\$27,900.00	\$6,975.00
Rail spur (N'ly)	36,770	\$30.00	10%	20%	\$88,248.00	\$22,062.00
Rail spur (S'ly)	15,662	\$30.00	10%	55%	\$21,143.70	\$5,285.93
Parking Lot	34,419	\$30.00	10%	0%	\$103,257.00	\$25,814.25
				<b>Totals</b>	<b>\$240,548.70</b>	<b>\$60,137.18</b>

**NOTES: Rent Discounts**

67% discount utilized as land area is submerged

20% discount utilized as land is shared for roadway access (-10%) and with another tenant's access gate (-10%)

55% discount utilized as land shared for partial roadway access (-5%) and one other tenant (-50%)

Additionally, Borax shall pay all applicable charges under Tariff No. 4 with the exception of a 50 percent discount on dockage fees attributable exclusively to Borax owned and controlled vessels, all other vessels will pay full Tariff rates. The Harbor Department received over \$63,000 in Tariff revenue (dockage) from vessels docking at the Borax facility in Fiscal Year 2015/2016. Total annual revenue from the proposed permit is expected to exceed \$300,000.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of a 30-year successor permit with Borax for three properties: 1) submerged land adjacent to Borax's Berth 165 2) railroad spur tracks located at Rear Berths 171-173 and 3) employee parking lot at Fries and Falcon Avenues. The proposed action does not involve any improvements nor will it expand the use of either the Harbor Department parcels or the Borax facility they support. As such, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of CEQA in accordance with Article III, Class 1(14) of the City of Los Angeles CEQA Guidelines: Issuance of a permit to use existing facilities involving negligible or no expansion of use.

**FINANCIAL IMPACT:**

Approval of P-910 will result in the Harbor Department receiving \$240,548.70 in rent for the first year. Such rent is subject to annual CPI and five-year rental adjustments through the term of P-910. Borax, at its sole cost and expense, shall maintain and repair all improvements on the premises. In Fiscal Year 2016/2017, Borax also paid over \$63,000 in dockage charges and is expected to pay the same dockage charges in the foreseeable future. The proposed compensation conforms to the Harbor Department's rate of return policy of 10 percent on land.

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**CITY ATTORNEY:**

Permit No. 910 has been reviewed and approved as to form and legality by the Office of the City Attorney.

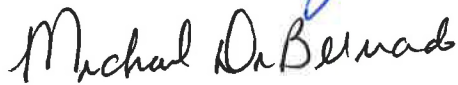
**TRANSMITTALS:**

1. Permit No. 910
2. Site Map

FIS Approval:  (Initials)

CA Approval:  (Initials)

  
JACK C. HEDGE  
Director of Cargo & Industrial Real Estate

  
MICHAEL DiBERNARDO  
Deputy Executive Director

APPROVED:

 FOR

EUGENE D. SEROKA  
Executive Director

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