

RECOMMENDATION APPROVED;  
RESOLUTION NO. 17-8154 (PERMIT 930) ADOPTED  
BY THE BOARD OF HARBOR COMMISSIONERS

August 17, 2017

  
AMBER M. KLESGES  
Board Secretary



Executive Director's  
Report to the  
Board of Harbor Commissioners

**DATE:** AUGUST 1, 2017

**FROM:** WATERFRONT & COMMERCIAL REAL ESTATE

**SUBJECT:** RESOLUTION NO. 17-8154 APPROVE PERMIT NO. 930  
WITH THE JANKOVICH COMPANY

**SUMMARY:**

Staff requests approval of Permit No. 930 with The Jankovich Company (Jankovich) for the use of City of Los Angeles Harbor Department (Harbor Department) property.

Jankovich currently has the right to occupy and use Harbor Department property located at Berth 74 to operate a marine fueling station under Revocable Permit No. 12-11. However, this use at the current location is in conflict with the Harbor Department's approved Port Master Plan and the development of the San Pedro Public Market at the current Ports O' Call site. Relocation of Jankovich to Berth 73A will also require the Port Master Plan to be amended to allow Jankovich's operations under marine support.

Staff proposes a new long-term permit at Berth 73A, Berth 51, and the Canetti's Building to allow Jankovich to move operations from the current Ports O' Call site. Staff has negotiated a proposed 20-year permit with two five-year options for uses associated with the operation of the marine fueling terminal. Jankovich will be required to restore the existing premises, construct new and restore existing improvements at the new premises, and pay the greater of \$24,200.16 in minimum rent or percentage rent and tariff charges. Jankovich will receive a \$3,000,000 rent credit for improvements made to the premises.

**RECOMMENDATION:**

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

1. Adopt the Fifth Addendum to the certified San Pedro Waterfront Environmental Impact Report, and after consideration of said Addendum find that, in accordance with the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed Fifth Amendment will not result in any new significant environmental effects or any substantially more severe effects than previously analyzed in the certified Environmental Impact Report;
2. Approve Permit No. 930 with The Jankovich Company;
3. Direct the Board Secretary to transmit the Permit to the City Council for approval pursuant to Charter Sections 606 and 607;

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4. Authorize the Executive Director to execute and the Board Secretary to attest to the Permit upon Board approval contingent upon approval by the City Council; and

5. Adopt Resolution No. 17-8154.

**DISCUSSION:**

Background - The Harbor Department currently leases property to Jankovich under RP No. 12-11 to operate a marine fueling station at Berth 74. Jankovich has operated this facility since approximately 1933; providing marine fuels and lubricants to small commercial, recreational, and fishing vessels, as well as bunker fueling services to larger vessels. Jankovich employs approximately 40 full-time employees operating out of the four tenant-owned buildings, waterfront land, submerged land, and wharf space at Berth 74 on the southern tip of the San Pedro Public Market (Ports O'Call) development site. The facility contains two tenant-owned diesel fuel tanks with storage capacities of 100,000 and 25,000 gallons, one 10,000-gallon gasoline tank, a tank truck transfer rack, floating fueling docks, and a wharf to accommodate tugs and barges. However, the aforementioned use at the Berth 74 does not conform to the Port Master Plan or the development of the San Pedro Public Market.

The 2009 Board certified San Pedro Waterfront EIR identified Jankovich's industrial uses at Berth 74 to be inconsistent with the approved Port Master Plan, which set aside this area for "visitor-serving commercial" use. In 2014, to accommodate the continued operation of Jankovich's vital fuel service business in the Port of Los Angeles, a portion of the former Southwest Marine premises at Berth 240 was identified as a suitable site. However, due to site contamination at Berth 240, significant costs to redevelop the site, and schedule obstacles alternative locations were explored resulting in the proposed premises at Berths 73 and 51 and the Canetti's Building. Relocation of Jankovich to Berth 73A will also require the Port Master Plan to be amended to allow Jankovich's operations under marine support. The amendments to the Plan must be certified by the California Coastal Commission.

**Summary of Significant Terms of the Proposed Permit (Transmittal 1):**

1. Term. The term is for 20 years, triple-net, with two, five-year options for the Berth 73A Facility, the Canetti's building, and the Truck Access/Parking Lot. The Berth 51 area is for a ten-year term. After the fifth year, the Harbor Department may request Jankovich to vacate the premises with three year's notice.
2. Premises. The premises under this proposed permit will consist of 10 parcels (Transmittal 2).
  - Total Area is 128,735 square feet
  - Total Land is 30,257 square feet
  - Total Subsurface Land is 1,740 square feet
  - Total Water/Submerged Land is 86,165 square feet
  - Total Building is 10,573 square feet

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3. Construction. Jankovich will be responsible for all cost including, but not limited to, development, construction, environmental (i.e. term contamination, not existing contamination), permitting, and design of the improvements in exchange for the \$3,000,000 rent credit itemized below. The Harbor Department will not contribute any other support.
4. Minimum Rent. Initial minimum monthly rent for Berth 73A and Berth 51 premises is \$16,128.16, and the rent for the Canetti's building and Truck Access/Parking Lot premises is \$8,072.00, for a total monthly minimum rent of \$24,200.16 (Transmittal 3).
5. Percentage Rent. Jankovich will also pay the percentage rent due which exceeds the minimum monthly rent based on following;
  - Gasoline & Mixed Fuel Sales in gallons: \$0.025/gal
  - Diesel Fuel Sold to Vessels at Premises up to 500,000 gal.: \$0.010/gal
  - Diesel Fuel Sold to Vessels at Premises over 500,000 gal.: \$0.005/gal
  - Diesel or Fuel Oil delivered to Vessels by way of Truck or
  - Tank Car not at premises per Port Tariff (subject to change): \$0.085/bbl—Bunker Fuel
  - Gross Receipt from Lube Oil Sales: 2%
  - Gross Receipt from all other business: 5%
6. Dockage. Jankovich will be responsible for payment (\$6,377.50) of monthly dockage charges, which will be separately charged at the Tariff No. 4 rate.
7. Rent Adjustments. Pursuant to the City Charter, compensation will be reset every five years, and rent will be adjusted annually based on the Consumer Price Index (CPI).
8. Rent Credit. The Harbor Department is to provide a rent credit of \$2,500,000 for Jankovich to upgrade the Berth 73A and Berth 51 premises, and also provide a rent credit of \$500,000 for Jankovich to upgrade the Canetti's building. For the first five years, the full monthly rent, including the percentage rent, will apply to the rent credit. Thereafter, the remaining balance will be prorated for the next ten years.
9. Assignment. Should Jankovich assign the permit, an assignment fee of ten percent of the present value of the remaining term of the permit will be charged.
10. Restoration of Existing Premises. Jankovich will be provided 12 months to complete restoration at the existing promises. If Jankovich were to exceed this time frame, rent will be assessed for both sites concurrently until restoration is complete.
11. Environmental Testing and Remediation. The Harbor Department has been performing ongoing remediation of the Berth 73 general area due to contamination from prior tenants. The Harbor Department will continue to perform ongoing monitoring, testing, reporting, and remediation. Jankovich will not be responsible for end-of-term remediation of the Berth 73A premises unless the end-of-term remediation can be attributed to a term release by Jankovich.



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12. The use of the Premises described above (Section 2) is inconsistent with the land use designation of the Port's Master Plan. The City will pursue amending the Master Plan to accommodate the Tenant's usage of the premises. The amendments to the Plan must be certified by the California Coastal Commission.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of a Permit with Jankovich for operation of a marine fueling station at Berth 73A, Berth 51 and the Canetti's Building. The certified San Pedro Waterfront EIR assessed the decommissioning of Jankovich's current operation at Berth 74 and also assessed the construction of a new marine fueling facility at Berth 240. A Fifth Addendum to the San Pedro Waterfront EIR (Transmittal 4) was prepared to assess the potential environmental impacts of forgoing the development of the new fueling station at Berth 240 and instead relocating Jankovich to the sites described herein. According to Section 15164(a) of the State CEQA Guidelines, the lead agency will prepare an Addendum to a previously certified EIR if changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent or supplemental have occurred. An addendum does not need to be circulated for public review but can be included in or attached to the EIR.

Based on the findings of this Fifth Addendum, the proposed action will not result in any new significant environmental effects or any substantially more severe effects than previously analyzed in the certified EIR and therefore, does not trigger any of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent or supplemental EIR. All previously approved mitigation measures and project conditions would not change and are incorporated into the proposed Permit, as applicable. The Addendum has been made publicly available and is posted on the Harbor Department's website

**FINANCIAL IMPACT:**

Total annual minimum rent Jankovich will compensate the Harbor Department will be \$290,401.92 and will be adjusted by CPI annually in addition to being reset every five years. Jankovich will also be responsible for \$76,530 in annual dockage charges to the Harbor Department under Tariff No. 4 rates. The Harbor Department will provide Jankovich rent credits of \$2.5 million to upgrade the Berth 73A and Berth 51 premises, as well as a \$500,000 rent credit to upgrade the Canetti's building. Jankovich will be fully responsible for all costs, including but not limited to, development, construction, permitting, and design of the improvements in exchange for the aforementioned rent credits.

The proposed Jankovich permit is estimated to generate a rate of return of 7.4 percent versus a blended target of 10.87 percent, reflecting weighted 10 and 12 percent rate of return goals for land and improvements, respectively. The corresponding Net Present Value of the permit to the Harbor Department is positive \$1.7 million.

On April 23, 2015, the Harbor Department awarded Jankovich a three-year marine delivered fuel contract valued at \$909,000.

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CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved Permit No. 930 as to form and legality.

TRANSMITTALS:

1. Permit 930
2. Site Map
3. Compensation Spreadsheet
4. Fifth Addendum to Certified San Pedro Waterfront EIR

*Ed Rables* FOR

MICHAEL J. GALVIN  
Director of Waterfront & Commercial Real Estate

FIS Approval: *MB* (Initials)  
CA Approval: *MB* (Initials)

*Michael DiBernardo*

MICHAEL DIBERNARDO  
Deputy Executive Director

APPROVED:

*Mark Blewett* FOR

EUGENE D. SEROKA  
Executive Director

MD:MG:ER:HP:KK:cb  
Author: Kevin Kim  
BL674 Jankovich Company P930