



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: APRIL 26, 2016

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ - APPROVE PERMIT WITH
EXXONMOBIL OIL CORPORATION**

SUMMARY:

Staff requests approval of a five-year Permit with ExxonMobil Oil Corporation (ExxonMobil) to succeed Permit Nos. 704 and 418; and Revocable Permit Nos. 1059, 1464, and 96-40. Staff will present a request at a subsequent Board of Harbor Commissioners meeting for consent to assign this five-year Permit to PBF Energy Western Region LLC (PBF). PBF is in the process of acquiring ExxonMobil's Torrance refinery and all associated logistics assets, including those related to this five-year Permit. Permit No. 704 grants ExxonMobil the right to use City of Los Angeles Harbor Department (Harbor Department) land, subsurface, and water areas at Berths 237-240D, and the parcels at 551 Pilchard Street on Terminal Island, for the construction, operation, and maintenance of a marine oil terminal and storage tanks. Permit No. 704 is currently on holdover, as its 25-year term expired on December 31, 2015. Permit No. 418 grants ExxonMobil the right to use Harbor Department land (surface and subsurface) for construction, maintenance and operation of subsurface pipelines and for purposes incidental thereto. Permit No. 418 is currently on holdover, as its 20-year term expired on June 30, 2000. Revocable Permit Nos. 1059, 1464, and 96-40 grant ExxonMobil use of Harbor Department property in various locations on Terminal Island for the construction, maintenance, and operation of directional signs, abandoned pipelines, and dust suppression landscaping strip.

Environmental Conditions: The premises under the proposed Permit consist of adverse environmental conditions related to historic petroleum storage uses. The marine terminal portion of the site is subject to a Cleanup and Abatement Order (CAO) from the Regional Water Quality Control Board (RWQCB) that includes active product recovery. Under the proposed Permit, the tenant will accept responsibility to remediate the premises in accordance with cleanup standards governed by the CAO. The current estimated remediation cost for the Permit premises is \$50 million. Additionally, the Tenant is providing a Restoration Guaranty that will provide additional security to ensure remediation and restoration occurring in accordance with section 117 of the Permit in the case that the Permit is transferred to another party and remediation and restoration is required.

The Restoration Guaranty provides security for restoration and remediation obligations in Section 117 of the Permit. The Guarantor obligations will become effective if the Tenant defaults on any Section 117 obligations or if the Premises do not receive clearance under the CAO from the RWQCB prior to the expiration. It is expected that the Permit will be transferred to PBF in the near future. In the case that the transfer occurs and the Harbor Department does not reach an agreement on a new long term permit for the premises with PBF, Section 117 obligations must be achieved prior to the end of the five year term of the Permit. If the obligations are not met, the Restoration Guaranty will become effective as discussed above.

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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 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 the Permit with ExxonMobil Oil Corporation;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the successor Permit with ExxonMobil Oil Corporation;
4. Adopt Resolution No. _____.

DISCUSSION:

Background/Context – Permit No. 704 was issued for a term of 25 years, from January 1, 1991 to December 31, 2015. The premises consist of approximately 30 acres on Terminal Island in two locations identified on the attached map (Transmittal 1) and is improved with wharf structures owned by the Harbor Department; and buildings, tanks, and pipelines owned by ExxonMobil. ExxonMobil pays approximately \$3,500,000 annually in land rent and tariff charges under Permit No. 704. Replacement of the existing wharf is required to meet Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS). Permit No. 418 was issued for a term of 20 years (July 1, 1980 to June 30, 2000) and grants ExxonMobil use of approximately 9 acres of subsurface land, with underground pipelines owned by ExxonMobil. ExxonMobil pays approximately \$575,000 annually in land rent under Permit No. 418. Revocable Permit Nos. 1059, 1464, and 96-40 grant use of various properties on Terminal Island for the construction, maintenance, and operation of directional signs, abandoned pipelines, and dust suppression landscaping strip and ExxonMobil pays approximately \$2,000 annually under these permits.

Staff has been in negotiations with ExxonMobil for a new long-term wharf development permit to comply with MOTEMS. On September 30, 2015, ExxonMobil announced its intention to sell its Torrance refinery and marine oil terminal to PBF. A short-term, five-year Permit has been agreed to in order to replace the permits on holdover and to satisfy ExxonMobil's desire to execute a Permit before it transfers the premises to PBF. Staff will present a report at the next Board meeting requesting the Board to consent to approval of the assignment of this permit to PBF. ExxonMobil has also provided a guaranty (Transmittal 2) covering remediation of the Permit premises during the term of the Permit following the proposed assignment to PBF.

Proposed Five Year Permit

Term. The term shall total five years.

Compensation. Minimum Annual Guarantee (MAG). The aggregate amount of fixed rent and tank rent is referred to as the MAG. Fixed rent and tariff charges for wharfage (excluding wharfage charges for liquid bulk commodities entering and leaving the premises by truck or pipeline) will be collected in lieu of the MAG and will be subject to annual reconciliation.

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1. Fixed Rent. Fixed rent is set at \$4,549,042 per year (paid quarterly) includes rent on all surface and subsurface land, excluding the wharf parcel. Land unit value is \$29 per square foot. Subsurface rent is 50 percent of the established Land Unit Value. Subsurface rent only applies to locations where ExxonMobil is not paying for surface rent.
2. Tank Rent. Tank rent is set at \$812,000 ((795,771 barrels or working capacity) x \$0.085 x 12 (1 turn per month)) annually. Tank rent is established based on an annual payment equal to the wharfage revenue that would result if the operational tanks within Area 2 were turned one time per month with crude oil based on those tanks' working capacity. Operational tanks include only those tanks that are available to store liquid bulk commodities, and working capacity is the actual volumetric capacity after tank heels and other limitations to storage capacity are deducted.

Consumer Price Index (CPI) Adjustments. Following the effective date, on July 1 of each compensation year, fixed rent and tank rent shall be adjusted, but in no event downward, based on the percentage increase in the CPI.

Maintenance and Repair. The Harbor Department shall maintain the rock slope and engineered dredge depth of not less than 35 feet for the respective berths, creating unobstructed access for vessels to dock, load and unload at the wharf. ExxonMobil shall be responsible for all other maintenance including the wharf structure. The proposed Permit includes identification of a seawall repair project that the Harbor Department is in the process of completing within the term of the proposed Permit.

MOTEMS or Regulatory Changes. ExxonMobil is solely responsible for all MOTEMS requirements, except for the proposed development of a new marine oil terminal wharf currently under negotiation in a separate long-term Permit intended to succeed this Permit. ExxonMobil is responsible for all regulatory requirements related to the premises and for all improvements including but not limited to the wharf structure.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a five-year successor permit with ExxonMobil for continued operation and maintenance of a marine oil terminal and storage tanks, subsurface pipelines, directional signs, abandoned pipelines and dust a suppression landscaping strip, which is an activity involving the issuance of a permit to use existing structures and facilities involving negligible or no expansion of use. 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 Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed Resolution for a new five-year term Permit will increase the MAG from \$3,231,423 to \$5,361,042, for an increase of \$2,129,619. Fixed rent and Tariff charges for wharfage and dockage will be collected in lieu of the MAG and reconciled annually. The increase of the MAG is due to a separate increase in land unit value to 29 dollars per square foot; a decrease in subsurface discount from 75 percent to 50 percent; and a collection of tank rent of \$812,000 annually. The proposed compensation over the course of the proposed five-

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year Permit term conforms to the Board's ten percent rate of return policy on land. The actual compensation paid by ExxonMobil during the past three fiscal years 2013-2015 ranged from \$3.5 million through \$3.7 million to \$3.9 million in each respective year.

CITY ATTORNEY:

The Permit (Transmittal 3) is subject to approval as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

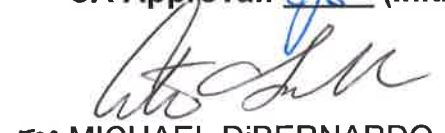
- 1. Site Map
- 2. Guaranty
- 3. Permit

FIS Approval: MB (Initials)

CA Approval: MB (Initials)



MICHAEL J. GALVIN
Director of Waterfront & Commercial Real Estate



FOR MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:



FOR EUGENE D. SEROKA
Executive Director

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BL577cb Exxon Permit