



Executive Director's

Report to the

Board of Harbor Commissioners

**DATE:** NOVEMBER 19, 2024

**FROM:** CARGO & INDUSTRIAL REAL ESTATE

**SUBJECT:** RESOLUTION NO. \_\_\_\_\_ - APPROVE PERMIT NO. 964 WITH H.J. BAKER & BRO., LLC.

**SUMMARY:**

Staff requests approval of Permit No. 964 with H.J. Baker & Bro., LLC. (H.J. Baker) located at 1001 Schley Ave, in Wilmington, for purposes of operating a covered sulfur processing, storage, and maintenance facility.

Permit No. 964 would retroactively take effect on July 1, 2024, and would serve as the successor to the existing permit with H.J. Baker which expired on May 2, 2023, and is currently on holdover status.

Under proposed Permit No. 964, H.J. Baker would pay annual rent of \$641,186.59, which represents an increase of 18.1 percent, relative to rent in effect at the time of the current permit's expiration as detailed herein. Effective July 1, 2025, and annually thereafter, rent would increase by the greater of three percent or the year-over-year increase in the Consumer Price Index (CPI), as well as an optional market-based rent adjustment every five years.

**RECOMMENDATION:**

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

1. Find that the Director of Environmental Management has determined that the proposed action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(14) of the Los Angeles City CEQA Guidelines;
2. Approve Permit No. 964 with H.J. Baker & Bro., LLC.;
3. Direct the Board Secretary to transmit Permit No. 964 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. 964 upon approval by the Board and City Council; and
5. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background – Under its existing permit, which is currently on holdover, H.J. Baker has the right to use and occupy 131,055 square feet of land located near the corner of Schley

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Ave. and East I street in Wilmington (Transmittal 1). H.J. Baker has used and occupied this site under their current permit since May 3, 2013. The site is used for the purpose of operating a sulfur processing, storage, and maintenance facility. All improvements and paving were built by and are owned by the tenant.

Holdover Rent - Staff implemented the holdover rent in accordance with the terms of the existing permit increasing annual rent from \$543,090.24 to \$622,511.16, inclusive of then-current CPI increases, which reflects a 14.62 percent increase from the rate in effect at the time the permit expired in May 2023. It also reflects a fair market rental value for the premises at the time. Staff has confirmed that the negotiated rate is generally consistent with market values for comparable properties.

	At Expiration May 2, 2023	Holdover w/ CPI Increases	% Change
Rent Per Year	\$543,090.24	\$622,511.16	+14.62%
Rate per Square Foot Per Year	~\$4.14	\$4.75	+14.62%

Proposed Successor Permit - H.J. Baker is a tenant in good standing in accordance with the City of Los Angeles Harbor Department’s Leasing Policy. As such, staff recommends the Board approve Permit No. 964. Permit No. 964 will retroactively take effect July 1, 2024, for ease of administration and billing to coincide with timing for CPI adjustments.

Provided below is a summary of material terms of Permit No. 964 (Transmittal 2):

<u>Provision</u>	<u>Current Permit</u>	<u>Proposed New Permit</u>
Real Estate Entitlement	Term Permit	No Change
Permitted Use	Operation and maintenance of a sulfur processing, storage, and maintenance facility, and for purposes incidental thereto.	No Change
Effective Date	May 3, 2013	July 1, 2024
Term	Ten-year Term	Ten years, subject to termination sooner with 18 months prior notice, with a minimum term of five years,

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		unless terminated in accordance with the terms of the Permit.
Premises	Land: 131,055 sq. ft.	No Change
Rent	<p><u>Holdover Rent</u> \$51,875.93 per month</p> <p>\$622,511.16 per annum</p> <p>~\$4.75 per sq. ft. per annum</p>	<p><u>Proposed Rent Effective July 1, 2024</u> \$53,432.22 per month*</p> <p>\$641,186.59 per annum*</p> <p>~\$4.89 per square foot per annum</p> <p>* Rates reflect a rate increase of 3% applied on 7/1/24.</p>
Rental Adjustments	<p>1. Annual CPI increases on July 1 – minimum of 2%, maximum of 5%.</p> <p>2. Compensation reset on the fifth anniversary of the Effective Date.</p>	<p>1. Annual Base Rent Adjustment of the &gt;3% or CPI, effective July 1, 2025, and annually thereafter.</p> <p>2. Compensation reset on the fifth anniversary of the Effective Date.</p>
Maintenance and Utilities	City has no maintenance obligations.	No change
Restoration	Tenant is responsible for restoring the premises at the expiration or earlier termination of the Permit, including removal of all structures, and contamination, if any.	No change
Insurance	Standard insurance requirements as approved by Risk Management.	Standard insurance requirements plus railroad protective liability and environmental liability coverage as approved by Risk Management.
Security Deposit	Fixed Amount of \$48,053.50	Three times the monthly rent \$160,296.66

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Environmental Deposit	None	One percent (1%) of the Base Rent up to one hundred thousand dollars (\$100,000) per year, currently \$6,411.87, should the Executive Director request it, in writing.
Environmental Requirements	In its use and occupancy of the Premises, Tenant shall comply (and shall immediately halt and remedy any incident of non-compliance) with: (a) Environmental Laws; (b) all applicable environmental policies, rules and directives of the Harbor Department.	Must be compliant with all local, state, and federal air quality requirements.
Assignment / Transfers	Transfers require City consent.  No Transfer fee required	Transfers require Board consent.  Transfer fee equal to ten percent (10%) of the net present value of future rent payments, using a discount rate of ten percent (10%).
Other Terms	N/A	The following item required by the Leasing Policy is excluded from the Permit; staff determined the commercial term described herein provide sufficient coverage in lieu of these policy items: <ul style="list-style-type: none"> <li>• 2% holdback on security deposit for Port maintenance fund</li> </ul> Because staff recommends the holdback is excluded, it constitutes a deviation from the Leasing Policy, which requires certain Board findings.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of Permit No. 964 with H.J. Baker for the continued operation of a covered sulfur processing, storage, and maintenance facility, which is an activity involving the issuance of a permit to use an existing facility involving negligible or

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no expansion of use. Therefore, the Director of Environmental Management has determined that the proposed action is categorically 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 Permit No. 964 will enable H.J. Baker to continue utilizing its existing premises under a successor entitlement to H.J. Baker's existing Permit No. 887 which is currently on holdover.

Effective July 1, 2024, annual rent under Permit No. 964 will increase by \$18,675.43, or three percent, from \$622,511.16 currently to \$641,186.59 per year, as proposed. The proposed rent represents an 18.1 percent increase from the \$543,090.24 annual rent which was in place prior to Permit No. 887 being placed on holdover in May 2023.

Effective July 1, 2025, and annually thereafter, rent will increase by the greater of three percent or the annual change in CPI.

**CITY ATTORNEY:**

The Office of the City Attorney has reviewed and approved the proposed Successor Permit No. 964 as to form and legality.

**TRANSMITTALS:**

1. Site Map
2. Permit No. 964

FIS Approval: JS  
CA Approval: GM

*Marisa L. Katnich*  
MARISA L. KATNICH  
Director, Cargo & Industrial Real Estate

*Michael DiBernardo*  
MICHAEL DiBERNARDO  
Deputy Executive Director

APPROVED:

*Erica M. Calhoun* for

EUGENE D. SEROKA  
Executive Director