



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: JULY 11, 2024

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ – ORDER RESETTING COMPENSATION
UNDER PERMIT NO. 910 WITH U.S. BORAX, INC.

SUMMARY:

Staff requests approval of an Order resetting compensation under Permit No. 910 (Permit) with U.S. Borax, Inc. (Borax) for the five-year period of November 6, 2022, through November 5, 2027. The premises are comprised of i) 34,419 square feet of paved land for employee parking and storage; ii) 52,432 square feet of rail spur; and iii) 27,900 square feet of water. Borax uses these areas that are adjacent to its privately-owned property to facilitate its mineral business operations on Mormon Island.

Under the proposed action, Borax's annual base rent will increase by \$108,394.24, or 39.78 percent, from \$272,474.48 to \$380,868.72, effective November 6, 2022. Thereafter, annual rent will increase by the year-over-year change in the Consumer Price Index (CPI), subject to a floor of zero percent.

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 administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve the Order resetting compensation under Permit No. 910 with U.S. Borax, Inc.;
3. Authorize the Board Secretary to attest to the Order resetting compensation under Permit No. 910; and
4. Adopt Resolution No _____ and Order No. _____.

DISCUSSION:

Background – Permit No. 910 was granted to Borax effective November 6, 2017, for a term of 30 years. The premises (Transmittal 1) consist of 34,419 sq. ft. of paved land, 52,432 sq. ft. of preferential use rail spur, and 27,900 sq. ft. of water.

Borax is one of the few City of Los Angeles Harbor Department (Harbor Department) tenants that conduct their operations on land in the port complex not under the control of the Harbor Department. The property that Borax uses to process minerals is on land privately owned by Rio Tinto Minerals, the parent company of Borax and a global mineral processing company. The Harbor Department has no jurisdiction over this facility.

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Under the Permit, Borax has the right to use and occupy Harbor Department property located at three locations on Mormon Island in Wilmington. The parking lot, rail spurs and water area that are part of this compensation reset are situated on Harbor Department-controlled land adjacent to the Borax processing facility located at 300 Falcon Street. The paved lot is used by Borax employees for parking and related storage; the rail spurs are for loading minerals onto ships from their Boron, CA mining facility as well as for processing of raw materials at their facility; and the water is used to allow access for mooring to the Borax-owned wharf.

Compensation Structure - Borax's compensation structure is comprised of dockage charges and land rent. While annual dockage fees are dependent upon the number of vessel calls and the rates provided within Tariff No. 4, land rent is subject to both i) annual adjustments based on the year-over-year increase in the CPI and ii) five-year compensation resets. As of November 6, 2022, quarterly rent increased by 7.8 percent from \$68,118.62 to \$73,431.87, and effective November 6, 2023, quarterly rent was again increased by 3.2 percent to \$75,781.69. The proposed Order would retroactively reset compensation with an effective date of November 6, 2022.

Staff evaluated rent in effect prior to the reset period and determined it was below market and required an increase.

Because the parties did not reach agreement on the reset by the commencement of the reset period, staff initiated the process to determine the reset amount via an appraisal. Following protracted negotiations staff, staff and Borax ultimately arrived at a negotiated rate to bring the rates in line with market in lieu of the appraisal process. The minimum annual rent for the period during negotiations was increased by 125 percent and as prescribed in the Permit, the monies paid at the 125 percent rate count against the rent which accrues from the date the five-year adjusted period commenced. Details are below.

The Permit requires that due to the non-exclusive nature and shared uses of the northerly and southerly railroad spurs, discounts of twenty percent (20%) and fifty-five percent (55%) are applied to such premises respectively. Further, the Harbor Department leasing policy provides for a reduction to water rates given the limited utility. All requisite reductions are noted below.

Based upon land sales data, staff recommended an increase in base rent to \$4.75/sf/year. Staff evaluated the monthly rent and confirmed it is below market value for similar properties, estimated at \$0.39 per square foot per month. As such, it is recommended that rent be increased as proposed below:

Premises Sq. Ft.	Discount to Land Rate	Proposed Rate
Parking Lot/Paved Land 34,419 Sq. Ft.	None	\$4.75/sf/year
Railroad Spur North 36,770 Sq. Ft.	20%	\$3.80/sf/year

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Railroad Spur South	15,662 Sq. Ft.	55%	\$2.14/sf/year
Adjacent Water	27,900 Sq. Ft.	66.66%	\$1.58/sf/year

Nov. 5, 2022, Quarterly Rent	Increase in Rent	Proposed Quarterly Rent	Minimum Annual Rent	5-Year Revenue No less than:
\$68,118.62	+39.78%	\$95,217.18	\$380,868.72	\$ 1,953,094.78

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of an Order resetting compensation under Permit No. 910 with Borax, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed Order resetting compensation for the period November 6, 2022, through November 5, 2027, would increase quarterly rent under Permit No. 910 by \$27,098.56, or 39.78 percent, from \$68,118.62 to \$95,217.18, as proposed with an effective date of November 6, 2022. Based upon quarterly rent of \$95,217.18, effective annual rent would total \$380,868.72. Thereafter, annual rent will increase by the year-over-year change in CPI, subject to a floor of zero percent.

CITY ATTORNEY:

The Order setting compensation under Permit No. 910 has been reviewed and approved as to form and legality by the Office of the City Attorney.

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TRANSMITTALS:

1. Site Location Map
2. Order

FIS Approval: JS
CA Approval: SO

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