



Executive Director's
Report to the

Board of Harbor Commissioners

DATE: NOVEMBER 25, 2024

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ - APPROVE PERMIT NO. 962 WITH CALIFORNIA SULPHUR COMPANY

SUMMARY:

Staff requests approval of Permit No. 962 with California Sulphur Company, a California general partnership (Cal Sulphur), located at 2250 E. Pacific Coast Hwy, in Wilmington, for purposes of operating and maintaining a sulphur pelletizing and processing facility, including bulk storage of sulphur.

If the proposed action is approved, Permit No. 962 would retroactively take effect on July 1, 2024, and would serve as the successor to the existing permit with Cal Sulphur which expired on June 26, 2022, and is currently on holdover status.

Under proposed Permit No. 962, Cal Sulphur would pay annual rent of \$1,553,845.80, which represents an increase of 27.2 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 annual 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. 962 with California Sulphur Company;
3. Direct the Board Secretary to transmit Permit No. 962 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. 962 upon approval by the Board and City Council; and
5. Adopt Resolution No. _____.

SUBJECT: APPROVE TERM PERMIT NO. 962 WITH CALIFORNIA SULPHUR COMPANY

DISCUSSION:

Background - Under its existing permit currently on holdover, Cal Sulphur has the right to use and occupy 308,829 square feet of land and 851 square feet of subsurface pipeline located at 2250 E. Pacific Coast Hwy. in Wilmington (Transmittal 1). Cal Sulphur has been a long-term tenant of this site for over 30 years under a series of real estate entitlements. The site is used for the purpose of operating and maintaining a sulphur pelletizing and processing facility, including bulk storage of sulphur. 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 \$1,221,551.04 to \$1,468,927.08, which reflects a 20.25 percent increase from the rate in effect at the time the permit expired in June 2022. It also reflects 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.

This annual holdover rent has since been further increased by a CPI adjustment on July 1, 2023, from \$1,468,927.08 to \$1,508,588.11, resulting in a 23.5 percent total aggregate increase from the rent in effect at permit expiration and is reflected in the table below.

	At Expiration June 26, 2022	Holdover w/ CPI Increases	% Change
Rent Per Year	\$1,221,551.04	\$1,508,588.11	+23.50%
Rate per Square Foot Per Year (Surface)	\$3.95	~\$4.88	+23.50%
Rate per Square Foot Per Year (Subsurface)	\$1.97	~\$2.44	+23.50%

Proposed Successor Permit - Cal Sulphur 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. 962. Permit No. 962 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. 962 (Transmittal 2):

<u>Provision</u>	<u>Current Permit</u>	<u>Proposed New Permit</u>
Real Estate Entitlement	Term Permit	No change

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Permitted Use	Operating and maintaining a sulphur pelletizing and processing facility, including bulk storage of sulphur	No change
Effective Date	June 27, 2012	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, unless terminated in accordance with the terms of the Permit.
Premises	Land: 308,829 sq. ft. Pipeline: 851 sq. ft. Total: 309,680 sq. ft.	No change
Rent	<p><u>Holdover Rent</u></p> <p>\$125,715.68* per month \$1,508,588.11* per year</p> <p>Land: ~\$4.88 per sq. ft. per year Pipeline: ~\$2.44 per sq. ft. per year</p> <p>* Rates reflect a CPI adjustment applied on 7/1/23 of 2.7%</p>	<p><u>Proposed Rent Effective July 1, 2024</u></p> <p>\$129,487.15 per month* \$1,553,845.80 per year*</p> <p>Land: \$5.03 per sq. ft. per year Pipeline: \$2.51 per sq. ft. per year</p> <p>* Rates reflect a rate increase of 3% applied on 7/1/24.</p>
Rental Adjustments	<p>1. Annual CPI increases – 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 >3% or CPI, effective July 1, 2025, and annually thereafter.</p> <p>2. Optional Market Base Rent Adjustment every fifth anniversary of the Effective Date.</p>

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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.	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.
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	Two times monthly rent	Three times the monthly rent: \$388,461.45
Environmental Deposit	None	One percent (1%) of the Base Rent up to one hundred thousand dollars (\$100,000) per year, currently \$15,538.46.
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	1.Tenant must replace cargo handling equipment with the cleanest available equipment any time new or replacement equipment is purchased, with a first preference for zero-emission equipment, a second preference for near-zero equipment, and third for the cleanest available if zero or near-zero equipment is not feasible, provided that Harbor Department will conduct engineering assessments to confirm that such equipment is capable of installation at the facility. 2. Vehicles entering the facility must meet Clean Truck Program requirements.
Assignment / Transfers	Transfers require Board consent.	Transfers require Board consent.

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	No Transfer fee required	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	<p>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:</p> <ul style="list-style-type: none"> • 2% holdback on security deposit for Port maintenance fund. <p>Because staff recommends the holdback is excluded, it constitutes a deviation from the Leasing Policy, which requires certain Board findings.</p>

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a Successor Permit with California Sulphur Company to continue operating and maintaining a Sulphur pelletizing and processing facility, which is an activity that includes the issuance of any Permit to use an existing facility involving negligible or 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 proposed Permit No. 962 will replace Cal Sulphur’s existing Permit No. 861 which is currently on holdover. Effective July 1, 2024, annual rent under Permit No. 962 will increase by \$45,257.64, or 3.0 percent, from \$1,508,588.16 currently to \$1,553,845.80 per year, as proposed. The proposed annual rent represents a 27.2 percent increase from the \$1,221,551.04 annual rent which was in place when Permit No. 861 went to holdover in June 2022. Effective July 1, 2025, and annually thereafter, rent will increase by the greater of three percent or the annual change in CPI.

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CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved proposed Permit No. 962 as to form and legality.

TRANSMITTALS:

1. Site Map
2. Permit No. 962

FIS Approval: JS
CA Approval: BO

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Director, Cargo & Industrial Real Estate

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