



THE PORT
OF LOS ANGELES
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: OCTOBER 30, 2018

FROM: CARGO & INDUSTRIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ - APPROVE THIRD AMENDMENT
TO PERMIT NO. 881 WITH TRAPAC, INC.**

SUMMARY:

Staff requests approval of the Third Amendment to Permit No. 881 between the City of Los Angeles Harbor Department (Harbor Department) and TraPac, Inc. (TraPac). The proposed action will: A) Correctly summarize Permit No. 881's "As-Built" premises following the terminal modernization project completed by the Harbor Department in August 2017; B) Replace premises Exhibits A and B to Permit No. 881 with updated exhibits that reduce premises boundaries near Harry Bridges Blvd. and summarize completed project improvements; C) Provide the Harbor Department the right to take back the underutilized eastern parking lot, D) Grant ownership of LED lighting mounted to the underside of the "fly-over" bridge that crosses over a portion of the premises to the Harbor Department, and E) Incorporate a water conservation mitigation measure by updating and replacing Exhibit K-2 of the Permit. Staff also requests approval of Errata for the Berths 136-147 [TraPac] Container Terminal Project Mitigation Monitoring and Reporting Program, which is necessary to clarify the updates to Exhibit K-2.

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) and 2(i) of the Los Angeles City CEQA Guidelines;
2. Approve the Third Amendment to Permit No. 881 with TraPac, Inc.;
3. Approve the Errata for the Berths 136-147 [TraPac] Container Terminal Project Mitigation Monitoring and Reporting Program;
4. Direct the Board Secretary to transmit the Third Amendment to Permit No. 881 to the City Council pursuant to City Charter Section 606;
5. Authorize the Executive Director to execute and the Board Secretary to attest to the Third Amendment to Permit No. 881 upon approval by City Council; and
6. Adopt Resolution No. _____.

SUBJECT: THIRD AMENDMENT TO PERMIT NO. 881 WITH TRAPAC, INC.

DISCUSSION:

Background – In December 2007, the Board certified in compliance with the California Environmental Quality Act (CEQA), an Environmental Impact Report (State Clearinghouse #2003104005), adopted a Mitigation Monitoring and Reporting Program (MMRP), and approved the Berths 136-147 [TraPac] Container Terminal Project. In August 2009, the Board approved a 30-year term permit with TraPac for Berths 136-147. The permit covered the approved redevelopment project that expanded and modernized the existing container terminal facility. Upon completion, the total permitted premises were to include approximately 220 acres and over 5,300 linear feet of wharf. In September 2013, the Board approved an amendment to Permit No. 881 authorizing a modified scope for the TraPac redevelopment project to allow for the use of automated stacking cranes, which was analyzed in a June 2012 First Addendum to the certified EIR. A Second Addendum to the certified EIR was prepared in June 2016 that analyzed, among other project changes, corrections to certain mitigation measures in the MMRP that were identified as requirements of TraPac.

The TraPac redevelopment project delivery was finalized and turned over to TraPac in August 2017. Staff is requesting approval of the Third Amendment to Permit No. 881 and approval of the Errata to the MMRP as described below.

Third Amendment (Transmittal 1)

Approval of the Third Amendment will:

1. Correctly compile the “As-Built” premises covered by Permit No. 881 following the terminal modernization project completed by the Harbor Department in August 2017. The “As-Built” Permit No. 881 premises correctly total 220.701 acres.
2. Replace premises Exhibits A and improvements Exhibit B to Permit No. 881 with updated exhibits that reduce premises boundaries near Harry Bridges Blvd and summarize project improvements as completed. The premises adjustment totals 0.725 acres (Transmittal 2). This premises adjustment is necessary in order to allow a future rail lead that will service all of the West Basin container terminals.
3. Create a right for the Harbor Department to take another 44,346 square feet (1.018 acres) through the return the area identified as Parcel No. 3 on Exhibit A-2. The Harbor Department will provide advance notice to TraPac of the deletion, which can occur no earlier than December 1, 2020.
4. Grant ownership of LED lights and related conduit that have been mounted on the “fly-over” bridge that traverses the TraPac rail yard to the Harbor Department. The lighting was previously installed by TraPac for the safety of longshoremen during night operations. The improvements consist of electrical conduit and individual LED light fixtures. The Harbor Department will only be responsible for the lighting infrastructure that is mounted on the fly-over, with the electricity and infrastructure up to the fly-over remaining the responsibility of TraPac.

SUBJECT: THIRD AMENDMENT TO PERMIT NO. 881 WITH TRAPAC, INC.

5. Incorporate the requirements of Mitigation Measure PS-5: Water Conservation by updating and replacing Exhibit K-2 of the Permit.

Errata to the Berths 136-147 [TraPac] Container Terminal Project Mitigation Monitoring and Reporting Program (Transmittal 3)

As analyzed in the June 2016 Second Addendum to the certified EIR, a correction to delete one of the mitigation measures is necessary because it does not apply to TraPac's operations and it was erroneously included in the MMRP. Mitigation Measure WQ-3: Source Control Program was intended to address water quality issues by requiring the tenant to implement a Source Control Program (SCP). An SCP is for the prevention and remediation of accidental fuel releases from storage tanks and pipelines under the Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) governed by the California State Lands Commission. TraPac is not able to apply this mitigation in its operations because it is not a marine oil terminal and does not own or operate fuel pipelines or tanks that would be subject to an SCP. Furthermore, in the administrative record when the Board adopted the EIR Findings, it modified Mitigation Measure WQ-3 as a condition of project approval to address Port-wide efforts related to maintaining high water quality conditions rather than as a mitigation measure to reduce a project-specific impact under CEQA. Based on the above, Mitigation Measure WQ-3 is deleted from the MMRP as shown in the Errata because it does not qualify as mitigation under CEQA and does not apply to TraPac's operations.

As another correction, the MMRP identified Mitigation Measure PS-5: Water Conservation Measure that requires the tenant to plant drought resistant landscaping and restrict watering to the evening hours. TraPac is able to implement this measure because the administration building and landscaping is designed in accordance with Leadership in Energy and Environmental Design (LEED) standards, which incorporates water conservation measures such as low-flow toilets and drought tolerant plants. However, this measure was mistakenly excluded from TraPac's Permit No. 881 and is being added as part of this Third Amendment.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the Third Amendment to TraPac's Permit No. 881 and Errata to the Berths 136-147 [TraPac] Container Terminal Project MMRP. Items 1, 2, and 5 of the Third Permit Amendment and the Errata to the MMRP were all analyzed in the First and Second EIR Addendums. These EIR Addendums were also considered by the Board in previous actions related to the use of automated stacking cranes (Item #1) and a rail lead addition to service the West Basin container terminals (Item #2).

For Item 3 of the Third Amendment to TraPac's Permit No. 881, the premises deletion for the return of an existing parking lot identified as Parcel No. 3 is considered an administrative activity because it is solely limited to modifying the property boundary with no physical changes to that area.

SUBJECT: THIRD AMENDMENT TO PERMIT NO. 881 WITH TRAPAC, INC.

For Item 4 of the Third Amendment to TraPac's Permit No. 881, the granting of ownership of LED lights and related conduit that have been mounted on the "fly-over" bridge is considered an administrative activity because it only pertains to the Harbor Department owning and maintaining the existing lighting infrastructure that was already installed after the South Wilmington Grade Separation Project (APP #060213-009) was constructed. Any future modifications to the lighting infrastructure would be subject to CEQA review at that time.

Based on the above findings, the Director of Environmental Management has determined that the proposed action is administratively exempt from CEQA under Article II Section 2(f) and 2(i) of the Los Angeles City CEQA Guidelines as (1) continuing administrative and maintenance activities and (2) as an activity for which the underlying project has been previously assessed and processed according to the requirements of CEQA.

FINANCIAL IMPACT:

Beginning August 1, 2017, the Harbor Department utilized a premises size of 220 acres for compensation calculation purposes pending the completion of a survey which finalized the "As-Built" premises occupied by TraPac under Permit No. 881. Following completion of this survey, the "As-Built" Permit No. 881 premises would have totaled 220.701 acres, and would have implied a Minimum Annual Guarantee (MAG) of \$36,715,156.

The final Exhibit A-2 includes the northern boundary revision, which reduces the premises by 0.725 acres. This 0.725-acre premises reduction results in a reduction in the MAG of \$120,609.

Assuming that the Harbor Department exercises its option to remove the 1.018 acre, eastern parking lot from TraPac's premises (Parcel No. 3), Trapac's MAG would likewise decrease by \$169,351.

After accounting for the 0.725 acre premises reduction and the 1.018 acre reduction following the Harbor Department's assumed exercise of its option in calendar year 2021, the total reduction in MAG would amount to \$289,960. The MAG in 2021 is estimated to be \$36,425,196, assuming no changes to the MAG following the next available compensation reset opportunity in September 2019.

Near-term maintenance and repair costs associated with ownership of the LED lighting are expected to be minimal due to their typical life exceeding those of regular halogen incandescent bulbs.

DATE: OCTOBER 30, 2018

PAGE 5 OF 5

SUBJECT: THIRD AMENDMENT TO PERMIT NO. 881 WITH TRAPAC, INC.

CITY ATTORNEY:

The Third Amendment to Permit No. 881 has been reviewed and approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Third Amendment
2. Site Map
3. Errata to the Berths 136-147 [TraPac] Container Terminal Project Mitigation Monitoring and Reporting Program



JACK C. HEDGE
Director of Cargo & Industrial Real Estate

FIS Approval: MB
CA Approval: MS



For MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:



FOR
EUGENE D. SEROKA
Executive Director

ES:MD:JCH:PA:raw
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