



Executive Director's  
Report to the

Board of Harbor Commissioners

**DATE: AUGUST 15, 2018**

**FROM: ENVIRONMENTAL MANAGEMENT**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - PROPOSED REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND KINDER MORGAN TANK STORAGE TERMINALS LLC**

**SUMMARY:**

Staff requests that the Board of Harbor Commissioners (Board) approve a Reimbursement Agreement (Agreement) with Kinder Morgan Tank Storage Terminals LLC (Kinder Morgan) to reimburse the City of Los Angeles Harbor Department (Harbor Department) one hundred percent of staff and consultant costs associated with the preparation of project documents for an environmental assessment. The environmental assessment is currently being prepared to allow Kinder Morgan to perform wharf repairs at the Port of Los Angeles (Port) Berths 118 and 119 required by the California State Lands Commission (CSLC) under the Marine Oil terminal Engineering and Maintenance Standards (MOTEMS) program (proposed Project). The proposed Agreement is for a term of one year with an estimated amount of \$200,000. The wharf repairs would allow Kinder Morgan to continue to use the wharf at Berths 118 and 119 until their lease expires in 2022. Kinder Morgan is financially responsible for these expenditures.

**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 California Environmental Quality Act (CEQA) in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve the proposed Reimbursement Agreement with Kinder Morgan Tank Storage Terminals LLC to reimburse the City of Los Angeles Harbor Department for preparation costs of the environmental assessment associated with the Berths 118 and 119 Marine Oil Terminal Engineering and Maintenance Standards Project for a contract term of one year and for an estimated amount of \$200,000;

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3. Authorize the Executive Director to execute and the Board Secretary to attest to, said Agreement for and on behalf of the Board; and
4. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background/Context – The Marine Oil Terminal Engineering and Maintenance Standards, known as MOTEMS, are building standards (California Building Code, *Chapter 31F - Marine Oil Terminals*) that apply to all marine oil terminals in California. The MOTEMS establish minimum engineering, inspection, and maintenance criteria for marine oil terminals to protect public health, safety and the environment, and govern the upgrade and design of terminals to ensure better resistance to earthquakes and reduce the potential of oil spills.

Under MOTEMS, CSLC requires that certain modifications be made to Kinder Morgan's terminal at Berths 118 and 119 by the end of 2018. To help facilitate this, in May 2018 the Harbor Department began preparation of the environmental assessment that must be completed before the work can begin. Kinder Morgan has agreed to pay all staff and consultant costs, as well as any outside legal defense costs (if necessary) associated with the preparation of the environmental assessment.

Proposed Project and Schedule – Based on a 2017 MOTEMS Subsequent Audit Structural Inspection of Berths 118-119, CSLC noted damage that may contribute to a loss of structural capacity at the wharf structure.

Subsequent to the inspection/audit, on March 15, 2018, a meeting was held between CSLC, Kinder Morgan, Moffatt & Nichol, and the Harbor Department to discuss MOTEMS compliance activities at the Kinder Morgan facility. An agreement was reached in this meeting for Kinder Morgan to complete a berthing and structural repairs project by the fourth quarter of 2018. The agreement stipulated that the repairs must be complete and in service by the fourth quarter of 2018; however, in the meantime, Kinder Morgan can continue to operate the terminal with vessels up to 50,000 dead weight tons (DWT) per the current Statement of Terminal Operating Limits. The proposed Project includes repairs agreed to during the March 15, 2018 meeting.

Kinder Morgan has a 5-year extension on their permit that allows for the continued operation of the marine oil terminal until April of 2022. After the lease expires in 2022, it is anticipated that the marine oil terminal will be relocated to a new facility within the Port; therefore, the primary goal of the proposed Project is to design, procure and construct structural and berthing repairs to Berths 118 and 119 to comply with the CSLC mandate for continued operation at these berths.

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**ENVIRONMENTAL ASSESSMENT:**

CEQA Documentation and Schedule – The Harbor Department, as the CEQA lead agency, is currently conducting the necessary environmental assessment activities and special studies to satisfy the requirements of CEQA. The environmental assessment is underway.

Environmental Assessment Cost and Consultant Selection – The total estimated cost to complete the MND for the proposed Project, including staff charges and consultant services, is approximately \$200,000. Actual costs may be higher or lower than this estimate. The Harbor Department Environmental Management Division has consulting agreements in place for as-needed CEQA environmental services and has selected Dudek as the lead consultant to perform the work in connection with the preparation of the MND. Work began in May 2018.

Proposed Reimbursement Agreement – The proposed action is approval of a proposed Agreement for a term of one year, with a 100% reimbursement of costs for the preparation of the environmental assessment estimated at \$200,000. As an administrative activity, the Director of Environmental Management has determined that the proposed action is 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 Agreement will require Kinder Morgan to reimburse the Harbor Department for one hundred percent of all staff and consultant costs and project fees for the preparation of the environmental review of Kinder Morgan's proposed Project.

Initial payments from the Harbor Department for consultant costs and project fees will be recognized as receivables to Account No. 11225 (Reimbursable Costs-Env Projects) Center No. 7000 (Balance Sheet), Program No. 000 (Base Budget) for work that began in May 2018 as follows:

FY 2017/18	\$ 75,000
FY 2018/19	<u>\$ 125,000</u>
<b>TOTAL</b>	<b>\$ 200,000</b>

Kinder Morgan is financially responsible for reimbursing the Harbor Department for one hundred percent of the total costs for the preparation of the environmental review of Kinder Morgan's proposed Project. The Harbor Department will bill Kinder Morgan on a monthly basis upon agreement execution. As the Harbor Department receives reimbursement payments from Kinder Morgan for the consultant costs and project fees, the reimbursement payments will clear the associated receivable transactions.

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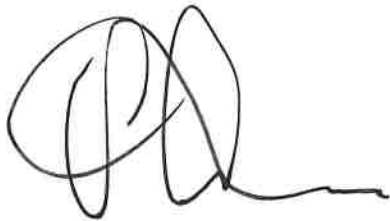
**CITY ATTORNEY:**

The Office of the City Attorney has reviewed and approved the proposed Agreement as to form and legality.

**TRANSMITTAL:**

1. Reimbursement Agreement with Kinder Morgan Kinder Morgan Tank Storage Terminals, LLC

**FIS Approval:**   
**CA Approval:** 



**CHRISTOPHER CANNON**  
Director of Environmental Management



**MICHAEL DiBERNARDO**  
Marketing and Customer Services

**APPROVED:**



**EUGENE D. SEROKA**  
Executive Director

CC:yo  
AUTHOR: LISA WUNDER

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