



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

Board of Harbor Commissioners

DATE: JANAURY 2, 2017

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - AGREEMENT BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND ORCEM AMERICAS, INC. FOR INDEMNITY AND REIMBURSEMENT OF ENVIRONMENTAL REVIEW COSTS

SUMMARY:

Staff requests that the Board of Harbor Commissioners (Board) approve a 3-year Agreement with Orcem Americas, Inc. (Orcem) for reimbursement of up to \$300,000 in costs associated with oversight of preparation of the California Environmental Quality Act (CEQA) documentation for a proposed six-acre dry bulk terminal at Berths 191-194 (Project). This Agreement would also indemnify the City of Los Angeles Harbor Department (Harbor Department) against any and all claims associated with its actions as lead agency under CEQA. Orcem will contract directly with an environmental consultant to prepare the environmental documents. The Harbor Department will review the environmental documentation and, in its sole discretion, determine if it is sufficient to comply with CEQA for the proposed Project. Approval of this Agreement does not bind the Board to any further approvals related to Orcem or the proposed Project.

RECOMMENDATION:

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

1. Find 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 as determined by the Director of Environmental Management;
2. Approve the Agreement with Orcem Americas, Inc.;

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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 – On July 14, 2015, the Harbor Department released and posted on the Port of Los Angeles website a Request for Proposals (RFP) to solicit a qualified entity to develop land located at Berths 191-194 (Transmittal 2). Orcem was the sole proposal received. Orcem proposes to develop an import terminal to handle ground granulated blast furnace slag (GBFS), a low carbon, sustainable dry bulk material recycled from the metal forging process and used as a performance enhancing additive for concrete. The new terminal would receive GBFS at Berth 191 and use an open air conveyer belt to move the produce to approximately six acres behind Berths 192-194. The raw material will be stored on site, processed and trucked for distribution.

Summary of the Agreement – Orcem has agreed to be responsible for all environmental document preparation costs for the proposed Project. Orcem will contract directly with an environmental consultant to prepare the required environmental documents pursuant to the CEQA and the National Environmental Protection Act (NEPA), if applicable. As lead agency for purposes of CEQA, the Harbor Department will provide oversight review of all environmental documentation prepared. Orcem is responsible for obtaining all necessary permits, including any federal permits that would be subject to federal lead agency review under NEPA. Under the terms of the proposed Agreement, Orcem will reimburse the Harbor Department 100% of all Harbor Department costs for oversight and review of the environmental documentation required for the proposed Project (Transmittal 1). An estimated amount to be reimbursed to the Harbor Department is \$300,000. The terms of the Agreement allow for the Harbor Department to provide a modified estimated budget if needed.

In addition, the Agreement indemnifies the Harbor Department against any and all claims associated with its review and approval as lead agency under CEQA, including but not limited to: (i) potential approval of the proposed Project, including but not limited to any and all entitlements necessary for development of land, conditions of approval; or (ii) the validity or legality of the proposed Project and its environmental and/or project documents. Approval of this Agreement does not bind the Board to any further approvals related to the proposed Project. The Harbor Department and its Environmental Management Division maintains sole and unfettered discretion to make decisions regarding the proposed Project and the adequacy of the environmental documents being prepared pursuant to this Agreement.

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ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of an Agreement with Orcem that will indemnify the Harbor Department against any and all claims associated with its review and approval as lead agency under CEQA, and will require Orcem to reimburse the Harbor Department's costs for oversight and review of environmental documents. As an administrative activity, 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.

FINANCIAL IMPACT:

In the proposed Agreement Orcem is responsible for funding and preparing the environmental document of their proposed Project. Orcem will contract directly with an environmental consultant to prepare the required environmental documents pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA), if applicable.

As lead agency for purposes of CEQA, the Harbor Department will provide oversight review of all environmental documentation and will be reimbursed by Orcem. The estimated cost of the Harbor Department's review and oversight is \$300,000. These costs will be expended by the Harbor Department and reimbursed by Orcem in Fiscal Year 18/19. The expenditures and reimbursements will be tracked under WO 78201 - Berth 191-193 Aggregate Terminal Environmental Assessment, Job 637-00, Account 11220, Center 7000, Program 000.

CITY ATTORNEY:

The proposed Agreement was drafted and approved as to form and legality by the Office of the City Attorney.

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TRANSMITTALS:

1. Agreement with Orcem Americas, Inc.
2. Map of Proposed Project Site

FIS Approval: MB (initials)
CA Approval: MB (initials)



CHRISTOPHER CANNON
Director of Environmental Management



MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

CC:yo
AUTHOR: D. Hagner

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