

DATE: SEPTEMBER 15, 2020

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ – APPROVE TERMINATION OF THE U.S. DEPARTMENT OF COMMERCE ECONOMIC DEVELOPMENT ADMINISTRATION GRANT AWARD AGREEMENT AND TERMINATION OF MEMORANDUM OF UNDERSTANDING AGREEMENT NO. 16-3442 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND ALTASEA AT THE PORT OF LOS ANGELES

SUMMARY:

Staff requests authorization to terminate both the US Department of Commerce Economic Development Administration (EDA) Grant, in which the City of Los Angeles Harbor Department (Harbor Department) is a co-applicant with AltaSea, and the Memorandum of Understanding Agreement (MOU) No. 16-3442 between the City of Los Angeles Harbor Department (Harbor Department) and AltaSea at the Port of Los Angeles (AltaSea) for the aforementioned grant funding from the EDA. MOU/Agreement No. 16-3442 established the relationship between the Harbor Department and AltaSea as co-applicants for the grant funding.

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 termination of the US Department of Commerce Economic Development Administration Grant and the Memorandum of Understanding Agreement No. 16-3442;
3. Direct the Board Secretary to transmit a request for approval to terminate the US Department of Commerce Economic Development Administration Grant and transmit the termination letter to AltaSea for the Memorandum of Understanding Agreement No. 16-3442 to the City Council for approval pursuant to Section 373 of the City Charter and Section 10.5(a) of the Los Angeles Administrative Code;

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4. Authorize the Executive Director to execute the Agreement to Terminate Financial Assistance for Convenience substantially in the form attached as Transmittal 1 including terms described in the US Department of Commerce Economic Development Administration Checklist for Initial Disbursement attached as Transmittal 2 and sign the termination letter to AltaSea to terminate the Memorandum of Understanding Agreement No. 16-3442 upon approval by City Council; and
5. Adopt Resolution No. _____.

DISCUSSION:

On December 23, 2013, AltaSea was granted Lease No. 904 (Lease) for the construction, operation, and maintenance of an urban marine research facility with a term of 50 years at City Dock No. 1. The Lease provides conditions under which AltaSea may occupy 11 parcels totaling 34.75 acres. In August 2017, the Lease was amended and restated (Lease No. 904A) in order to expedite activation and development of the premises and reduce each party's financial obligation without compromising the original mission and goals, including providing comparable public access infrastructure; educational and public programming; job creation; and economic activity.

AltaSea's development project qualified for a \$3,000,000 EDA Grant. The Harbor Department (Harbor Department), as the property owner, was required to be a co-applicant for the EDA Grant which would have funded a portion of AltaSea's project for the development of the area between Berths 57 and 58 for visiting research vessels, as well as infrastructure for the Berths 58-60 warehouses.

Agreement No. 16-3388, approved by the Board on May 5, 2016, established the relationship and responsibilities between the Harbor Department, landlord of the property, and AltaSea as co-applicants for the EDA Grant. Agreement No. 16-3388 was restated into a new MOU/Agreement No. 16-3442, which incorporated the EDA Grant Award documents and the EDA Award Conditions. MOU/Agreement No. 16-3442 was approved by the Board on December 1, 2016, and by the Los Angeles City Council on December 14, 2016. Under the MOU Agreement, AltaSea remains solely responsible for complying with all obligations of the EDA Grant Award. Subsequently, on August 22, 2018, the Board approved the EDA Grant Award First Amendment (approved by Los Angeles City Council on September 6, 2018). The EDA Grant Award First Amendment extended the construction start time by a period of 12 months. The EDA Grant Award documents require that the project scope be completed within five years of the grant award, which expires on September 28, 2021.

With the current financial climate due to Covid-19, AltaSea expects a significant increase in available EDA funding in a post-pandemic environment. According to AltaSea, based on recent discussions, the EDA has been favorable to AltaSea reapplying for more funding than was provided in the current EDA Grant agreement. According to AltaSea, the EDA will not allow amendments to the current five-year limit to complete the proposed project scope. AltaSea cannot complete the scope of work within the current timeframe under the most optimistic circumstances during these adverse times. Therefore, AltaSea has proposed that the Harbor Department and AltaSea terminate the EDA Grant agreement and that the Harbor Department simultaneously terminate MOU/Agreement No. 16-3442.

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The Agreement to Terminate Financial Assistance for Convenience (Transmittal 1) is referred to as a termination for convenience in the MOU/Agreement No. 16-3442. Based on the terms of MOU/Agreement No. 16-3442, AltaSea is responsible for all administration of the EDA Grant, including reporting requirements. In order to initiate the termination process, AltaSea must submit a Letter Requesting Termination for Convenience to the EDA explaining the necessity to terminate the EDA Grant. The US Department of Commerce Economic Development Administration Checklist for Initial Disbursement (Transmittal 2) will be attached to the Letter Requesting Termination for Convenience (Transmittal 3) in order to request eligible grant funding for work performed in furtherance of the grant's scope of work. Upon receipt of the Letter Requesting Termination for Convenience and the US Department of Commerce Economic Development Administration Checklist for Initial Disbursement, it will take two to three months for the EDA to prepare the final Agreement to Terminate Financial Assistance for Convenience which will be substantially in the form attached as Transmittal 1 including information provided in Transmittal 2. Both AltaSea and the Harbor Department as co-recipients of the EDA Grant will be required to sign the final Agreement to Terminate Financial Assistance for Convenience.

The approval to terminate the EDA Grant and MOU/Agreement No. 16-3442 are being requested at the same meeting as the Second Amendment to Lease No. 904A. Terminating the EDA Grant and the MOU/Agreement No. 16-3442 (Transmittal 4) will streamline processing a new grant application with the EDA following approval of the proposed Second Amendment to Lease No. 904A.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the termination of the EDA Grant as well as its accompanying Memorandum of Understanding (MOU) No. 16-3442, which is an administrative activity. Therefore, the Director of Environmental Management has determined that this 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:

There are no financial impacts associated with approving the termination of EDA Grant Award and MOU/Agreement No. 16-3442 between AltaSea and the Harbor Department as it relates to the EDA Grant. The Harbor Department's financial responsibility is limited to staff time for the review of circumstances and termination letter as co-applicant to the EDA grant.

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CITY ATTORNEY:

The Office of the City Attorney has reviewed this board report and the proposed termination letters and there are no legal issues at this time.

TRANSMITTALS:

1. Agreement to Terminate Financial Assistance for Convenience
2. US Department of Commerce Economic Development Administration Checklist
3. Letter Requesting Termination for Convenience
4. Letter of Termination - MOU/Agreement No. 16-3442

FIS Approval: MB
CA Approval: MB

Michael J. Galvin

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Director of Waterfront & Commercial Real Estate

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APPROVED:

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