



DATE: SEPTEMBER 5, 2024

FROM: WATERFRONT & COMMERCIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ - APPROVE FIRST AMENDMENT TO
MEMORANDUM OF UNDERSTANDING WITH LOS ANGELES DEPARTMENT
OF WATER & POWER**

SUMMARY:

Staff requests approval of a First Amendment to Memorandum of Understanding (MOU) with the Los Angeles Department of Water & Power (LADWP). The original MOU pertaining to Parcels B and C in the contemplated land transfer between Harbor Department (Harbor) and LADWP as a part of the Wilmington Waterfront Promenade and Avalon Promenade and Gateway Projects detailed responsibilities related to remediation, reimbursement, construction, maintenance and operations of the planned Avalon Promenade and Gateway Project for Parcels B and C. The proposed First Amendment to MOU pertaining to Parcels B and C changes remediation responsibility for Parcel B from the Harbor Department over to LADWP. LADWP Board of Commissioners approved the MOU Amendment on August 27, 2024. Use of Parcels B and C under the original MOU is being provided rent-free, therefore the Harbor Department's financial obligations will not be impacted by the approval of the proposed First Amendment to MOU.

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. Find that it is in the best interest of the Harbor Department to approve the First Amendment to the Memorandum of Understanding with the Los Angeles Department of Water & Power to enter Los Angeles Department of Water & Power property for purposes of defining remediation responsibilities for Parcel B;
3. Approve the First Amendment to the Memorandum of Understanding with Los Angeles Department of Water & Power;
4. Authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment to the Memorandum of Understanding; and
5. Adopt Resolution No. _____.

SUBJECT: FIRST AMENDMENT TO MOU WITH LOS ANGELES DEPARTMENT OF WATER & POWER

DISCUSSION:

Background: The Harbor Department has been in negotiations with LADWP regarding an exchange of properties located along either side of Harry Bridges Boulevard and west of Avalon Boulevard in Wilmington, CA, since 2018. Obtaining access to LADWP Property (Transmittal 1) is necessary for the Harbor Department's development of the Wilmington Waterfront Projects. The Wilmington Waterfront Projects were conceived to create community open space amenities that increase economic opportunity, connect Wilmington with its historic waterfront, and provide regional linkages to attract new visitors to the LA Waterfront. The Wilmington Waterfront Projects were identified in the Port of Los Angeles Wilmington Waterfront Development Project Final Environmental Impact Report, approved by the Board in June 2009. The project area consists of Harbor Department property and LADWP property. The LADWP property is a critical component of the development as a majority of the Avalon Promenade and Gateway Project is planned to be built on Parcels B and C which are currently under the jurisdiction of LADWP.

The Harbor Department and LADWP are negotiating a transaction for a permanent exchange of properties that will ultimately need to be considered and approved by the Board of Harbor Commissioners, Los Angeles City Council and California State Lands Commission. The transaction involves LADWP and the Harbor Department mutually exchanging property and consenting to street vacations resulting in each party receiving similar compensatory value in the overall transaction.

Prior to the permanent transfer being complete, LADWP granted to the Harbor Department a Right of Entry (ROE) effective February 20, 2019, that allowed Harbor Department early temporary access to LADWP properties involved in the permanent exchange, Parcels A, B and C, to perform tasks needed to initiate and to construct the Wilmington Waterfront Projects. The ROE had an initial term of 3 years with two, 1-year extension options for a total of five years. With both option periods having been extended, the ROE terminated February 19, 2024.

Under a separate MOU approved by the Harbor Board of Commissioners in November 2023, LADWP granted access to the Harbor Department for Parcel A for a five-year term. This MOU allowed the Harbor Department to complete construction of the Wilmington Waterfront Promenade on Parcel A, which had a successful grand opening ceremony on February 3, 2024. With the permanent property transfer still being negotiated and park and gateway improvements for the Avalon Promenade and Gateway Project in the design and remediation phases on Parcels B and C, a subsequent MOU pertaining to Parcels B and C was approved by the Harbor Board of Commissioners in March 2024 that detailed and administered responsibilities related to remediation, reimbursement, construction, maintenance and operations of the planned Avalon Promenade and Gateway Project on Parcels B and C after the original 2019 ROE expired.

The proposed First Amendment to the MOU (Transmittal 2) pertaining to Parcels B and C changes remediation responsibility for Parcel B from the Harbor Department over to LADWP. Both parties had originally agreed that the Harbor Department would take

SUBJECT: FIRST AMENDMENT TO MOU WITH LOS ANGELES DEPARTMENT OF WATER & POWER

on remediation responsibility for Parcel B with LADWP reimbursing the Harbor Department for the remediation costs. All other terms from the MOU approved in March 2024 remain the same. The Harbor Department initially taking on this responsibility was expected to gain time and cost efficiencies and savings as the Harbor Department was already in the planning and design stages of development and more suited to commence and mobilize remediation efforts.

Recently, the U.S. Department of Transportation (USDOT) awarded a \$57.287 million Reconnecting Communities and Neighborhoods Program grant to the Avalon Promenade and Gateway Project (\$10.207 million – LA Metro, Measure M funds; \$42.08 million – State PFIP funds; \$5 million – USDOT-RCN) , which triggered further environmental review under the National Environmental Protection Act (NEPA), with California Department of Transportation (CALTRANS) as NEPA lead agency on behalf of USDOT. The NEPA process will delay the start of Harbor Department construction and, as a result, it was mutually agreed that in order to advance project scheduling goals and the remediation while the NEPA process is ongoing, LADWP will complete the remediation of the soil and complete remaining site removal and demolition work on Parcel B. The First Amendment to MOU also references that LADWP will incur the costs for the environmental remediation of Parcel B to an industrial use standard, and the site removal and demolition work, provided such costs do not exceed the amount of \$5,237,000, plus a twenty percent (20%) contingency. The amount is an estimate for the remediation and demo work coordinated and reviewed by both parties and initially developed by the Harbor Department. The final property transfer agreement will require approval from California State Lands and is expected to require both departments to remediate land being transferred to an industrial use standard without any cost limitations.

Proposed Action: Staff recommends Board approval of a First Amendment to the MOU with LADWP to change environmental remediation responsibility for Parcel B from the Harbor Department to LADWP.

Term: The term remains the same at five years.

Premises: The premises remain the same at approximately 4.35 acres and 0.74 acres respectively for Parcels B and C of LADWP property located south of Harry Bridges Street and west of Avalon Boulevard in Wilmington, CA.

Compensation: There is no compensation associated with this MOU.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of the First Amendment to the MOU with LADWP to change environmental remediation responsibility for Parcel B, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

SUBJECT: FIRST AMENDMENT TO MOU WITH LOS ANGELES DEPARTMENT OF WATER & POWER

FINANCIAL IMPACT:

The proposed First Amendment to the MOU will not alter the current free rent status of the original MOU. Although the original MOU is being provided rent-free, the Harbor Department will continue to be financially responsible for project costs associated with the Wilmington Waterfront Promenade and Avalon Promenade and Gateway Projects.

CITY ATTORNEY:

The First Amendment to the Memorandum of Understanding has been approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Exhibit A – Property Map
2. First Amendment to Memorandum of Understanding

FIS Approval: JS
CA Approval: J.C.

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