



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: DECEMBER 7, 2010

FROM: ENVIRONMENTAL MANAGEMENT DIVISION

SUBJECT: RESOLUTION NO. _____ - SECOND AMENDMENTS TO AGREEMENT NO. 09-2822 WITH EAGLE MARINE SERVICES AND AGREEMENT NO. 09-2820 WITH MARINE TERMINALS CORPORATION – AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

SUMMARY:

This proposed Board action is to approve Second Amendments to Diesel Emissions Reduction Act (DERA) Program Grant Subrecipient Agreement Nos. 09-2822 and 09-2820 with Port of Los Angeles (Port) tenants Eagle Marine Services, Ltd. (EMS) and Marine Terminals Corporation (MTC), to: (1) modify tenant equipment listed to receive grant funding, (2) modify the dollar amount of agreements, and (3) extend the term from December 31, 2010 to June 30, 2011. The Subrecipient Agreements were originally approved by the Board of Harbor Commissioners (Board) in December 2009 to allow for distribution by the Harbor Department of DERA grant funds to tenants. First Amendments to the Subrecipient Agreements were approved by the Board in January 2010 to incorporate administrative changes requested by U.S. Environmental Protection Agency (EPA). EPA has verbally approved the proposed changes contained in the Second Amendments, though they are still contingent upon EPA's execution of a Third Amendment to the Cooperative Agreement between the City of Los Angeles Harbor Department (Harbor Department) and EPA (already approved by the Board in October 2010) that would similarly extend the date for the Harbor Department to receive the DERA funds from the EPA to June 30, 2011.

RECOMMENDATIONS:

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

1. Approve the Second Amendments to Agreement No. 09-2822 with Eagle Marine Services, Ltd. and Agreement No. 09-2820 with Marine Terminals Corporation;
2. Authorize the Executive Director to execute and the Board Secretary to attest to said Amendments for and on behalf of the Board; and
3. Adopt Resolution Nos. _____.

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DISCUSSION:

Background - On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act of 2009 (Recovery Act) as Public Law No. 111-05, a federal economic stimulus package of \$787 billion.

On March 19, 2009, the EPA announced the availability of \$156 million in DERA funding for diesel emission reduction projects.

Port of Los Angeles Application - On March 25, 2009, the Harbor Department released a Call for Projects to Port tenants inviting them to submit projects that could be included in an application for DERA grant funds. Four tenants, including EMS and MTC, submitted a total of 73 different eligible retrofit, repower and replacement projects. On April 10, 2009, the Board authorized staff to apply for DERA grant funding. A collective Port application consisting of the 73 tenant projects and seven additional Harbor Department projects was prepared. The application requested \$6.1 million in funding for the 80 separate retrofit, repower and replacement projects.

Funding Award - On July 16, 2009, the EPA announced the DERA Program funding awards and the Port of Los Angeles Diesel Emission Reduction Projects for Equipment and Vessels were awarded funding. Although the Harbor Department requested \$6.1 million, due to the competitive nature of the solicitation and the sheer number of applications received, the Harbor Department received only a partial award of up to \$2 million. As a result, the Harbor Department was required to reduce the funding request and the number of projects to match the award. Based on EPA guidance and approval, 27 projects were selected for funding, including a mix of off-road trucks, forklifts, cranes, top handlers and loaders as well as Harbor Department equipment projects.

EPA Agreement - On August 13, 2009, the Board authorized a Cooperative Agreement (Agreement No. 09-2778) between the Harbor Department and EPA for \$1,991,750 in grant funding from the DERA Program for the retrofit, repower, and replacement projects. To ensure grant funding for equipment with delayed delivery, the Board approved a Second Amendment to the Cooperative Agreement on October 28, 2010, extending the term to December 31, 2010. At that time, the Board also authorized the Executive Director to execute a Third Amendment to the Cooperative Agreement, if needed, which would further extend the contract completion date to June 30, 2011 in the event of more delays. Based on discussions with EPA regarding the proposed amendments in this Board action, the Third Amendment to the Cooperative Agreement will be needed. Staff is now waiting for EPA to complete its Cooperative Agreement amendment process.

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Subrecipient Agreement - On December 10, 2009, the Board approved Harbor Department Subrecipient Agreement No. 09-2822 for a total grant amount not to exceed \$1,076,250 and Harbor Department Subrecipient Agreement No. 09-2820 for a total grant amount not to exceed \$315,000, with Port tenants EMS and MTC, respectively, to award the funds for the repower and retrofit diesel projects. These Subrecipient Agreements allow the Harbor Department to distribute the DERA grant funds received from the EPA under the Cooperative Agreement. On January 21, 2010, the Board approved a first amendment to the two Subrecipient Agreements in order to incorporate administrative changes requested by EPA. Subsequently, both EMS and MTC have asked to make changes to equipment originally listed for retrofit, repower or replacement. The changes are set forth in second amendments to Subrecipient Agreement Nos. 09-2822 and 09-2820 with EMS and MTC, respectively (Second Amendments), which are contained in Transmittals 1 and 2. The proposed equipment changes are listed in Exhibit A to each of the second amendments. In order to implement these equipment changes, both EMS and MTC have also requested an extension in contract term by six months from December 31, 2010 to June 30, 2011, which is provided for in the second amendments. The equipment changes are the result of modifications to the actual projects that will be carried out by these tenants, and they cause a slight increase in grant award to MTC for a total grant amount not to exceed \$442,500, and a slight decrease in grant award to EMS for a total grant not to exceed of \$925,000. These grant changes have been agreed to by EPA and can be accommodated within the existing Cooperative Agreement funding. Staff recommends approval of the proposed Second Amendments, contingent on EPA's execution of a Third Amendment to the Cooperative Agreement.

ENVIRONMENTAL ASSESSMENT:

The proposed action are Amendments to Agreement Nos. 09-2822 and 09-2820 with EMS and MTC, respectively, to change the project scope, contract amount and term of the Agreement. As an administrative action, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

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FINANCIAL IMPACT:

The Harbor Department is acting as the fiduciary agency for this grant. Harbor Department funds will not be used to supplement the grant. Expenses will be reimbursed to EMS and MTC only after the Harbor Department receives funds from EPA. Therefore, there is no financial impact to the Harbor Department associated with these Amendments.

ECONOMIC BENEFITS:

Approval of these Second Amendments will have no effect on jobs in the five-county region.

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CITY ATTORNEY:

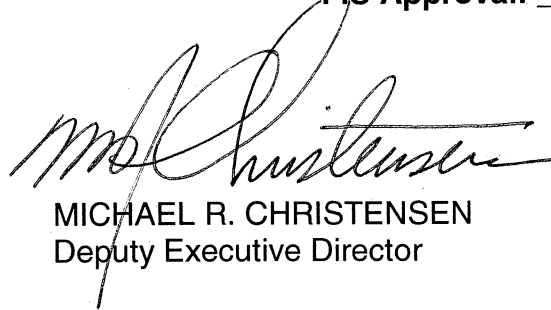
The Office of the City Attorney has reviewed and approved the Second Amendments to Agreement Nos. 09-2822 and 09-2820 as to form and legality.

TRANSMITTALS:

1. Second Amendment to Agreement No. 09-2822
2. Second Amendment to Agreement No. 09-2820



CHRISTOPHER CANNON
Director of Environmental Management



MICHAEL R. CHRISTENSEN
Deputy Executive Director

FIS Approval: MR

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

AUTHOR: KEVIN MAGGAY
BOARD MEETING: 12/16/2010

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