

DATE: JUNE 25, 2024

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT NO. 21-9815 WITH VOPAK TERMINAL, INC.

SUMMARY:

Staff requests approval of the proposed First Amendment to the Vopak Terminal, Inc. (Vopak) Reimbursement Agreement No. 21-9815 (Agreement) to reimburse the City of Los Angeles Harbor Department (Harbor Department) 100 percent of staff and consultant costs associated with the preparation of an environmental assessment for the improvements at Berth 191 and the operation of a Cement Processing Facility at Berth 191. The environmental assessment of the Cement Processing Facility has been merged with the Environmental Impact Report (EIR) currently being prepared to assess the Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) improvements at the Port of Los Angeles (Port) Berths 187-190. If approved, the proposed First Amendment would extend the duration of the existing Agreement by an additional two years, for a total term of five years, and update the estimated cost. No other modifications are proposed. Vopak will continue to be financially responsible for payment of costs associated with the preparation of the environmental assessment.

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 First Amendment to the Vopak Terminal, Inc. Reimbursement Agreement No. 21-9815;
3. Direct the Board Secretary to transmit said First Amendment to the Los Angeles City Council for approval pursuant to Section 373 of the Charter of the City of Los Angeles and Section 10.5(a) of the Los Angeles Administrative Code;
4. Authorize the Executive Director to execute and the Board Secretary to attest to, said First Amendment for and on behalf of the Board; and
5. Adopt Resolution No. _____.

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DISCUSSION:

Project Background/Context – On July 1, 2021, the Board approved the Agreement which required Vopak reimburse the Harbor Department for 100 percent of staff and consultant costs associated with the preparation of an environmental assessment to incorporate analysis of improvements at Berth 191 and the operation of a Cement Processing Facility at Berth 191 into the EIR currently being prepared to assess the MOTEMS improvements at Berths 187-190. The Harbor Department Environmental Management Division has consulting agreements in place for as-needed CEQA environmental services and selected Leidos, Inc. as the lead consultant to perform the work in connection with the preparation of the environmental assessment. The Harbor Department, as the CEQA lead agency, began conducting the necessary environmental assessment activities and special studies to satisfy the requirements of CEQA. A Notice of Preparation of a Draft EIR for public review and comment was released on July 7, 2022.

The Agreement originally had a cost estimate of \$485,000. However, in December 2023, the total estimated cost was modified to \$650,000 to incorporate more recent regulations and complete the environmental assessment. Due to additional revisions and modifications required to complete the project, the total estimated cost is now \$740,000. Per the established reimbursement agreement, Vopak will be financially responsible for all costs associated with preparation of the environmental assessment. The proposed First Amendment (Transmittal 1) is required at this time in order to extend the Agreement and align its term with the amended Project timeline as well as update the estimated cost.

ENVIRONMENTAL ASSESSMENT:

The proposed action is an amendment to an Agreement with Vopak, 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.

FINANCIAL IMPACT:

Approval of the proposed First Amendment extends the reimbursement Agreement by two years from three years, currently to five years, as proposed. Per the Agreement terms, Vopak is required to reimburse the Harbor Department for 100% of all staff and consultant costs related to the preparation of the environmental assessment for the Project.

Initial payments from the Harbor Department for consultant costs and project fees are recognized as receivables to Account 11225 (Reimbursable Costs-Env Projects), Center 7000, Program 000. The Harbor Department bills Vopak on an up-to-monthly basis as expenses are incurred.

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To-date, Vopak has reimbursed the Harbor Department, \$331,862, or 44.8% out of \$740,000 in total estimated costs under the Agreement. It is anticipated that the remaining balance of \$408,138 will be reimbursed in the remaining fiscal years. Vopak is responsible for any cost estimate increases that may occur during the evaluation of the Project.

Defense costs associated with the environmental review of the Project are not included in this estimate due to the uncertainty of estimating the existence or nature of potential litigation costs.

CITY ATTORNEY:

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

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TRANSMITTAL:

1. First Amendment to the Vopak Terminal, Inc. Reimbursement Agreement No. 21-9815

FIS Approval: JS
CA Approval: JC



LISA WUNDER
Acting Director of Environmental Management

Michael DiBernardo

MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:

Erica M. Calhoun

EUGENE D. SEROKA
Executive Director

LW:NE
AUTHOR: N. ENCISO

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