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4.27.23

RECOMMENDATION APPROVED;  
RESOLUTION 23-10164 ADOPTED AND;  
AGREEMENT 23-3762-A APPROVED  
BY THE BOARD OF HARBOR COMMISSIONERS

April 27, 2023  
**AM KLESGES**  
AMBER M. KLESGES  
Board Secretary



**DATE:** APRIL 18, 2023

**FROM:** ENVIRONMENTAL MANAGEMENT

**SUBJECT:** RESOLUTION NO. 23-10164 - FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT NO. 20-3762 WITH PHILLIPS 66 COMPANY

**SUMMARY:**

Staff requests approval of the proposed First Amendment to the Phillips 66 Company (Phillips 66) Reimbursement Agreement No. 20-3762 (Agreement) to reimburse the City of Los Angeles Harbor Department (Harbor Department) 100% of staff and consultant costs associated with the preparation of an environmental assessment. The assessment relates to the installation of a new berthing system and structural wharf repairs at the Port of Los Angeles Berths 148-149 and construction of a new Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) compliant wharf at Berths 150-151 (Project) as required by the California State Lands Commission (CSLC). The proposed First Amendment would extend the duration of the existing Agreement by an additional two years, from three years to five years as proposed. No other modifications are proposed. Phillips 66 will ultimately be financially responsible for payment of expenditures incurred under the Agreement.

**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 Phillips 66 Company Reimbursement Agreement No. 20-3762;
3. Direct the Board Secretary to transmit said Agreement 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 Amendment for and on behalf of the Board; and
5. Adopt Resolution No. 23-10164.

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**DISCUSSION:**

Project Background/Context – MOTEMS, are building standards (California Building Code, *Chapter 31F - Marine Oil Terminals*) that apply to all marine oil terminals in California. The MOTEMS establish minimum engineering, inspection, and maintenance criteria for marine oil terminals to protect public health, safety and the environment, and govern the upgrade and design of terminals to ensure better resistance to earthquakes and reduce the potential of oil spills.

Under MOTEMS, CSLC requires that modifications be made to Phillips 66's terminal at Berths 148-149 to bring the wharf closer to MOTEMS compliance and be allowed to continue operations as a MOTEMS-compliant wharf. To help facilitate this, the Harbor Department will prepare an environmental assessment that must be completed before the work at Berths 148-149 can begin. The environmental assessment will also consider constructing a new MOTEMS-compliant wharf at Berth 150-151. Phillips 66 has agreed to pay all staff and consultant costs, as well as any outside legal defense costs (if necessary) associated with the preparation of the environmental assessment (Transmittal 1).

On July 23, 2020, the Board approved an Agreement for Phillips 66 to provide reimbursement to the Harbor Department for 100% of staff and consultant costs associated with the preparation of an 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. Initially, the assessment was being assessed through a Mitigated Negative Declaration. Upon receipt of public comment requesting a more comprehensive analysis, the Harbor Department decided to proceed with assessment under an Environmental Impact Report.

A Notice of Preparation of an Environmental Impact Report for public review and comment was released on February 23, 2023. The Agreement has a total estimated cost of \$350,000 to complete the environmental assessment for the Project. However, due to additional review, costs are expected to increase. Phillips 66 has been provided updated estimated costs. Per the existing reimbursement agreement, Phillips 66 will be financially responsible for all costs associated with preparation of the environmental assessment even if the actual costs incurred are higher than the originally estimated amount. The Harbor Department's Environmental Management Division has consulting agreements in place for as-needed CEQA environmental services and selected Ramboll US Consulting Inc. as the lead consultant to perform the work in connection with the preparation of the environmental assessment.

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**ENVIRONMENTAL ASSESSMENT:**

The proposed action is an amendment to an Agreement with Phillips 66, 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, Phillips 66 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.

Through February 28, 2023, the Harbor Department has invoiced Phillips 66 \$283,140.88 out of \$350,000 in total estimated costs under Agreement 20-3762. Phillips 66 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 Amendment as to form and legality.

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**TRANSMITTAL:**

1. First Amendment to Reimbursement Agreement No. 20-3762

FIS Approval: MB  
CA Approval: SO



CHRISTOPHER CANNON  
Director of Environmental Management

*Michael DiBernardo*

MICHAEL DiBERNARDO  
Deputy Executive Director

APPROVED:

*Marla Bleavins* For

EUGENE D. SEROKA  
Executive Director

CC:mrk  
AUTHOR: L. WUNDER

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