

REPORT FROM

**OFFICE OF THE CITY ADMINISTRATIVE OFFICER**

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Date: October 2, 2024

CAO File No. 0150-12775-0000

Council File No.

Council District: 15

To: The Mayor

From: Matthew W. Szabo, City Administrative Officer

Reference: Correspondence from the Harbor Department dated August 22, 2024; Resolution No. 24-10412 from the Board of Harbor Commissioners adopted at its August 22, 2024 meeting; referred by the Mayor for a report on August 22, 2024

Subject: **RESOLUTION NO. 24-10412 AND PROPOSED FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT NO. 21-9834 WITH ORCEM AMERICAS, INC. TO EXTEND THE TERM BY TWO YEARS FOR ENVIRONMENTAL ANALYSIS SERVICES RELATED TO THE PROPOSED LAND DEVELOPMENT AND OPERATION OF A LOW-CARBON CEMENT PROCESSING FACILITY AT BERTHS 191 TO 194 IN THE PORT OF LOS ANGELES**

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**RECOMMENDATIONS**

1. Approve Los Angeles Harbor Department (Harbor Department) Resolution No. 24-10412 authorizing the proposed First Amendment to Reimbursement Agreement No. 21-9834 with Orcem Americas, Inc. to extend the contract term by an additional two years from November 16, 2024 through November 15, 2026, for a total term of five years, to complete an environmental assessment for improvements at Berths 191 to 194 for the proposed operation of a low-carbon cement processing facility in the Port of Los Angeles;
2. Adopt the August 22, 2024 Board of Harbor Commissioners findings that the proposed action is administratively exempt from the requirements of California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines; and
3. Authorize the Harbor Department Executive Director, or designee, to execute the proposed Amendment, already approved as to form by the City Attorney, and return the Resolution to the Harbor Department for further processing, including Council consideration.

**SUMMARY**

The Los Angeles Board of Harbor Commissioners (Board) requests approval of its August 22, 2024 Resolution No. 24-10412 (Attachment 1) which authorizes the approval of the proposed no-cost First Amendment to Reimbursement Agreement No. 21-9834 (Amendment) between the Los

Angeles Harbor Department (Harbor Department) and Orcem Americas, Inc. (Orcem) to extend the contract term by an additional two years from November 16, 2024 through November 15, 2026, for a total term of five years. Additional time is needed to complete the environmental assessment of Berths 191 to 194 at the Port of Los Angeles (Port) for the proposed operation of a low-carbon cement processing facility. Under the Agreement, Orcem is financially responsible and agrees to reimburse the Harbor Department for all staff and consultant costs, as well as any outside legal defense costs associated with the preparation of an environmental assessment. All other terms and conditions of the Agreement remain the same.

The proposed amendment has been reviewed and approved as to form by the City Attorney. Pursuant to Charter Section 373 and Los Angeles Administrative Code Section 10.5, Council approval is required because the cumulative contract term exceeds three years. Our office has reviewed the request and recommends approval.

## BACKGROUND

On July 14, 2015, the Harbor Department released a Request for Proposals to solicit a qualified entity to develop land located at Berths 191 to 194, and Orcem was the sole proposal received, depicted in Figure 1 below. Through Resolution No. 18-8227, the Board approved a prior reimbursement Agreement on January 11, 2018 with Orcem, and an associated environmental assessment began. Per the Agreement, Orcem directly retained the environmental consultant, with the Harbor Department providing review and oversight of the preparation of the environmental documents. Later in 2018 the environmental assessment was paused after new geotechnical data was collected, although while Orcem was redesigning their project, the reimbursement Agreement expired in February of 2021.

Figure 1: Proposed Project Site: Orcem Low-Carbon Cement Processing Facility at Berths 191 to 194



*Original Agreement* – On October 7, 2021, the Board approved Resolution No. 21-9908, and the Agreement for Orcem to reimburse the Harbor Department, as the California Environmental Quality Act (CEQA) lead agency, and in partnership with the United States Army Corps of Engineers, acting as the National Environmental Policy Act (NEPA) agency, for all staff and consultant costs associated with the review and oversight of environmental assessment activities, as well as any outside legal defense costs pertinent to the Agreement. The Agreement was for a term of three years from November 16, 2021 through November 15, 2024 with an estimated cost of \$300,000. The Harbor Department Environmental Management Division has consulting agreements in place for as-needed environmental services, and selected Leidos, Inc. as the lead consultant to perform the work as prescribed in the Agreement. A Notice of Preparation of a Draft Environmental Impact Report (EIR) for public review and comment was released on March 10, 2022. The Draft EIR was then released on October 12, 2023. The EIR analyzed the proposal to operate a new facility on the backlands adjacent to Berths 192 to 194 that would import raw materials to provide granulated blast furnace slag, which is a strength-enhancing low-carbon binder to improve the durability of concrete, and the utilization of the wharf at Berth 191.

*Proposed First Amendment* – The proposed no-cost Amendment would extend the contract term by two years from November 16, 2024 through November 15, 2026, for a total term of five years. Orcem will continue to be financially responsible for the costs associated with the preparation of environmental documents.

Table 1 below provides the scope of work and estimated budget. There are no cost modifications through the proposed Amendment.

Table 1: Reimbursement Agreement with Orcem Americas, Inc. Agreement No. 21-9834; Resolution No. 24-10412 Scope of Work and Estimated Budget	
Scope of Work	Estimated Budget
Consultant – Prepare/oversee environmental documents in compliance with CEQA and/or NEPA	\$184,000
Port Staff - Review and oversight of the project	\$100,000
Project Fees/Miscellaneous Costs - County Clerk Filing Fees, Metropolitan News Advertising Fees	\$16,000
<b>Total Amount</b>	<b>\$300,000</b>

*Reimbursements by Fiscal Year* – The receivable of reimbursements completed and anticipated by fiscal year for the environmental assessment of Berths 191 to 194 is provided in Table 2 below. The Harbor Department received a total of \$140,912 from Orcem, \$37,727 in FY 2022-23 and \$103,185 in FY 2023-24 and anticipates \$159,088 to be reimbursed in FY 2024-25.

Table 2: Completed and Future Anticipated Reimbursements by Fiscal Year (FY)					
FY	2022-23 Received	2023-24 Received	Subtotal Receipts	2024-25 Anticipated	Total
Amount	\$37,727	\$103,185	\$140,912	\$159,088	<b>\$300,000</b>

## **CITY COMPLIANCE**

*California Environmental Quality Act (CEQA)* – On August 22, 2024, the Board determined that the proposed action of approving the Amendment to extend the term of the Agreement 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.

The City Attorney has reviewed and approved the proposed Amendment as to form. Pursuant to Charter Section 373 and Los Angeles Administrative Code Section 10.5, Council approval is required because the cumulative contract term exceeds three years. Our office recommends approval.

## **FISCAL IMPACT STATEMENT**

Under the Agreement terms, Orcem Americas, Inc. is required to reimburse the Harbor Department for all staff and consultant costs, and any legal defense costs associated with the preparation of the environmental assessment to incorporate analysis of improvements at Berths 191 to 194 for the proposed operation of a low-carbon cement processing facility. Orcem is responsible for any cost estimate increase that may occur during the evaluation. Initial payments from the Harbor Department for consultant costs and project fees are recognized as receivables to Account No. 11225 (Reimbursable Costs - Env Projects), Center No. 7000 (Balance Sheet), Program No. 000 (Base Budget). The Harbor Department bills Orcem monthly as expenses are incurred. The total revenues to be received by the Harbor Department for this Agreement is \$300,000 and includes \$140,912 in receipts through FY 2023-24 and anticipated receipts of \$159,088 through the end of the contract. The recommendations in this report and proposed actions comply with the Department's Financial Policies. There is no impact on the City's General Fund.

Attachment 1 – Harbor Department Correspondence dated August 22, 2024; Proposed Resolution No. 24-10412, Harbor report dated August 22, 2024, and Proposed First Amendment to Reimbursement Agreement No. 21-9834

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