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RECOMMENDATION APPROVED;
RESOLUTION 21-9881 ADOPTED
BY THE BOARD OF HARBOR COMMISSIONERS



Executive Director's
Report to the
Board of Harbor Commissioners

August 19, 2021

AMBER M. KLESGES
Board Secretary

DATE: AUGUST 4, 2021
FROM: WATERFRONT & COMMERCIAL REAL ESTATE
SUBJECT: RESOLUTION NO. 21.9881 - APPROVE FIRST AMENDMENT TO PERMIT NO. 916 WITH SHELL OIL COMPANY

SUMMARY:

Staff requests approval of the proposed First Amendment to Permit No. 916 with Shell Oil Company (Shell). Permit No. 916 grants Shell the right to use City of Los Angeles Harbor Department (Harbor Department) property consisting of 12.1 acres at Berths 167-169 in Wilmington for the construction, operation, and maintenance of a marine oil terminal and storage tanks.

Permit No. 916 requires the Harbor Department to construct a Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) compliant wharf at Berth 168, with cost contribution from Shell. Shell's maximum contribution was capped at \$25,636,410. Shell requested the Harbor Department to construct certain additional improvements to the agreed MOTEMS project. The proposed First Amendment will authorize the Harbor Department to construct the additional new improvement requested by Shell, which Shell will be responsible to pay for in the amount of \$183,929.00. This additional cost that Shell is responsible to pay for will not contribute to Shell's contribution cap of \$25,636,410. The Harbor Department will have no financial responsibility for the scope of work related to the First Amendment.

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 has been previously evaluated pursuant to the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(i) of the Los Angeles City CEQA Guidelines;
2. Approve the First Amendment to Permit No. 916 with Shell Oil Company;
3. Direct the Board Secretary to transmit the First Amendment to the City Council for approval pursuant to Charter Section 606 of the City Charter;
4. Authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment upon Board approval contingent upon approval by City Council; and
5. Adopt Resolution No. 21.9881.

DATE: AUGUST 4, 2021

PAGE 2 OF 3

SUBJECT: FIRST AMENDMENT TO PERMIT NO. 916 WITH SHELL OIL COMPANY

DISCUSSION:

Background: Permit No. 916 allows Shell the use of Harbor Department property for the operation of a marine liquid bulk terminal. Shell currently occupies a total of 12.1 acres at Berths 167-169 in Wilmington (Transmittal 1). The Permit is for a term of 30 years, effective March 26, 2019.

Shell's wharf structure does not meet MOTEMS "Fitness for Purpose" test. The Harbor Department and Shell have agreed to build a new MOTEMS-compliant wharf at Berth 168. The Harbor Department agreed to construct the wharf and contribute a minimum of \$7,500,000, with Shell contributing up to \$25,636,410. Subsequently, Shell requested that the Harbor Department construct certain additional improvements for which Shell will pay the Harbor Department \$183,929.00 (Transmittal 2).

Proposed Action: Staff requests Board approval of the proposed First Amendment to Permit No. 916 with Shell. The proposed First Amendment (Transmittal 3) will authorize the Harbor Department to construct the additional new improvement for Shell. Shell will pay the City \$183,929.00 for the additional work upon invoicing. This amount will not impact Shell's construction cost contribution ceiling.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a First Amendment to Permit No. 916 with Shell for the construction, operation, and maintenance of a marine oil terminal and storage tanks, which is an activity for which the underlying project has been previously assessed the Berths 167-169 [Shell] Marine Oil Terminal Wharf Improvements Project Final Environmental Impact Report (SCH # 2015061102), which was certified by the Board on August 23, 2018. Therefore, the Director of Environmental Management has determined that the proposed action has been previously evaluated pursuant to the requirements of CEQA in accordance with Article II Section 2(i) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed First Amendment to Permit No. 916 will obligate the Harbor Department to construct certain additional improvements at Berths 167-169 requested by Shell. In exchange, Shell will reimburse the Harbor Department in the amount of \$183,929, which is consistent with the cost of these additional improvements included within the contract with Jilk Heavy Construction Inc. (Jilk), approved by the Board at its meeting on May 6, 2021.

DATE: AUGUST 4, 2021

PAGE 3 OF 3

SUBJECT: FIRST AMENDMENT TO PERMIT NO. 916 WITH SHELL OIL COMPANY

While the contract with Jilk primarily relates to construction of Phase I MOTEMS improvements at Berths 167-169, the additional improvements covered under the proposed First Amendment relate to fire-life safety and electrical work which falls outside the original scope of the MOTEMS improvements. The additional improvements included within the proposed First Amendment were included in the Jilk contract despite falling outside the original scope of the MOTEMS improvements, because it was more cost-effective and efficient to have the same contractor constructing these additional improvements contemporaneously with the MOTEMS improvements.

Therefore, as it relates to the MOTEMS total project cost of \$33,136,410, Shell's original commitment of \$25,636,410 will remain unchanged if the proposed action is approved. The Harbor Department's contribution of \$7,500,000, plus the cost of any overages exceeding the original MOTEMS project cost of \$33,136,310, will likewise remain unchanged if the proposed action is approved.

CITY ATTORNEY:

The First Amendment was prepared and approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Site Map
2. Engineering Cost
3. First Amendment

FIS Approval: MB
CA Approval: SO

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APPROVED:

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