

OFFICE OF THE CITY ATTORNEY
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RESOLUTION NO. RES-15-0086

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AFFIRMING THE CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE MCC CEMENT FACILITY MODIFICATION PROJECT (SCH NO. 2011081098) BY THE BOARD OF HARBOR COMMISSIONERS AND MAKING CERTAIN FINDINGS

WHEREAS, the City of Long Beach, acting by and through its Board of Harbor Commissioners (Board), has authority over the City of Long Beach Harbor District, commonly known as the Port of Long Beach (Port); and

WHEREAS, MCC Terminal, Inc. (MCC) leases from the Long Beach Harbor Department (Harbor Department) a certain terminal property located at 1150 Pier F Avenue in the Harbor District on which MCC operates a cement import terminal; and

WHEREAS, MCC submitted an application for a Harbor Development Permit (HDP) for the MCC Cement Facility Modification Project (Project); and

WHEREAS, the Project consists of the installation of a new emission control system to capture and reduce emissions of nitrogen oxides from ship auxiliary engines at berth, construction of additional cement storage and truck loading silos and equipment on vacant property adjacent to the existing MCC cement terminal and upgrades to certain of the facilities and ship unloading equipment at the terminal; and

WHEREAS, the Harbor Department is the lead agency for California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) (CEQA) compliance for the Project, and the Board is the decision making body for the Harbor Department; and

WHEREAS, the Harbor Department determined that because the Project could have a significant effect on the environment, an environmental impact report (EIR)

1 should be prepared to assess the environmental impacts associated with the construction
2 and operation of the Project; and

3 WHEREAS, on August 26, 2011, the Harbor Department mailed a CEQA
4 Notice of Preparation (NOP), which indicated the Harbor Department's intent to prepare
5 an EIR and application summary report for the Project, to public agencies, organizations
6 and persons who requested notice or were likely to be interested in the potential impacts
7 of the Project and also posted the NOP on the Harbor Department website, published it in
8 the Long Beach Press-Telegram and emailed it to the Harbor Department contact list;
9 and

10 WHEREAS, a scoping meeting for the Project was held on
11 September 14, 2011, and eight written and two oral comments were received during the
12 scoping period; and

13 WHEREAS, the Harbor Department thereafter caused a Draft EIR to be
14 prepared, which took into account the comments received on the NOP and described the
15 Project, the environmental impacts resulting therefrom, and the proposed mitigation
16 measures; and

17 WHEREAS, on October 2, 2014, the Draft EIR was circulated for public and
18 agency review and comment; and

19 WHEREAS, a public hearing was held on the Draft EIR on October 22,
20 2014, which hearing was noticed by publication in the Press-Telegram, a newspaper of
21 general circulation, by news release in the Press-Telegram, by letter mailed to public
22 agencies, organizations and persons who requested notice or were likely to be interested
23 in the potential impacts of the Project, by email to the Harbor Department contact list and
24 by posting on the Harbor Department website; and

25 WHEREAS, the public comment period closed on November 18, 2014; and

26 WHEREAS, the Harbor Department reviewed all comments received on the
27 Draft EIR, including those received after the close of the public comment period, and
28 prepared full and complete responses thereto which were posted on the Harbor

1 Department website and distributed on April 27, 2015, in accordance with California
2 Public Resources Code Section 21092.5; and

3 WHEREAS, on May 11, 2015, the Final EIR for the Project was presented
4 to the Board, as the decision making body of the lead agency, for certification as having
5 been completed in compliance with the provisions of CEQA and the state and local
6 CEQA Guidelines; and

7 WHEREAS, the Board carefully reviewed and considered all environmental
8 documentation comprising the Final EIR, including the Draft EIR and the comments and
9 the responses thereto, and found that the Final EIR considers all potentially significant
10 environmental impacts of the Project and is complete and adequate, and fully complies
11 with all requirements of CEQA and the state and local CEQA Guidelines; and

12 WHEREAS, prior to action on the Project, the Board considered all
13 significant impacts, mitigation measures, and Project alternatives identified in the Final
14 EIR and found that all potentially significant impacts of the Project have been lessened or
15 avoided to the extent feasible; and

16 WHEREAS, on May 11, 2015, the Board pursuant to Resolution No.
17 HD-2807 certified the Final EIR, made certain findings and determinations relative
18 thereto, adopted a statement of overriding considerations, a mitigation monitoring and
19 reporting program and the application summary report, and approved the Project and the
20 issuance of the HDP for the Project; and

21 WHEREAS, by letter dated May 22, 2015, Earthjustice on behalf of East
22 Yard Communities for Environmental Justice and the Coalition for a Safe Environment
23 appealed to the City Council, pursuant to Long Beach Municipal Section 21.21.507, the
24 Board's certification of the Final EIR for the Project; and by letter dated May 25, 2015, the
25 Coalition for a Safe Environment, together with the California Kids IAQ, Community
26 Dreams, California Safe Schools, Society for Positive Action, Del Amo Action Committee,
27 Action Now, Apostolic Faith Center and California Communities Against Toxics, also
28 appealed the Board's certification of the Final EIR for the Project; and

1 WHEREAS, on June 15, 2015, the Long Beach City Clerk issued notice to
2 the appellants pursuant to Long Beach Municipal Code section 21.21.507 that their
3 appeals would come before the Long Beach City Council on July 14, 2015 at 5:00 p.m.

4 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
5 follows:

6 Section 1. Based on its independent review and consideration of
7 Resolution No. HD-2807, the Final EIR, the appeals filed by appellants and all written
8 communications and oral testimony regarding the Project which have been submitted to
9 and received by the Council, the City Council finds as follows:

10 A. The above recitals are true and correct.

11 B. The Final EIR for the Project has been completed in compliance with
12 CEQA and the state and local CEQA Guidelines. The Board, having final approval
13 authority over the Project, properly adopted and certified as complete and
14 adequate the Final EIR, which reflected the independent judgment and analysis of
15 the Board. The Board further certified that the Final EIR was presented to the
16 Board and the Board reviewed and considered the information contained in it prior
17 to approving the Project.

18 C. All grounds raised during the appeal process have been adequately
19 addressed in the Final EIR. Attachments 7 and 9 to the staff report to the City
20 Council fully address all issues raised by the appeal.

21 Section 2. Based on its independent review and consideration of the
22 Final EIR, all grounds raised during the appeal process, all written communications and
23 oral testimony regarding the appeal, the transcript of the May 11, 2015 Board meeting,
24 the reports and presentations by City Staff, including the reports, written communications,
25 and presentations by the Harbor Department, and the findings and determinations set
26 forth above, the City Council of the City of Long Beach hereby:

27 A. Affirms the certification by the Board that the Final EIR for the Project
28 has been completed in compliance with CEQA and the state and local CEQA

1 Guidelines promulgated pursuant thereto, and denies the appeals filed by
2 appellants.

3 B. Affirms the certification by the Board that the Final EIR was
4 presented to the Board, that the Board reviewed and considered the information
5 contained in it prior to approving the Project, and that the Final EIR reflects the
6 Board's independent judgment and analysis.

7 C. Affirms that the City Council has independently reviewed and
8 considered the information contained in the Final EIR and that the Final EIR
9 reflects the City's independent judgment and analysis.

10 D. Adopts and makes, to the extent required by law, the findings set
11 forth in the Findings of Fact and Statement of Overriding Considerations for the
12 Project attached as Exhibit "A" to Resolution No. HD-2807 of the Board, which is
13 incorporated herein by reference as though set forth in full.

14 Section 3. The Harbor Department Director of Environmental Planning,
15 whose office is located at 4801 Airport Plaza Drive, Long Beach, California 90815, is
16 hereby designated as the custodian of the documents and other materials which
17 constitute the record of proceedings upon which the City Council decision is based, which
18 documents and materials shall be available for public inspection and copying in
19 accordance with the provisions of the California Public Records Act (Cal. Government
20 Code section 6250 *et seq.*).

21 Section 4. The Harbor Department Director of Environmental Planning
22 shall file a notice of determination with the County Clerk of the County of Los Angeles
23 and with the State Office of Planning and Research within five (5) working days after
24 adoption of this resolution.

25 Section 5. This resolution shall take effect immediately upon its adoption
26 by the City Council, and the City Clerk shall certify to the vote adopting this resolution.

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I hereby certify that the foregoing Resolution was adopted by the City Council of the City of Long Beach at its meeting of July 14, 2015 by the following vote:

Ayes: Councilmembers: Lowenthal, Supernaw, Mungo, Andrews, Austin, Richardson.

Noes: Councilmembers: Gonzalez, Uranga.

Absent: Councilmembers: Price.

Posnam Davis
City Clerk