



**THE PORT  
OF LOS ANGELES**

Executive Director's  
Report to the  
Board of Harbor Commissioners

**DATE: SEPTEMBER 27, 2012**

**FROM: CLEAN TRUCK PROGRAM**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - APPROVAL OF THE CITY OF LOS ANGELES HARBOR DEPARTMENT VERY SMALL BUSINESS ENTERPRISE TRUCK GRANT PROGRAM, FUNDING AND GRANT AGREEMENT**

**SUMMARY:**

The City of Los Angeles Harbor Department (Harbor Department) Clean Truck Program (CTP) received \$746,666 in funding through the State of California Attorney General's Office (Attorney General) resulting from the settlement of a lawsuit against five Harbor Department Marine Terminal Operators (MTO). The Harbor Department recommends using the money in a Very Small Business Enterprise (VSBE) Truck Grant Program to offer grants to assist CTP Concessionaires who are VSBEs in purchasing trucks that meet the U. S. Environmental Protection Agency (EPA) 2007 heavy duty truck emissions standards (clean trucks).

The requested action is for the Board of Harbor Commissioners (Board) to approve the Harbor Department Very Small Business Enterprise Truck Grant Program (Program), including allocating funds in the amount of \$746,666.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners:

1. Approve the City of Los Angeles Harbor Department Very Small Business Truck Grant Program, to be funded by the \$746,666 in State of California Attorney General settlement funds received by the Harbor Department for the VSBE Truck Grant Program;
2. Approve the template Grant Agreement between the City of Los Angeles Harbor Department and Grantees, substantially as to form;
3. Authorize the Executive Director to finalize and execute the individual Grant Agreements with individual grantees, and the Board Secretary to attest to same; and
4. Adopt Resolution No. \_\_\_\_\_.

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**DISCUSSION:**

Background - The Harbor Department, which operates the Port of Los Angeles (Port), received \$746,666 in funds directed from the Attorney General's office as the result of a Consent Judgment between five Port MTOs and the Attorney General. Although the Harbor Department was not a party in the case, because the Consent Judgment involved Proposition 65 warnings regarding diesel engine exhaust at Port terminals, the Attorney General recommended using the settlement funds in the Harbor Department's CTP to further reduce diesel emissions at the Port. In April 2011, the Harbor Department agreed to accept and administer the settlement funds as grants to assist the Harbor Department's small business concessionaires to purchase clean trucks. The Harbor Department intends to assist in the funding of 15 to 30 clean trucks depending on the types of trucks chosen by the applicants.

VSBE Truck Grant Program - The Program is modeled on previous successful truck grant programs, which consist of three components: the application, the contract requirements, and post-award monitoring. The Program Announcement includes a Program Overview, Schedule of Events, Program Process and Program Requirements (Transmittal 2).

Application Requirements - For grant consideration, each applicant must be a "Concessionaire in Good Standing" and a certified VSBE, defined as a small business that has average annual gross receipts of \$3,500,000 or less within the previous three years. All Port Concessionaires will be made aware of the Program through emails and website postings and invited to apply for the Program, which will include providing evidence of their current status as a VSBE. The Harbor Department will select grantees from a verified list of VSBE "Concessionaires in Good Standing". If the requested funding in applications exceeds the amount of Program funds available, grantees will be chosen through a lottery. The Harbor Department will publish a ranked list of selected grantees on its website and notify the list of grantees that have been selected for Program Grants, as well as alternates that may be awarded grants in the event any selected grantees are unable to complete their grant transaction.

Contract Requirements - Following notification of grant award, the grantee will provide the Harbor Department with information confirming that the proposed grant truck purchase complies with clean truck requirements and identifying the source of funds for the remainder of the purchase price (cash and/or financing) beyond the proposed grant. The grantee will enter into the Grant Agreement to accept the funding and comply with the requirements set forth in the Grant Agreement (Transmittal 1). Under the Grant Agreement, a grantee may acquire one new or used 2007 EPA compliant (or better) Class 8 drayage truck from a licensed dealer for which they will receive \$25,000 to

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assist in purchasing a diesel truck or \$50,000 for an alternative fuel truck. Grantees will not be required to scrap another truck in order to receive funding. The grantee must not sub-lease the truck, and must list the Harbor Department as additional insured as well as an additional lien holder unless the Harbor Department agrees to other arrangements (.e.g. due to financing requirements). Each grant truck must complete 150 trips at the ports of Los Angeles and Long Beach each year for three years (450 trips) and at least half of those trips (225 trips) must occur at the Port over the three years.

Post-Award Compliance - The post-award activities will verify that all grantees remain compliant and in good standing through the life of their Grant Agreement with the Harbor Department. The Harbor Department will assess the compliance status of each grant truck annually and the grantees will be notified of their drayage service trip status each year. Grantees will be required to repay portions of the grant for failure to make at least 75 minimum trips on an annual basis, and to repay portions of the grant for failure to make all 450 San Pedro Bay Ports trips following the end of the three-year term. If the grantee is unable to make at least 75 annual drayage service trips to either Port, the grantee shall repay the Harbor Department within thirty (30) days of notice, a pro rata amount calculated as the failed percentage of 75 drayage service trips times one-sixth of the amount of the Program grant received by the grantee for the truck. An example of this repayment structure is provided in the attached Grant Agreement. Furthermore, if a grantee is below compliance for total annual trips (150 trips) in a particular year, they will be given the opportunity to achieve compliance by making up trips in later years. However, if the grantee is unable to complete 450 drayage service trips over the three year agreement, the grantee will be required to compensate the Harbor Department a pro rata dollar amount equal to the percentage of deficient trips times the amount of the grant award received minus any of the previous annual penalties previously paid by the grantee. An example of this repayment structure is also provided in the attached Grant Agreement.

Additionally, if the Board approves the Program, the Harbor Department will inform the Attorney General's office of the plan and develop a regular reporting schedule documenting the status of the Program's expenditure of the settlement funds.

Finally, Initiative 8.1.2 of the Harbor Department's Strategic Plan contains a goal for the CTP to become cost neutral moving forward on an annual basis by Fiscal Year 13/14. This VSBE Truck Grant Program will not affect that goal. The CTP is on target to line up with the goal and will continue to look for further opportunities to reduce costs as the CTP continues to mature.

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**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of the Harbor Department's Very Small Business Enterprise Truck Grant Program which would use lawsuit settlement funds for grants to assist CTP Concessionaires in purchasing clean trucks. The proposed action is limited to approval of the grant program and the funding would be used to purchase trucks to meet requirements of the approved CTP. Therefore, as an administrative activity, the Director of Environmental Management has determined the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2 (f) of the Los Angeles City CEQA Guidelines.

**ECONOMIC BENEFITS:**

Approval of the proposed Agreement will have no employment for the five-county region.

**FINANCIAL IMPACT:**

This Board action approves the allocation of \$746,666 of funds to be used to fund grants to CTP Concessionaires meeting VSBE Truck Grant Program criteria and the Grant Agreement to be used for such grants. The source of funding is the \$746,666 received by the Harbor Department from the State of California Attorney General's office from its settlement of a lawsuit with Port MTOs. Those funds are currently in a City of Los Angeles Enterprise Fund (74S PROPOSITION 65 CLEAN TRUCK PROGRAM) which is a restricted fund dedicated for use by the Harbor Department to support the Harbor Department's CTP. Under the terms of the restricted fund and the Settlement Agreement, such funds cannot be used for any purpose other than the CTP grant program.

Since the inception of the CTP in October 2008 through September 2012, the overall cost of the CTP has been approximately \$110 million. Over that same period, the CTP generated revenues of approximately \$82 million. As the CTP moves forward, the projected cost and revenue for FY 12/13 is \$1.2 million and \$1.3 million, respectively.

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**CITY ATTORNEY:**

The Office of the City Attorney has approved the Grant Agreement as to form and legality.

**TRANSMITTALS:**

1. Grant Agreement
2. VSBE Program Requirements

FIS Approval: KP (initials)

CA Approval: TM (initials)

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FOR  
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BOARD MEETING: 10/4/2012

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