

DATE: NOVEMBER 4, 2021

FROM: EXECUTIVE OFFICE

SUBJECT: RESOLUTION NO. _____ - RECEIVE AND FILE HARBOR COMMUNITY BENEFIT FOUNDATION SUBMISSION OF THE ANNUAL AIR QUALITY MITIGATION FUND REVIEW FOR CALENDAR YEAR 2021 AND BUDGET FOR CALENDAR YEAR 2022

SUMMARY:

Staff requests the Board of Harbor Commissioners (Board) to receive and file the Harbor Community Benefit Foundation (HCBF) reports of the Air Quality Mitigation Fund (AQMF) Calendar Year (CY) 2021 Review and Calendar Year 2022 Budget.

In accordance with the China Shipping Amended Stipulated Judgment MOU, the HCBF is required to submit a yearly budget report on the AQMF to the Harbor Department Executive Director. This receive and file report is being presented to the Board of Harbor Commissioners as information. The total AQMF CY 2022 budget is \$56,110 and includes a transfer of \$32,500 to the HCBF Port Community Mitigation Trust Fund (PCMTF). With this transfer of \$32,500, HCBF has sufficient funds to cover its CY 2022 budget and is not requesting funding from the Harbor Department (see reference of this AQMF transfer in the Board Report on the CY 2022 HCBF budget on the Board's November 18, 2021 agenda.)

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Receive and file the Reports of the Harbor Community Benefit Foundation's Air Quality Mitigation Fund CY 2021 Review and CY 2022 Budget; and
2. Adopt Resolution No. _____.

DISCUSSION:

Background/Context - On June 14, 2004, the City and Petitioners became bound by the Amended Stipulated Judgment ("ASJ") to settle the case of Natural Resources Defense Council, Inc., et al. v. City of Los Angeles, et al., Los Angeles County Superior Court Case No. BS 070017, a case brought by Petitioners challenging the environmental impact report and related findings for the China Shipping Container Terminal Project at Berths 99-109 ("the China Shipping Project"). The ASJ required the City to adopt mitigation for the China Shipping Project and other Port of Los Angeles ("Port") projects, including the

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provision of \$50 million for the mitigation of air quality and aesthetic environmental impacts of Port operations on the communities surrounding the Port, including both the communities of Wilmington and San Pedro, California ("Mitigation Payment"). Funds from the Mitigation Payment were used to fund projects that mitigated the environmental impacts of the China Shipping Project ("China Shipping Mitigation Projects") and were administered by the City of Los Angeles Harbor Department ("Harbor Department"). The ASJ also provided that the Mitigation Payment be committed for use within five years, but that if at the conclusion of the five years any funds remained that had not been allocated, such funds would be applied to "an independent air quality mitigation program available to administer the funds and mutually agreeable to the Parties, with restrictions sufficient to ensure that such funds are used to reduce Port-related emissions."

That five-year term has lapsed, effective June 14, 2009, and approximately \$9,226,944 remained unallocated. By way of a separate agreement, \$4,000,000 of such remaining funds were provided to the South Coast Air Quality Management District to fund a zero-emissions catenary system demonstration project, which the City and the China Shipping Petitioners agreed is a project that is reasonably calculated to reduce Port-related air emissions. On October 24, 2016, the ASJ Parties agreed, and the Board approved, a disbursement of the remaining unallocated \$5,226,944 to an independent air quality mitigation program, to be administered by HCBF for the reduction of Port-related air emissions (the "Air Quality Mitigation Fund" or "AQMF"). The AQMF is administered and managed by the HCBF to solicit and select projects and programs to receive funding from the AQMF with Board approval.

On November 30, 2016, the Board approved an advance of administrative costs of \$250,000 from the AQMF to HCBF to administer development and issuance of the initial Requests for Proposal for projects. The HCBF may annually request withdrawal of funds from the AQMF to pay for actual administrative costs, not to exceed ten percent of the annual dollar amount of the grants approved.

In February 2017, \$5,075,176 (inclusive of interest and dividends, less \$250,000 for HCBF administrative costs) was transferred from the City to an account managed by HCBF.

On November 21, 2019, the Board approved the first round of AQMF grants in the amount of \$823,050. There have been no subsequent grants made since 2019.

As of September 31, 2021, the balance of the AQMF was \$4,365,606.28.

HCBF Role and Responsibilities - HCBF is an independent legal entity that serves as the neutral, third-party to administer the AQMF and solicit, develop, and select projects for grant funding. HCBF must request the Board to approve the selected projects and approve a transfer of funds from the AQMF to fund grant awards. All awards must be Tidelands Trust-compliant and should be "given to technologies that, if they were widely

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deployed, would significantly reduce air emissions and/or air quality related health risks from the largest source of air pollution from Port operations.” Grant applicants are required to prove that the project would benefit the communities of San Pedro and/or Wilmington or an area within a 25-mile radius from the Port.

ENVIRONMENTAL ASSESSMENT:

The proposed action is to receive and file the AQMF CY 2021 Annual Review and CY 2022 Budget, 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:

The receive and file action of the HCBF AQMF CY 2021 Review and CY 2022 Budget is an administrative action. This Board action neither authorizes any expenditures nor commits the Harbor Department to any additional funding of the AQMF.

CITY ATTORNEY:

The Office of the City Attorney has reviewed this receive and file board report and it raises no legal issues at this time.

TRANSMITTALS:

1. HCBF AQMF CY 2021 Annual Review/ CY 2022 Annual Budget Report

FIS Approval: MB
CA Approval: SO

APPROVED:



For
EUGENE D. SEROKA
Executive Director