



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: JULY 20, 2021

FROM: EXECUTIVE OFFICE

**SUBJECT: RESOLUTION NO. _____ - APPROVAL OF HARBOR
COMMUNITY BENEFIT FOUNDATION'S BYLAWS AMENDMENT
INCREASING A DIRECTOR'S TERM LIMITS**

SUMMARY:

Staff requests approval of an Amendment to the Harbor Community Benefit Foundation's (HCBF) bylaws which would extend the maximum number of two-year terms a Director may serve from three to four, provided such amendment shall not apply to the term of a current Director beyond that for which such Director was elected. Currently, each Director term is for two years, with a three-term limit. The HCBF's existing Bylaws require the Board to approve Bylaws amendments, and also include this provision: *"No amendment may amend the term of a Director beyond that for which such director was elected."*

Approval of the proposed Amendment is not anticipated to have a financial impact on the Harbor Department.

RECOMMENDATION:

It is recommended that the Harbor Commissioners Board:

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Find that the HCBF Bylaws state, at Section 15.1 (b): *"No amendment may amend the term of a Director beyond that for which such director was elected."*
3. Find that the California Government Code Section 5220 (a) states: "An amendment of the articles or bylaws may not extend the term of a director beyond that for which the director was elected, and any bylaw provision increasing the terms of directors may not be adopted without approval of the members."
4. Approve Harbor Community Benefit Foundation's bylaw amendment increasing the number of terms a Director may serve, to a maximum of four terms, provided such amendment shall not apply to the term of a current Director beyond that for which such Director was elected; and
5. Adopt Resolution No. _____.

DATE: JULY 20, 2021

PAGE 2 OF 3

SUBJECT: APPROVE HCBF BYLAWS AMENDMENT INCREASING A DIRECTOR'S TERM LIMITS

DISCUSSION:

Background/Context - On April 3, 2008, the Board approved a Memorandum of Understanding (MOU) between the Harbor Department and certain organizations and individuals (TraPac Appellants) to resolve an appeal of the certification of the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the TraPac Container Terminal Project (TraPac) to the Los Angeles City Council. The TraPac MOU provides for creation of the Port Community Mitigation Trust Fund (PCMTF) designated for mitigation projects that mitigate impacts from port and port-related operations, and are consistent with the Tidelands Trust and the TraPac MOU. In addition, the MOU required the creation of a nonprofit entity, the HCBF, to operate the PCMTF and oversee the grant selection and grant-making process in accordance with the TraPac MOU.

HCBF Role and Responsibilities - HCBF is an independent legal entity that serves as the neutral, third-party to administer the PCMTF and solicit, develop, and select projects for grant funding. As stated in the HCBF Bylaws, Section 15.1, and in the Operating Agreement, Section 15.1, changes in the bylaws require concurrence from the Board of Harbor Commissioners, or its designee.

However, Bylaws Section 15.1 (b) provides: *"No amendment may amend the term of a Director beyond that for which such director was elected."* This Bylaws provision is consistent with California Government Code Section 5220 (a), which provides: *"An amendment of the articles or bylaws may not extend the term of a director beyond that for which the director was elected, and any bylaw provision increasing the terms of directors may not be adopted without approval of the members."*

The HCBF Board of Directors consists of seven members, first elected to serve in May 2011. The HCBF Bylaws Section 7.3 establishes limits of up to maximum of three terms (either full or partial), for a maximum of six years total. Elections are typically held during the HCBF Board of Directors Annual Meeting. Extending term limits to four terms would allow board members to serve for up a maximum of four terms (or eight years). The requested change allows for continuity of board functions and stability of programs and operations of the organization. The recommended change was approved by the HCBF Board on May 28, 2021.

Staff has reviewed the request submitted by the HCBF and recommends the Board's approval of the proposed change in Director term limits, provided such amendment shall not apply to the term of a current Director beyond that for which such Director was elected. Such inapplicability to a current sitting Director is required for compliance with Bylaws Section 15.1(b), and California Corporations Code Section 5220(a)

DATE: JULY 20, 2021

PAGE 3 OF 3

SUBJECT: APPROVE HCBF BYLAWS AMENDMENT INCREASING A DIRECTOR'S TERM LIMITS

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the HCBF's bylaws amendment to extend the Director term limits, 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:

Approval of the proposed Amendment is an administrative action which is not anticipated to have a financial impact on the Harbor Department.

CITY ATTORNEY:

The Office of the City Attorney has reviewed the existing Bylaws and HCBF's proposed Bylaws Amendment, and confirms that the Bylaws state in Section 15.1 (b): "*No amendment may amend the term of a Director beyond that for which such director was elected.*" Such Bylaws provision is also in California Government Code Section 5220 a) which states: "*An amendment of the articles or bylaws may not extend the term of a director beyond that for which the director was elected, and any bylaw provision increasing the terms of directors may not be adopted without approval of the members.*"

TRANSMITTALS:

1. HCBF Amendment to Extend Director Term Limits Memo
2. HCBF Bylaws

FIS Approval: MB

CA Approval: JC

APPROVED:

Marla Bleavins For

EUGENE D. SEROKA
Executive Director

Author: T. Adams Lopez