

**DATE: FEBRUARY 28, 2023**

**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  
2022 AND BUDGET FOR CALENDAR YEAR 2023**

**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) 2022 Review and Calendar Year 2023 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 City of Los Angeles, Harbor Department (Harbor Department) Executive Director, and to receive budget approval from the Harbor Department. Accordingly, the HCBF has submitted its CY 2023 AQMF Budget request of \$82,305. Because the CY 2023 budget request is within the Executive Director's authority, it has been approved. This receive and file report is being presented to the Board as information. No transfer of Harbor Department monies would be required to fund the CY 2023 AQMF Budget.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners:

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. Receive and file the Reports of the Harbor Community Benefit Foundation's Air Quality Mitigation Fund CY 2022 Review and CY 2023 Budget; and
3. Adopt Resolution No. \_\_\_\_\_.

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SUBJECT: RECEIVE AND FILE HCBF AQMF CY 2022 REVIEW AND CY 2023 BUDGET

**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 measures for the China Shipping Project and other Port of Los Angeles (“Port”) projects, including the provision of \$50 million for the mitigation of air quality, aesthetic, and 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 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. These administrative costs had been included within the \$5,226,944 disbursement approved by the Board in October 2016. 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.

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On November 21, 2019, the Board approved the first round of AQMF grants in the amount of \$823,050. The grantee performed some of the project milestones and received the first two project disbursements totaling \$632,000, but HCBF denied payment of the remainder of the grant due to lack of performance by the grantee, who filed bankruptcy in the Spring of 2022. On November 17, 2022, the Board approved Resolution No. 22-10094, for the reallocation of the remaining \$191,050 undisbursed funds back to the AQMF to be used for other future grant funding opportunities.

As of October 31, 2022, the balance of the AQMF was \$4,483,873.

The HCBF Board has approved Round Two of AQMF grants pending in the amount of \$2 million and this item will come before the Board for approval shortly. Should the Board approve the Round Two grants, the AQMF balance will be \$2,483,873.

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 a majority of AQMF funds shall be spent towards the demonstration or implementation of zero or near-zero emission freight movement technologies, and should be "given to technologies that, if they were widely 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 2022 Annual Review and CY 2023 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 2022 Review and CY 2023 Budget is an administrative action. This Board action neither authorizes any expenditures nor commits the Harbor Department to any additional funding of the AQMF.

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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 2022 Annual Review/ CY 2023 Annual Budget Report

FIS Approval: MB  
CA Approval: JC

APPROVED:



EUGENE D. SEROKA  
Executive Director

ES:DL:jb  
Author: T. Adams Lopez