

HARBOR COMMUNITY BENEFIT FOUNDATION
MEMORANDUM

To: Geraldine Knatz, Ph.D, General Manager, Port of Los Angeles
 From:  Mary Silverstein, Executive Director, Harbor Community Benefit Foundation
 Cc: Mike Christensen, Deputy Executive Director – Development, Port of Los Angeles
 Simon Kann, Deputy City Attorney, City of Los Angeles
 Michael Jenkins, Jenkins and Hogin, LLP, Counsel for HCBF
 Sean Hecht, Board Chair, Harbor Community Benefit Foundation
 Mark Vargas, President, Mission Infrastructure
 Jennifer Lucchesi, Chief Counsel, State Lands Commission

Date: April 10, 2012. rev
 Re: Initial Off Port Impact - Land Use Study

In accordance with the Operating Agreement of the TraPac Memorandum of Understanding (TraPac MOU), Harbor Community Benefit Foundation (HCBF) hereby submits a request to approve the funding of an initial study on land use, Section VI of the TraPac MOU, “Off-Port Impact Studies.”

HCBF requests the Board of Harbor Commissioners (BOHC) to receive, consider and vote on the funding of a contract to perform an initial short-term off-port impact study on land use with Bay Area Economic Council Institute and to direct the California Community Foundation to release \$300,000 from the Port Community Mitigation Trust Fund (PCMTF), in a single disbursement, for the completion of the off port impact study.

Background

The proposed contract addresses the Off-Port Impact Study found in Section VI of the TraPac MOU. Relevant excerpts follow:

“The Port will fund an initial study of off-Port impacts, with a maximum price of \$300,000 ... The study will consist of an analysis of off-port impacts on health and land use in Wilmington and San Pedro. The land-use analysis will take into consideration the applicability of the California Air Resources Board’s April 2005 study “Air Quality and Land Use Handbook: A Community Health Perspective” ... A third party entity selected through an RFP process shall carry out the study. It is envisioned that this initial study will take six months. The Port will not be involved in the execution of this study, but rather, this initial study shall be commissioned by the interim entity identified within section VC. A report on the scope of the study as articulated within the RFP shall be made to the Trade, Commerce and Tourism Committee of the Los Angeles City Council before being issued. In addition, periodic updates on the study progress shall be made to the Trade, Commerce and Tourism Committee of the Los Angeles City Council.”

Discussion

This study is consistent with the TraPac MOU. The off-port study is an important precursor to identify direct or indirect impacts of Port or Port-related operations on land use, and to inform the analysis of nexus with the Tidelands Trust in the consideration of future projects. This study does not itself propose any mitigation measures, but instead is designed to identify impacts in order to provide input to inform future mitigation measures and to provide information that will assist in ensuring that future mitigation measures are consistent with the Tidelands Trust and the MOU. Consequently, we believe the Tidelands-Trust compliant nature of the project is clear without the “Project-specific Tidelands nexus analysis” contemplated in Section 5.B.iv of the Operating Agreement of the TraPac MOU, which contemplates such a nexus analysis for “mitigation measures.”

In response to a Request for Proposals (RFP) issued by the Appellants, led by NRDC, a team led by Jon Haveman, (formerly with Beacon Economics, now with Bay Area Council Economic Institute) was selected to perform the study. Upon the formation of the Harbor Community Benefit Foundation (HCBF), contract administration and oversight of the study was transferred from the Appellants to HCBF. The partially executed contract, signed by Bay Area Council, is enclosed.

As described below, HCBF has determined to separately contract for a health impacts study, based on its determination that the scope of the health portion is highly specialized and more appropriate as a separate evaluation of off-port health impacts.

HCBF staff has determined 1) the study conforms to the requirements of the MOU, 2) the work is located in Wilmington and San Pedro, 3) the study will identify direct or indirect impacts of Port or Port-related operations, and 4) the budget and schedule for funding from the PCMTF are appropriate.

PCMTF Status Report: Previously Approved Projects and Fund Balance

To date, there are no previously approved projects.

Fund Balance Recap as of February 29, 2012, rounded

Opening Balance January 2012:	\$9,840,000
HCBF operating budget:	<u>(379,200)</u>
Net of Fees to CCF and Market Change:	\$9,460,000
Pending Requests:	
Off Port Impact Land Use Study	(300,000)
Noise Assessment, Phase I of Project A	<u>(185,000)</u>
Net Fund Balance	\$8,975,000

HCBF Board Actions

- A. August 11, 2011. Section VI.A of the TraPac MOU requires initial studies to consist of an analysis of off-port impacts on health and land use in Wilmington and San Pedro. By majority vote, the Board unanimously approved selection of Bay Area Council as the contractor to conduct the off-port land use study. The Board resolved to excise, and separately contract for, a study regarding health impacts, “with money augmented from section VB funds”, as contemplated in the TraPac MOU.

- B. March 26, 2012. The HCBF Board of Directors, by majority vote, approved in substantial form a draft contract between HCBF and the contractor for the land use study in the amount of \$288,976. In addition, the Board approved a contingency for reimbursable items in the amount of \$11,024 to be used if HCBF determines that additional funds are needed under this contract to complete the scope of work. (Item 4, March 26 staff memo to the HCBF Board attached), and authorized the transmittal of this request for funding from the BOHC for an amount not to exceed \$300,000.

Economic Benefit

As indicated in the Contract’s Scope of Work (Exhibit A), BACEI will employ no less than 50% of the project’s temporary employees from the communities of Wilmington and San Pedro. Temporary jobs will be generated for an estimate of 20-30 individuals. Appendix B provides a sample of a monthly report to be required of the contractor to demonstrate local jobs created by this project

Request

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Attachments:

- 1) Staff Memo to HCBF Board of Directors: Item 4, March 26, 2012, Review and Approval of Contract
- 2) Partially Executed Contract: Bay Area Council – HCBF Off-Port Impact Study Contract, includes Exhibit A: Scope of Work revised March 15, and Exhibit B: Fees and Rate Schedule

Harbor Community Benefit Foundation
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