

DATE: MARCH 7, 2023

FROM: EXECUTIVE OFFICE

**SUBJECT: RESOLUTION NO. _____ - APPROVAL OF HARBOR
COMMUNITY BENEFIT FOUNDATION'S AIR QUALITY MITIGATION
PROGRAM, ROUND 2 GRANT AND THE TRANSFER OF AIR QUALITY
MITIGATION PROGRAM FUNDS**

SUMMARY:

Staff requests that the Board of Harbor Commissioners (Board) approve Harbor Community Benefit Foundation's (HCBF) selection of WattEV to receive funding from the Air Quality Mitigation Program, Round 2 Grant and transfer \$2,000,000 from the Air Quality Mitigation Fund (AQMF) to HCBF. The AQMF was established by the City of Los Angeles Harbor Department (Harbor Department) pursuant to a Memorandum of Agreement with HCBF and China Shipping Petitioners approved by the Board in 2015 and 2021, for the purpose of funding mitigation projects which are reasonably calculated to reduce port-related air emissions. The HCBF, an independent nonprofit organization established to operate the AQMF, is responsible for identifying qualifying projects to receive grant funding from the AQMF, to be approved by the Board.

The HCBF Board of Directors has selected WattEV to receive \$2,000,000 in funding from the Air Quality Mitigation Program, Round 2 Grant and is requesting Board approval of the award recipient and transfer of funds from the AQMF, in accordance with the requirements of the China Shipping Memoranda of Agreements (MOA). The proposed project has a Tidelands nexus and will mitigate air emissions impacts on the local communities of Wilmington and San Pedro. Upon the transfer of funds from the AQMF to HCBF, HCBF will be financially responsible for the proposed project and for the disbursement of funds to the grantee in accordance with the China Shipping MOA and the Grant Agreements. The Harbor Department funded the original AQMF, and no additional payments from the Harbor Department will be required to fund this request.

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;

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2. Approve Harbor Community Benefit Foundation's selection of one project to receive a grant of \$2,000,000 from the Air Quality Mitigation Program Round 2, funded by the Air Quality Mitigation Fund;
3. Authorize the Executive Director or his designee to execute a joint letter with the Harbor Community Benefit Foundation to approve the distribution of funds in one lump sum payment of \$2,000,000 from the AQMF account at Bank of America to the Harbor Community Benefit Foundation to be used in accordance with Harbor Community Benefit Foundation's request; and
4. 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 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 million remained unallocated. In November 2015, the Board approved a disbursement of \$5,226,944 million 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.

Also in November 2015, 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. At its March 16, 2023 meeting, the Board will review an action to receive and file the HCBF's report of the AQMF Calendar Year

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(CY) 2022 Budget Review and proposed CY 2023 Budget previously approved by the Harbor Department Executive Director within his authority.

As of October 31, 2022, the AQMF balance was \$4,483,872.

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's approval of 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 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.

Proposed Air Quality Mitigation Program Grant – On January 10, 2022, HCBF released a Request for Letters of Interest (LOI), the second-round solicitation for the Air Quality Mitigation Program, Round 2 grants. HCBF Staff and technical consultants from 3COTECH, Inc. hosted a webinar to provide background on the program and to share information about the application process. Resources and insights from the webinar were shared on HCBF's AQMF webpage. HCBF Staff received seven LOIs by March 23, 2022. Of those, six respondents were invited to submit a full application to HCBF. Full applications were due by May 23, 2022. From the six invited applicants, five companies submitted full applications for review.

The HCBF Board appointed an ad-hoc AQMF Review Committee, comprised of HCBF Board members Ed Avol, Richard Havenick, and Jayme Wilson, who met with HCBF staff to consider and evaluate the applications. HCBF also consulted with Harbor Department staff in the Environmental Management Division throughout the review process. Selection criteria can be found in HCBF's Memorandum as Transmittal 1. As part of the evaluation process, HCBF established a special AQMF review panel consisting of the ad-hoc committee, technical consultant and a panel of external personnel/stakeholders with demonstrated expertise in port-related technology, zero, near-zero emission and relevant emission-reduction technology, the AQMF, the China Shipping MOA, and community impacts in San Pedro and Wilmington. Additionally, a seven-member panel of external reviewers consisting of governmental agencies (California Air Resources Board & South Coast Air Quality Management District), local residents, academic institutions and non-profit organizations, was created to assist HCBF and the ad-hoc committee in determining finalists.

HCBF Staff, with the approval of the ad-hoc committee, recommended funding WattEV for a total \$2,000,000 and the HCBF Board of Directors unanimously approved staff's recommendation at their meeting of November 18, 2022. Information on the WattEV program follows:

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COMPANY	WATTEV
PROJECT TITLE	First Medium/Heavy-Duty Electric Vehicle (MHDEV) Commercial Charging Station at the Ports
BRIEF DESCRIPTION OF TECHNOLOGY	WattEV is under agreement with the Port of Long Beach to lease a 1.5 acre property and build the first commercial and publicly accessible MHDEV Charging site to service the drayage market. Offering high-power charging, the site combines competitive rates through distributed energy resources and a Truck-as-a-Service (rental). This is the fourth project site for WattEV, and it is designed for scalability to other locations throughout California to reduce freight movement related emissions.
TECHNOLOGY CATEGORY	Infrastructure for Electric Vehicles (EV)
VEHICLE CATEGORY	Public EV Charging Stations for Trucks
REQUEST: FUNDING & AMOUNT	\$2,000,000 Recommended for funding because it provides much needed public charging infrastructure for zero-emission trucks in the port area and will have a significant emission reduction localized in the geographic area of focus for seven years, and 430 new project-specific local jobs for 2023; and an additional 55 jobs created in 2024 and onwards throughout the life of the station.

The recommended Air Quality Mitigation Program, Round 2 grant project conforms to requirements of the China Shipping MOA, Amended Stipulated Judgment and Tidelands Trust. Based on the funding amounts, approximately \$2 million will remain for a Round 3 of the AQMF program to be targeted towards reducing emissions from oceangoing vessels. HCBF advises that future recommendations will be focused on cargo-ship related emissions reduction.

AQMF Disbursement of Funds – Upon Board approval, a single transfer from the AQMF to HCBF in the amount of \$2,000,000 will be authorized by the Harbor Department’s authorized signatory. Contracts for approved projects and all other AQMF expenditures are to be executed solely between the Nonprofit and its vendors or grantees.

Factors to be Considered by the Board of Harbor Commissioners - The China Shipping MOA sets forth the process for HCBF grant approvals and the Board’s review and approval. The Board remains the trustee of the Tidelands assets at issue, the funds in the AQMF, and must exercise its independent judgment to determine that proposed AQMF projects are consistent with the Tidelands Trust and the China Shipping MOA.

In accordance with Section 5(f)(vii) of the MOA, the Board shall review each project, its associated budget, and schedule for funding which is consistent with the MOA. The MOA requires AQMF projects to:

Excerpts of MOA project requirements from MOA Section 5(f):

- “Projects. HCBF shall administer the monies in the AQMF special program account exclusively for projects that are reasonably calculated to reduce Port-related air emissions. This includes emissions resulting from the transport and

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handling of cargo within, into, out of, to, or from the Port of Los Angeles, including but not limited to cargo transport and handling by ships, harbor craft, trucks, locomotives, or cargo handling equipment. The projects may include the demonstration of freight movement technologies that have zero or near-zero tailpipe emissions, such as hybrid or electric vehicles and cargo handling equipment, ship emission reduction technologies, or catenary or electric truck technologies, among others. HCBF may solicit projects for funding through one or multiple requests for proposals. All projects to be funded must be consistent with this Agreement, the Tidelands Trust Grant, and all federal, state and local laws.

- HCBF shall prioritize funding the demonstration or implementation of zero or near-zero emission freight movement technologies and other emerging technologies that seek to demonstrate significant emissions reductions from conventional diesel-fueled vehicles and equipment that operate in and around the Port (including ships, harbor craft, trucks, locomotives, or cargo handling equipment). Not less than a majority of AQMF funds shall be spent towards the demonstration or implementation of such technologies. Priority shall also 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 sources of air pollution from port operations, namely ships, harbor craft, trucks, locomotives, or cargo handling equipment.
- Geographical Boundaries. The projects funded by the AQMF are expected primarily to benefit the communities of San Pedro and Wilmington. Projects funded by HCBF shall demonstrate achievable emissions reduction benefits in communities within approximately 25 miles of the San Pedro Bay, with a primary benefit occurring in the communities of San Pedro and Wilmington, although the benefits may also extend beyond the 25-mile boundary.”

The Board may not decline to approve release of the funds for a project that is consistent with the above terms of the MOA. Should the Board decline to approve release of the funds for a project, it shall provide written findings relating to the reasons for the rejection based on the project's inconsistency with the MOA.

Staff has reviewed the request submitted by the HCBF and recommends the Board's approval of the proposed Air Quality Mitigation Program, Round 2 grant based on these factors.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of HCBF's Air Quality Mitigation Program, Round 2 Grant and the transfer of funds to the AQMF. This action is limited to the distribution of funds, which is an administrative activity. The individual project implemented with the use of funding will be subject to a separate environmental review by the lead agency with jurisdiction over the project. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of

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the CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The Harbor Department originally funded the AQMF. Approval of the Air Quality Mitigation Program, Round 2 grant project will authorize a draw-down of existing funds from the AQMF with no requirement of the Harbor Department to provide any additional funding. The Harbor Department has made the required contributions to the AQMF for all eligible projects. As of October 31, 2022, the AQMF balance, managed by California Community Foundation was \$4,483,872. Upon Board approval of the Air Quality Mitigation Fund, Round 2 Grant, a lump sum of \$2,000,000 will be transferred from the AQMF to HCBF.

Upon transfer of funds, HCBF will be financially responsible for the disbursement of funds to grantees in accordance with the China Shipping MOA, Amended Stipulated Judgment, and Grant Agreements.

CITY ATTORNEY:

The Office of the City Attorney has confirmed the proposed action's compliance with the Tidelands Trust and China Shipping MOA, and upon Board approval will sign approval to form and legality on the Bank of America fund distribution letter.

TRANSMITTAL:

1. HCBF Air Quality Mitigation Program, Round 2 and AQMF Transfer Request

FIS Approval: MB
CA Approval: JC

APPROVED:


EUGENE D. SEROKA
Executive Director

Author: J. Bautista