



THE PORT
OF LOS ANGELES
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: NOVEMBER 7, 2017

FROM: EXECUTIVE OFFICE

SUBJECT: RESOLUTION NO. _____ - APPROVAL OF HARBOR COMMUNITY BENEFIT FOUNDATION'S REQUEST TO FUND A PROJECT FOR A SAN PEDRO NOISE ASSESSMENT STUDY AND THE TRANSFER OF PORT COMMUNITY MITIGATION TRUST FUNDS

SUMMARY:

Staff requests that the Board of Harbor Commissioners (Board) approve the Harbor Community Benefit Foundation's (HCBF) request to use funds from the Port Community Mitigation Trust Fund (PCMTF) to perform a noise assessment study in San Pedro. This study would measure and identify zones within San Pedro with noise impacts from the Port of Los Angeles, similar to the noise assessment study completed in Wilmington in 2012. Staff further requests that the Board approve the transfer of \$105,270 from the Port Community Mitigation Trust Fund (PCMTF) to HCBF in order to fund this noise assessment study in accordance with the requirements of the TraPac Memorandum of Understanding (MOU). The financial responsibility for funding the \$105,270 resides solely with the HCBF through the proposed funds transference from the PCMTF.

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. Approve Harbor Community Benefit Foundation's recommendation to fund a project from the Port Community Mitigation Trust Fund to undertake a noise assessment study of San Pedro;
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 \$105,270 from J.P. Morgan Private Bank to the Harbor Community Benefit Foundation to be used in accordance with the Harbor Community Benefit Foundation's request; and
4. Adopt Resolution No. _____.

DATE: NOVEMBER 7, 2017

PAGE 2 OF 5

SUBJECT: APPROVE HCBF REQUEST TO FUND A PROJECT FOR SAN PEDRO NOISE ASSESSMENT STUDY AND TRANSFER OF PCMTF FUNDS

DISCUSSION:

Background/Context - On April 2, 2008, the Board approved an MOU between the City of Los Angeles 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 MOU provides for resolution of the EIR/EIS appeals and creation of the PCMTF designated for mitigation projects that mitigate impacts from port and port-related operations and are consistent with the Tidelands Trust and the 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.

On October 20, 2010, the Board approved the Operating Agreement of the MOU, among the Harbor Department, TraPac Appellants, and the HCBF. The Operating Agreement provides specific details regarding the PCMTF and the role and responsibilities of the nonprofit entity and the bylaws which govern it. The terms of the Operating Agreement will remain in effect as long as there is balance in the PCMTF. As of September 30, 2017, balance of the PCMTF was \$3,229,896. After the initial funding established by the TraPac MOU, funds were added to the PCMTF primarily by contributions from the Harbor Department for projects designated in TraPac MOU Exhibit B that had EIRs certified by May 31, 2016 and were funded when notices to proceed with construction were issued or actual construction commenced.

Use of the PCMTF by the HCBF is subject to rules, restrictions, compliance, and monitoring imposed by the MOU, Operating Agreement, and Tidelands Trust Doctrine. The approval of PCMTF-funded projects and transfer of funds from the PCMTF to the HCBF is subject to review and approval by the Board as well as approval as to form and legality by the Office of the City Attorney.

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. HCBF must request the Board to approve the selected projects and approve a transfer of funds from the PCMTF to fund grant awards. HCBF must provide, for each project recommended for approval, "a Project-specific Tidelands nexus analysis that includes a description of the Port and Port-related operations to be mitigated and an analysis of how the recommended mitigation measure will address, reduce or eliminate such impacts...[and] how the recommended mitigation measure is reasonable and appropriate for an impact." (Operating Agreement p. 6, Section 5.B.iv.) Additionally, HCBF must report on progress of previously approved grant funded projects and the balance of the PCMTF with all requests for PCMTF funding. Moreover, HCBF will remain the nonprofit organization to administer the PCMTF until the fund is

DATE: NOVEMBER 7, 2017

PAGE 3 OF 5

SUBJECT: APPROVE HCBF REQUEST TO FUND A PROJECT FOR SAN PEDRO NOISE ASSESSMENT STUDY AND TRANSFER OF PCMTF FUNDS

completely spent, or HCBF is dissolved, or all parties agree to terminate the Operating Agreement or the PCMTF without reviewing the MOU.

Since its inception, HCBF has completed an Off-Port Impact Land Use Study, a Noise Assessment in Wilmington (Phase I of the Noise Mitigation Program), and launched three competitive grant programs: Community Benefit Grants, Healthy Harbor Grants, and Harbor Schools STEAM Initiative Grants. To date, HCBF has distributed \$5,220,000 in grants to fund projects designed to address Port impacts on aesthetics, air quality, biological resources, cultural resources, health risks and land use for San Pedro and Wilmington.

Noise Assessment Study – At its meeting on May 17, 2012, the Board of Harbor Commissioners approved HCBF’s request to conduct a noise assessment in Wilmington as a part of “Project A” of Exhibit A to the TraPac MOU which specified a project for “installation of sound dampening double paned windows in schools and residences in the zone of greatest impact from TraPac.”. The noise assessment study was conducted by the consulting firm of Landrum & Brown, Inc., which was selected through a Request for Proposals process, at a cost of \$185,000. The study assessed noise levels at schools and residences within those portions of Wilmington most likely affected by Port operations.

HCBF is now seeking to undertake a similar noise assessment study in San Pedro to similarly identify areas that are most impacted by Port operations, and utilizing the consulting firm of The Jones Payne Group, which with Landrum & Brown, Inc. performed the Wilmington Noise Study. At its August 19, 2016 meeting, the HCBF Board of Directors voted to approve Task 1 of a San Pedro Noise Assessment Study, utilizing unspent funds from the Wilmington Noise Assessment.

It should be noted that the original Project A of Exhibit A to the TraPac MOU was specifically for noise mitigation to address noise impact from the TraPac terminal. However, as explained below, the TraPac Operating Agreement does authorize projects for studies if they contribute to the furtherance or development of potential projects. Task 1 of the San Pedro Study (Transmittal 2) included identifying if a need existed for a noise assessment study in San Pedro. The draft Task 1 Study identified seven potential community areas in San Pedro for the Task 2 noise study and concluded that “The potential noise impacts result from a number of sources that include a single rail line into a refinery or LPG terminal, a rail line on port facilities, truck traffic on the Harbor Freeway (IH-110), truck traffic on the Terminal Island Freeway (SR-47), and truck traffic on freeway ramps and local roads leading to the port facilities.”

On June 9, 2017, the HCBF Board of Directors, by majority vote, approved Task 2 in moving forward with the San Pedro Noise Assessment Study. Task 2 will include noise measurements, development of noise impact criteria, mapping and identification of noise impacts. The proposed draft contract between HCBF and The Jones Payne Group is attached in Transmittal 3.

DATE: NOVEMBER 7, 2017

PAGE 4 OF 5

SUBJECT: APPROVE HCBF REQUEST TO FUND A PROJECT FOR SAN PEDRO NOISE ASSESSMENT STUDY AND TRANSFER OF PCMTF FUNDS

Factors to be Considered by the Board of Harbor Commissioners – The Operating Agreement of the TraPac Memorandum of Understanding sets forth the relationship between the HCBF and the Board. The board remains the trustees of the Tidelands assets at issue, the funds in the PCMTF, and must exercise “its independent judgment to determine that [proposed HCBF] projects mitigate a direct or indirect impact from Port or Port-related operation and are consistent with the Tidelands Trust and the [TraPac] MOU. *The term “projects,” as used herein, shall include specific studies if they contribute to the furtherance or development of potential projects, analysis of project results, or in furtherance of a mitigation goal or requirements (emphasis added).*

In accordance with Section 5.C of the Operating Agreement, the Board shall consider the following factors in voting on an HCBF requested project:

- a) consistency with the TraPac MOU and the Tidelands Trust;
- b) whether the identified impact is attributable to Port or Port-related operations;
- c) whether the proposed project reasonably and appropriately mitigates, addresses, reduces, or eliminates the identified impact;
- d) that the budget and schedule for funding draw-downs from the PCMTF is appropriate for the type of project; and
- e) the substantial form of contracts which the Nonprofit proposes to enter into if the project is approved.

The Board may not arbitrarily or unreasonably decline to fund a project. Should the Board decline to fund a project recommended by the HCBF, it shall provide written findings relating to the reasons for the rejection based on the factors above.

Staff has reviewed the request submitted by the HCBF and recommends the board’s approval based on these factors.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the HCBF’s San Pedro Noise Assessment Study and the transfer of funds to the PCMTF. This action is limited to the administrative approval for the distribution of funds. Individual projects implemented with the use of funding will be subject to separate environmental review by the lead agency with jurisdiction over the project. Therefore, as an administrative activity, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

DATE: NOVEMBER 7, 2017

PAGE 5 OF 5

SUBJECT: APPROVE HCBF REQUEST TO FUND A PROJECT FOR SAN PEDRO NOISE ASSESSMENT STUDY AND TRANSFER OF PCMTF FUNDS

FINANCIAL IMPACT:

The Harbor Department originally funded the PCMTF. Approval of the San Pedro Noise Assessment Study will allow a draw-down of funds from the PCMTF with no requirement of the Harbor Department to provide any additional funding. The Harbor Department has made the required contributions to the PCMTF for all eligible Exhibit B projects. As of September 30, 2017, the PCMTF balance, managed by J.P. Morgan Private Bank, was \$3,229,896. Upon Board approval of the San Pedro Noise Assessment Study, a lump sum of \$105,270 will be transferred from the PCMTF to HCBF.

To date HCBF has allocated a total of \$5,550,019 to grantees and contractors in combined HCBF-administered funds. Upon transfer of funds, HCBF will be financially responsible for the disbursement of funds to grantees in accordance with the TraPac MOU, Operating Agreement and Grant Agreements.

CITY ATTORNEY:

The Office of the City Attorney has reviewed the proposed project and requested transfer of funds from the PCMTF and approved the proposals as to form and legality including compliance with the TraPac MOU and Operating Agreement.

TRANSMITTALS:

1. HCBF San Pedro Noise Assessment Study and PCMTF Transfer Request
2. Port-Related Noise Impact Study For Community Of San Pedro, California March 2017 Prepared by The Jones Payne Group, Landrum & Brown, Inc.
3. Draft Agreement for Professional Services for Preparation of San Pedro Noise Study

FIS Approval: MB (initials)

CA Approval: ME (initials)

APPROVED:



EUGENE D. SEROKA
Executive Director