



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MAY 1, 2012

FROM: EXECUTIVE OFFICE

**SUBJECT: RESOLUTION NO. _____ APPROVE HARBOR
COMMUNITY BENEFIT FOUNDATION'S REQUESTED NOISE
ASSESSMENT, PHASE 1 OF TRAPAC MOU EXHIBIT A, PROJECT A
AND THE TRANSFER OF FUNDS TO THE HARBOR COMMUNITY
BENEFIT FOUNDATION**

SUMMARY:

The Harbor Community Benefit Foundation (HCBF) hereby requests that the Board of Harbor Commissioners (Board) approve its use of the Port Community Mitigation Trust Fund (PCMTF) to perform a noise assessment as Phase 1 of TraPac Memorandum of Understanding (TraPac MOU) Exhibit A, Project A, installation of sound dampening double pane windows, and to direct the California Community Foundation (CCF) to release a single disbursement of \$185,000 from the PCMTF for this project.

Staff has reviewed the proposal submitted by the HCBF and recommends approval in accordance with the Operating Agreement of the TraPac MOU.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve Harbor Community Benefit Foundation's request to use the Port Community Mitigation Trust Fund to perform a noise assessment as Phase 1 of TraPac MOU Exhibit A, Project A, installation of sound dampening double pane windows;
2. Authorize the Executive Director or her designee to execute a joint letter with the Harbor Community Benefit Foundation to approve the distribution of funds in one lump sum payment of \$185,000 from the California Community Foundation to the Harbor Community Benefit Foundation to be used in accordance with Harbor Community Benefit Foundation's request; and
3. Adopt Resolution No. _____.

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DISCUSSION:

The HCBF is the non-profit entity established to operate the PCMTF which was created in accordance with the TraPac MOU. The HCBF is requesting approval to use PCMTF funds in the amount of \$185,000 to perform a noise assessment as Phase 1 of TraPac MOU Exhibit A, Project A, installation of sound dampening double pane windows (Transmittal 1). The proposed noise assessment will identify and measure the zones of greatest impact and quantify the cost to mitigate, a precursor to installing dual paned windows, as stated in the TraPac MOU, to "reasonably and appropriately mitigate, address, reduce, or eliminate the identified impact." The noise assessment will document the noise levels at schools and residences within those portions of Wilmington that are likely affected by port operations. The resulting noise impacts will be ranked to determine priorities, detailed recommendations will be provided on how to mitigate sound impacts, cost estimates will be developed, and an estimated implementation schedule will be provided.

In response to a Request for Proposals (RFP), the HCBF selected the consulting firm Landrum & Brown (Contractor) to perform the noise assessment. The proposed scope of work for this project, as well as a draft contract for services between the HCBF and the Contractor, are attached in Transmittal 3.

HCBF Board Action - On February 23, 2012, the HCBF Board of Directors (HCBF Board), by majority vote, approved in substantial form the enclosed draft contract between the HCBF and the Contractor for the proposed project in the amount of \$177,801. In addition, the HCBF Board approved a contingency for reimbursable items in the amount of \$7,199 (Item 7, February 23 memo from Mark Vargas to the HCBF Board attached – Transmittal 2) and authorized the transmittal of this request for funding to the Board of Harbor Commissioners for an amount not to exceed \$185,000.

Factors to be Considered by the Board of Harbor Commissioners (Board) - 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 operations and are consistent with the Tidelands Trust and the [TraPac] MOU." (Operating Agreement, Section 5.A).

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;

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- 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 execution and funding of a contract from the HCBF for a noise assessment funded by the PCMTF. As an activity involving data collection and resource evaluation which does not result in a serious major disturbance to an environmental resource, the Director of Environmental Management has determined that the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article III, Class 6 of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

Approval of the proposed project will support 1 direct and 1 secondary job for the five-county region. Approval to transfer funds to HCBF will have no employment impact.

FINANCIAL IMPACT:

The \$185,000 in funds requested by the HCBF will be transferred from the CCF to the HCBF upon approval by the Board. On March 31, 2012, the PCMTF balance was approximately \$9.8 million.

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CITY ATTORNEY:

The Office of the City Attorney was reviewed and approved the requested transfer as to form and legality including conformance with the TraPac MOU and Operating Agreement.

TRANSMITTALS:

1. Request from the Harbor Community Benefit Foundation for Noise Assessment
2. Harbor Community Benefit Foundation Staff Memo to HCBF Board
3. Landrum & Brown – HCBF Noise Assessment Contract
 - a. Exhibit A – Noise Assessment Scope of Work
 - b. Exhibit B – Fees, Rates and Delivery Schedule

FIS Approval: RP (initials)

CA Approval: gnc (initials)

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

GK/mrc