

DATE: AUGUST 15, 2024

FROM: COMMUNITY RELATIONS

**SUBJECT: RESOLUTION NO. _____ - APPROVAL OF HARBOR
COMMUNITY BENEFIT FOUNDATION'S AIR QUALITY MITIGATION
PROGRAM, ROUND 3 GRANT AND THE TRANSFER OF AIR QUALITY
MITIGATION PROGRAM FUNDS**

SUMMARY:

Staff requests approval of the Harbor Community Benefit Foundation's (HCBF) selection of AERAS, STAX, AND 4G Management, Inc. to receive funding from the Air Quality Mitigation Program, Round 3 and transfer \$2,327,802.11, including a 10% administrative fee of \$211,618.37, from the Air Quality Mitigation Fund (AQMF) to HCBF. The AQMF was established by the City of Los Angeles Harbor Department (Harbor Department) for the purpose of funding appropriate mitigation projects which address 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 of Harbor Commissioners (Board).

The HCBF Board of Directors has selected three grantees, AERAS, STAX, AND 4G Management, Inc. to receive funding from the Air Quality Mitigation Program, Round 3 grants and is requesting Board approval of the award recipients and transfer of funds from the AQMF, in accordance with the requirements of the China Shipping Memorandum of Agreement (MOA) approved by Board Resolution 21-9929. The proposed projects have 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 projects and for the disbursement of funds to the grantees 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

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Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;

2. Approve Harbor Community Benefit Foundation's selection of three grantees to receive an award from the Air Quality Mitigation Program Round 3, 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 \$2,327,802.11 from the Air Quality Mitigation Fund, managed by the California Community Foundation (CFF), 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 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 lapsed, effective June 14, 2009, and approximately \$9,226,944 million remained unallocated.

In 2015, the Board approved Resolution 15-3364, for a disbursement of \$5,226,944 million to an independent air quality mitigation program emissions (The "Air Quality Mitigation Fund" or "AQMF") to be administered by HCBF for the reduction of Port-related air emissions. That five-year agreement expired on May 31, 2021. Resolution 21-9929 was approved by the Board approving the successor Memorandum of Agreement (MOA) for a five-year term, June 1, 2021 – May 31, 2026.

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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 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.

Air Quality Mitigation Grant Program – HCBF solicited applications from eligible entities for projects aimed at meeting the goals of the AQMF program. The objectives of the AQMF program included implementing programs, projects, and approaches to reduce Port-related air emissions in San Pedro and Wilmington or within a 25-mile boundary of the San Pedro Bay. AQMF Round 3 focused specifically on Ocean-Going Vessels (OGVs).

To solicit qualified projects for funding, HCBF staff and technical consultant Kat Janowicz 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 the AQMF webpage.

HCBF’s Request for Letters of Interest (LOI), was released on December 21, 2022, and due on or before February 24, 2023. HCBF Staff received four LOIs which were then reviewed by HCBF Staff, the HCBF Board ad-hoc committee, and the technical consultant. The four qualified applicants were invited to submit a full application.

Full applications in response to the Request for Proposals (RFP) were due by May 23, 2023. Four companies submitted full applications for review. Funding requests totaled \$15,476,500, nearly four times the available funds. An overview of the submissions is found in Appendix A of Transmittal 1.

All applications were reviewed by HCBF staff and its technical consultant, the HCBF Board ad-hoc committee, and an external review panel comprised of technical experts from South Coast Air Quality Management District (SCAQMD), the California Air Resources Board (CARB), and community stakeholders. HCBF also consulted with Port staff in the Environmental Division throughout the review process.

Assessment was based on responsiveness to the criteria stated in the RFP: organizational capacity, feasibility, budget, timeline, and project benefits to the community.

On January 26, 2024, the HCBF Board of Directors approved the recommendation to fund Round 3 of the Air Quality Mitigation Program, in the amount of \$2,116,183.74 for

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projects to reduce port-related air emissions in the San Pedro Bay area, awarding an equal share of \$705,394.58 to each of the three grantees: AERAS, STAX, and 4G Management Inc.

Description of Technology – The three proposed projects recommended by the HCBF from AERAS, STAX, and 4G Management, Inc. will reduce emissions of OGVs.

4G Management Inc. – The “Maritime Emissions Capture & Control System” project is a shore based or barge-based system, operated on Renewable Natural Gas, consisting of a floating platform, tower, emission collection device, emission treatment system, continuous emission monitoring system (CEMS) and fuel system.

Advanced Environmental Group (AEG) designed, built, and operated the first barge-based capture and control system in the Port of Los Angeles after receiving their CARB approval in August of 2015. The new system being developed will be used on container vessels calling the San Pedro Bay Complex. The systems needed for this work will be located on a barge platform once completed. Utilizing a harbor tug, the barge is pushed to the berthing location of the ship requiring service and secured to the offshore side of the ship. 4G’s on deck equipment will be deployed to attach to the ship’s auxiliary engine stack. 4G’s equipment shall remain connected to the vessel from first line through last line. 4G’s barge will be an approved Alternative Technology to CARB’s At-Berth Regulations.

AERAS – The “AERAS Technologies: Barge-based Emission Capture and Control for RoRo¹ and Bulk Vessels” project will have a barge-mounted emission capture and treatment platform that provides CARB-compliant removal of diesel particulates, NOx, and reactive organic gasses.

AERAS is completing demonstration testing on Container vessels in the Los Angeles/Long Beach Port complex. AERAS has innovated to offer marine systems that integrate a series of proven emission capture and control technologies, that exceed the reliability and effectiveness of previously deployed units. AERAS currently provides services to container vessels. With support of HCBF, AERAS will modify and demonstrate a CARB-approved barge-based emission capture and control system to treat emissions from RoRo and Bulk vessels. Currently there are no such systems in the San Pedro Bay. Upon successful completion of testing, AERAS plans to deploy a fleet of these systems to serve California ports.

STAX – The “Build and Operate an Emission Control System for Ocean Going Vessels at Berth” project will utilize the STAX system, commercially available, which is in operation at the Los Angeles and Long Beach ports servicing container and auto carrier vessels. The system captures vessel emissions using a system that connects to the vessel’s

¹ Roll-on/roll-off (RORO or ro-ro) ships are cargo ships designed to carry wheeled cargo, such as cars, motorcycles, trucks, semi-trailer trucks, buses, trailers that can be rolled on and off the vessel when in port.

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exhaust pipes, collects exhaust gas, and conveys the exhaust gas to the STAXbox™ purification system.

STAX Engineering is proposing to construct a new barge-based emissions control system for servicing OGVs while at berth. The system will use a specially designed placement arm to collect the exhaust from the ships exhaust pipe and transport it to the barge-based control equipment for removal of criteria and toxic pollutants.

STAX Engineering has a fully operational system servicing vessels today. The system is currently being modified to include a second air purification system on the barge so it will be able to control emissions from two exhaust pipes as many ships operate two engines while at berth or an engine and boiler. STAX Engineering's first barge system has approved testing plans for container vessels, auto carriers/ RoRo, and tankers.

The recommended Air Quality Mitigation Program, Round 3 grant projects conform to requirements of the China Shipping MOA, Amended Stipulated Judgment and Tidelands Trust.

Administrative Costs – Pursuant to the MOA, Section 5.g. HCBF shall annually withdraw funds from the AQMF special program account to pay for administrative costs. Withdrawals to cover administrative costs generally shall not exceed 10% (ten percent) of the dollar amount of the grants approved annually by the Board after the first year from the Effective Date. Costs may include but not be limited to costs for staff time managing and overseeing the implementation of this Agreement, insurance, legal costs including without limitation those related to mediation and arbitration under this Agreement, program management to ensure timely progress and oral written reporting, contract administration time for contracts and invoices, and technical and legal support for the purpose of determining whether a proposed project is consistent with this Agreement shall be treated as part of the administrative costs of HCBF. In the event HCBF determines that the amount of administrative costs will exceed the 10% (ten percent) limit, HCBF may request an increase in the amount in any given year by submitting a request to the Harbor Department.

AQMF Disbursement of Funds – Upon Board approval, a single transfer from the AQMF to HCBF in the amount not-to-exceed \$2,327,802.11, including a 10% administrative fee of \$211,618.37, 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 and ASJ sets forth the relationship between the HCBF and the Board. 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 HCBF] projects mitigate a direct or indirect impact from Port or Port-related operations and are consistent with the Tidelands Trust and the [China Shipping] MOA/ASJ." (Operating Agreement, Section 5.A)

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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 China Shipping MOA and ASJ 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 drawdowns from the AQMF 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 of the proposed Air Quality Mitigation Program, Round 3 Grant based on these factors.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of HCBF's Air Quality Mitigation Program, Round 3 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 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 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 pursuant to the China Shipping ASJ. Approval of the Air Quality Mitigation Program, Round 3 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. As of May 31, 2024, the AQMF balance, managed by California Community Foundation was \$2,386,456. Upon Board approval of the Air Quality Mitigation Fund, Round 3 Grant, a lump sum of \$2,327,802.11 will be transferred from the AQMF to HCBF, leaving a balance of \$58,654.

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.

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CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved the requested transfer of funds from the HCBF as to form and legality including compliance with the China Shipping MOA and Amended Stipulated Judgment.

TRANSMITTAL:

1. HCBF Air Quality Mitigation Program, Round 3 and AQMF Transfer Request

FIS Approval: JS
CA Approval: SO



CECILIA MORENO
Community Relations Director



DAVID LIBATIQUE
Deputy Executive Director of
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APPROVED:

 For

EUGENE D. SEROKA
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