

DATE: NOVEMBER 22, 2021

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - AGREEMENT BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT, TRAPAC APPELLANTS, AND HARBOR COMMUNITY BENEFIT FOUNDATION TO TRANSFER REMAINING TRAPAC FUNDS TO THE PORT COMMUNITY MITIGATION TRUST FUND

SUMMARY:

Staff requests approval of the proposed multi-party Agreement between the City of Los Angeles Harbor Department (Harbor Department), Appellants of the TraPac Environmental Impact Report (Appellants), and the Harbor Community Benefit Foundation (HCBF) to transfer the remaining interest funds from the TraPac Memorandum of Understanding (TraPac MOU) of at least \$270,000 and any interest from the TraPac MOU Fund Account to the Port Community Mitigation Trust Fund (PCMTF). In addition, Staff requests authorization to transfer the \$270,000 plus approximately \$129,038 in additional discovered accrued interest from Harbor Department TraPac MOU accounts to the PCMTF. This action will close out the TraPac MOU Fund account held by the Harbor Department. HCBF will administer the additional funds in the PCMTF on behalf of the Appellants.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

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 the Agreement between the City of Los Angeles Harbor Department, the Appellants of the TraPac Environmental Impact Report and Harbor Community Benefit Foundation to transfer at least \$270,000 and any interest generated to the Harbor Community Benefit Foundation for administration;
3. Authorize the Executive Director to execute and Board Secretary to attest to said Agreement for and on behalf of the Board of Harbor Commissioners;

SUBJECT: TRAPAC FUND TRANSFER TO THE PORT COMMUNITY MITIGATION TRUST

4. Authorize the Board Secretary to transmit said Agreement to the Los Angeles City Council for approval in accordance with Charter Section 373 and Los Angeles Administrative Code Section 10.5(a);
5. Upon the approval of City Council in accordance with Los Angeles Administrative Code Section 10.5(a), authorize the Executive Director to execute and the Board Secretary to attest to said Agreement with the Appellants of the TraPac Environmental Impact Report and Harbor Community Benefit Foundation for and on behalf of the Board after approval by City Council;
6. Authorize the Executive Director or designee to execute a joint letter with the Harbor Community Benefit Foundation to approve the deposit of funds in one lump sum payment of at least \$399,038 (\$270,000 and approximately \$129,038 of additional past accrued interest) and execute any other joint letters with the Harbor Community Benefit Foundation for subsequent payments due to trailing interest from the City of Los Angeles Harbor Department to JP Morgan Private Bank, which will close out the TraPac MOU Fund; and
7. Adopt Resolution No. _____.

DISCUSSION:

Background/Context – On April 3, 2008, the Board approved the TraPac MOU between the Harbor Department and the Appellants. The TraPac MOU required the Harbor Department to provide \$6,000,000 for the installation and maintenance of air conditioning purifiers or air filtration systems in school facilities located in the Port of Los Angeles’ (Port) surrounding communities, among other things. At the request of the Harbor Department and Appellants, the South Coast Air Quality Management District (SCAQMD) agreed to administer the air filtration program.

On December 4, 2009, the Board approved Agreement No. 09-2818 between the Harbor Department, the Appellants, and SCAQMD for SCAQMD to administer the program. Agreement No. 09-2818 was extended in 2015 to provide additional time for SCAQMD to finish any required maintenance and installation of equipment. In May 2020, SCAQMD successfully completed the installation of equipment at 39 schools that were selected to be modified and provided a final report. SCAQMD expended all of the original \$6,000,000 of the TraPac MOU funding, but approximately \$270,000 of interest money still remained after Agreement No. 09-2818 expired. SCAQMD returned the interest to the Harbor Department to hold in trust for the Appellants until the Appellants could determine their disposition.

Proposed Agreement – The Appellants were notified of the remaining interest soon after Agreement No. 09-2818 expired. Since then, Harbor Department staff and City Attorneys have held several meetings with the Appellants to discuss options to spend the interest.

DATE: NOVEMBER 22, 2021

PAGE 3 OF 4

SUBJECT: TRAPAC FUND TRANSFER TO THE PORT COMMUNITY MITIGATION TRUST

In the meantime, the funding has been held in trust by the Harbor Department while the Appellants determined how it should be spent. The Appellants decided to transfer all of the remaining funds to HCBF to administer on their behalf, in accordance with procedures for administration of other TraPac MOU funds. Upon approval of this proposed Agreement (Transmittal 1), all remaining funds, along with any interest earned while in trust, will be transferred to the PCMTF. HCBF will administer the additional funds in the PCMTF on behalf of the Appellants.

Due to trailing interest, monies continued to accrue in the TraPac MOU Fund maintained by the Harbor Department, even after the initial TraPac MOU Fund monies were dispersed per the TraPac MOU requirements. Said interest accrued on TraPac MOU funds should also be transferred to the PCMTF at this time. Staff therefore requests Board authority to the Executive Director to execute a joint letter with the HCBF to approve the deposit of funds in one lump sum payment from the Harbor Department in the aggregate amount of at least \$399,038 (comprised of \$270,000 from the SCAQMD fund interest, plus approximately \$129,038 from the Harbor Department's TraPac MOU account's accrued interest) to the PCMTF and close the Harbor Department's TraPac MOU Fund account.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of the Agreement to transfer funds to the Port Community Mitigation Fund, which is an administrative activity. 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:

Approval of the proposed Agreement would transfer the remaining TraPac MOU funds along with any interest earned while in trust to the PCMTF. There is no financial impact as these funds have already been set aside in 2008 as part of the TraPac MOU. Although all original TraPac MOU Fund money had been expended, trailing interest had accrued in the Harbor Department's TraPac MOU Fund account over the years. This final action will transfer the \$270,000 from SCAQMD and any accrued and trailing interest (approximately \$129,038) from the TraPac MOU Fund to the PCMTF and close out the Harbor Department's TraPac MOU Fund account.

CITY ATTORNEY:

The Office of City Attorney has reviewed and approved the subject Agreement as to form and legality.

DATE: NOVEMBER 22, 2021

PAGE 4 OF 4

SUBJECT: TRAPAC FUND TRANSFER TO THE PORT COMMUNITY MITIGATION TRUST

TRANSMITTAL:

1. Agreement between City of Los Angeles Harbor Department, TraPac Appellants, and Harbor Community Benefit Foundation

FIS Approval: *MB*
CA Approval: *JC*



CHRISTOPHER CANNON
Director of Environmental Management

Michael DiBernardo
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APPROVED:

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CC/YO
AUTHOR: A. COLUSO

FILE: Y:_ADMIN_BOARD REPORTS_AIR QUALITY\TRAPAC MOU - FUND TRANSFER\Environmental_TraPac MOU Fund Transfer_Board Report - FINAL.docx
UPDATED: 11/22/2021 1:52 PM - YO