



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

DATE: OCTOBER 27, 2011

FROM: EXECUTIVE OFFICE

**SUBJECT: RESOLUTION NO. _____ - APPROVE HARBOR COMMUNITY
BENEFIT FOUNDATION TRANSITION BUDGET AND TRANSFER OF
FUNDS**

SUMMARY:

The proposed action is to approve the transition budget for the Harbor Community Benefit Foundation (HCBF) and allow for a one time transfer of funds from the Port Community Mitigation Trust Fund (PCMTF) to the HCBF in the amount of \$137,500 for a four-month interim budget to cover the months of December 2011 through March 2012. The HCBF Board of Directors (HCBF Board) requests these funds to ensure a seamless transfer of services from the Mission Infrastructure (Mission) consultant team to the permanent HCBF staff. Staff is recommending the Board of Harbor Commissioners (Board) approve this transition budget and transfer these funds.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the Harbor Community Benefit Foundation Transition Budget in an amount not-to-exceed \$137,500;
2. Approve the transfer of funds in the amount of \$137,500 from the Port Community Mitigation Trust Fund directly to the Harbor Community Benefit Foundation; and
3. Adopt Resolution No. _____.

DISCUSSION:

Background - On December 6, 2007, the Board certified the Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Berth 136-147 (TraPac) Container Terminal and approved the TraPac project. Subsequent to that project approval, certain entities, individuals, and organizations (TraPac Appellants) appealed

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the certification/project approval to the City Council under the provisions of the California Environmental Quality Act (CEQA). On April 2, 2008, the Board approved a Memorandum of Understanding (TraPac MOU) between the City of Los Angeles and the TraPac Appellants. The TraPac MOU provides for settlement of the appeals and creation of a PCMTF to be operated by a nonprofit entity. The PCMTF is currently funded at over \$10 million, and the nonprofit created to provide administrative services for this fund is the HCBF.

About Harbor Community Benefit Foundation - The nonprofit established by the PCMTF was created for the purpose of overseeing administration of grants from the PCMTF and allocating money for projects that will protect, improve and assess public health by off-setting past, present, and future off-port impacts from port operations for the communities of Wilmington and San Pedro. While the HCBF administers the funds from the PCMTF, it has the ability to raise funds from other sources to increase its capacity and impact to execute its mission. It may also make recommendations to the Board on mitigation projects.

Operating Agreement – The Operating Agreement (Transmittal 1) to the TraPac MOU establishes the creation of the PCMTF and requires the establishment of a nonprofit to operate the PCMTF. Pursuant to Section 5(F) of the Operating Agreement between the HCBF and the Board, the HCBF shall submit a detailed budget and report to the Board on an annual basis regarding its administrative needs and requirements. This request constitutes the first portion of this annual budget to be followed by the second portion in a request to the Board anticipated in February 2012. This request is concurrently being sent to the State Lands Commission, in accordance with the Operating Agreement.

Need for Transition Budget – On February 3, 2011, the Board approved an extension of Mission's contract to provide support to the emerging HCBF, including assistance with the formation of the HCBF Board. Mission fulfilled this task, and on May 31, 2011, the HCBF Board held its first meeting. The HCBF and Mission are currently in the selection process for an executive director for the HCBF and hope to bring this person on-board to run the day-to-day operations of the HCBF by the end of this calendar year. During the four-month transition period during which Mission hands daily operations over to the new HCBF staff, the HCBF will continue to rely on Mission for support according to the current contract between Mission and the Harbor Department which expires in March 2012. By that time, the HCBF Board expects their new executive director and staff to be fully operational with a proposed budget for the remainder of the calendar year 2012 in place. While selection of an executive director was called for in the scope of work of the Mission team, there were no funds allocated for actually paying the newly hired executive director. As the HCBF approaches hiring a full time executive director, it is

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imperative that the issue of having funds available for payroll and hard office costs is resolved quickly.

The HCBF requests a transfer of funds in the amount of \$137,500 (Transmittal 3) directly from the PCMTF to the HCBF for coverage of a four-month interim budget occurring over the period December 2011 through March 2012 (Transmittal 2). The HCBF requests these interim budget funds be directly transferred to the HCBF-held bank account, since it is likely that the ultimate transfer mechanism set up through the California Community Foundation (CCF) will not yet be in place (refer to the Board report included under Agenda Item 5). Once in place, the CCF will manage all future disbursements.

The HCBF Board requests these funds in the amount of \$137,500 for an interim budget including the following items:

- **Staff Salaries** - \$100,000 – The HCBF will need funds available to hire a permanent executive director and support staff in 2011. These funds include direct salary costs, associated benefits, and related personnel expenses for a period of four months. The HCBF does not yet have a precise budget amount for staff salary, since an executive director and administrative staff has not yet been chosen, but the \$100,000 amount is meant to ensure that the HCBF can adequately take care of its payroll obligations during this period. Any unused funds will be rolled over into long-term salary expenses.
- **Office Rent, Equipment, Supplies, and Expenses** - \$17,500 – The HCBF has acquired office space located at 160 W. 6th Street, Suite 100B, San Pedro, CA 90731, and will need funding for monthly rent payments, as well as for acquisition of office furniture, equipment, supplies, and expenses. This line item includes four months of rent to ensure that office space is available between this transition budget and the 2012 operating budget request.
- **General Consulting Services** - \$20,000 - The HCBF anticipates that the new executive director and support staff may also require contract consulting services in the area of legal counsel, contract administration, project management, etc. This is consistent with the language of Section 5(F) of the Operating Agreement. Again, the HCBF may decide, using its own discretion, to not use all of these funds on general consulting services, but wishes to have a reserve fund available should the HCBF and its executive director require such assistance. Mission and their sub-consultants are precluded from providing services under contract to the HCBF.

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This transition budget will ensure that the HCBF will have enough funds to adequately negotiate a salary for the incoming executive director, as well as to accommodate general costs to hire additional expertise, if needed. It is anticipated that the HCBF will use its own discretion when managing the abovementioned funding items, which may include reasonable transfers of funds from one task item to supplement other task items. The HCBF Board, through its newly hired executive director, will seek an annual budget-funding request from the Board in January 2012 for funding of the remainder of the calendar year, April 2012 – December 2012. Any surplus funds available from the transition budget will be used to offset funds requested for the remainder of the year.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of HCBF's transition budget and the one time transfer of funds from the PCMTF to the HCBF. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the CEQA in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The PCMTF balance as of September 30, 2011 is approximately \$10 million. This includes funding from projects outlined under the TraPac MOU. This amount also includes interest income of approximately \$680,505 and total payments to Mission in the amount of \$576,914. This amount does not include a payment for the September and October invoices from Mission in the amount of \$23,430.

The proposed action seeks the approval of the transfer of \$137,500 from the PCMTF to fund the transition budget of the newly formed HCBF for the four-month period December 2011 through March 2012. Subsequent to this the HCBF Board, with assistance from its newly hired executive director, will develop an annual budget-funding request for funding of the remainder of the calendar year, April 2012 – December 2012 for Board consideration. According to the TraPac MOU, in the first year the nonprofit shall ensure that the projects described in "Exhibit A" are prioritized for funding before other projects are approved for funding through the PCMTF. There is no specific allocation provided for the PCMTF administration costs. The requested funds of \$137,500 are administration costs and will be included in the future PCMTF proposed budget. These administrative costs will decrease funds that were allocated in the TraPac MOU for specified projects.

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Funds in the amount of \$137,500 for this initial transition budget funding are available in the current 2011/2012 fiscal year in Account 21958 Center 7000 Program 000. Any future funding request will be brought before the Board in a separate action for consideration.

ECONOMIC BENEFITS:

This Board action will have minor employment impact (less than 1 direct one-year equivalent job impact) in the five-county region.

CITY ATTORNEY:

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

TRANSMITTALS:

1. Operating Agreement
2. Transition Budget Request
3. Proposed Transition Budget

FIS Approval: ef (initials)
CA Approval: rn (initials)

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director