



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

DATE: NOVEMBER 6, 2019

FROM: EXECUTIVE OFFICE

**SUBJECT: RESOLUTION NO. _____ - APPROVAL OF HARBOR
COMMUNITY BENEFIT FOUNDATION'S AIR QUALITY MITIGATION
PROGRAM, ROUND 1 GRANT AND THE TRANSFER OF AIR QUALITY
MITIGATION PROGRAM FUNDS**

SUMMARY:

Staff requests that the Board of Harbor Commissioners (Board) approve Harbor Community Benefit Foundation's (HCBF) selection of Effenco to receive funding from the Air Quality Mitigation Program, Round 1 and transfer \$823,050 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.

The HCBF Board of Directors has selected Effenco to receive funding from the Air Quality Mitigation Program, Round 1 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 Memoranda of Agreements (MOA). The proposed projects have a Tidelands nexus and will mitigate air emissions impacts on the local communities of Wilmington and San Pedro. HCBF may seek Board approval at a future time for one additional project from the Round 1 grant process. 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 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 Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;

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2. Approve Harbor Community Benefit Foundation's selection of Effenco to receive awards from the Air Quality Mitigation Program Round 1, 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 \$823,050 from City National Bank 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 City of Los Angeles Harbor Department ("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 has lapsed, effective June 14, 2009, and approximately \$9,226,944 million remained unallocated. In November 2015, the Board approved a disbursement of \$5,226,944 million to an independent air quality mitigation program, to be administered by HCBF for the reduction of Port-related air emissions (the "Air Quality Mitigation Fund" or "AQMF"). The AQMF is administered and managed by the HCBF to solicit and select projects and programs to receive funding from the AQMF with Board approval.

Also in November 2015, the Board approved an advance of administrative costs of \$250,000 from the AQMF to HCBF to administer development and issuance of the initial Requests for Proposal for projects. The HCBF may annually request withdrawal of funds

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from the AQMF to pay for actual administrative costs, not to exceed ten percent of the annual dollar amount of the grants approved. The budget for 2018 along with a projected budget for 2019 was received, reviewed and approved by the Harbor Department Executive Director in February 2019.

As of July 31, 2019 the AQMF balance was \$5,140,576.18.

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 Program Grants – HCBF released a Request for Letters of Intent (LOI) the first round solicitation for the Air Quality Mitigation Program, Round 1 grants on August 29, 2018. Staff and technical consultants from 3COTECH, Inc. hosted a webinar to provide background on the program and to share information about the selection process. HCBF received 19 LOIs by October 26, 2018. Of those, 12 were invited to submit a full application in response to the Request for Proposals (RFP). Full applications were due by January 31, 2019. From the 12 invited applicants, nine companies submitted full applications for review.

The HCBF Board appointed an ad-hoc AQMF Review Committee, comprised of HCBF Board members Angelo Logan, Ed Avol and Jayme Wilson, who met with staff to consider and evaluate the applications. Selection criteria can be found in Transmittal 1. As part of the evaluation process, HCBF established a special AQMF review panel consisting of the ad-hoc committee, technical consultant and a panel of external personnel/stakeholders with demonstrated expertise in port-related technology, zero, near-zero emission and relevant emission reduction technology, AQMF MOA/ China Shipping, and community impacts in San Pedro and Wilmington. Additionally, a seven-member panel of external reviewers (consisting of governmental agencies, local residents, academic institutions and non-profit organizations) was created to assist HCBF and the ad-hoc committee in determining finalists.

Staff, with the approval of the ad-hoc committee, recommended funding Effenco for a total of \$832,050 and the HCBF Board of Directors unanimously approved staff's recommendation at their meeting of July 26, 2019. Information on Effenco program follows:

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COMPANY	Effenco
PROJECT TITLE	Rapid Deployment of Electric Active STOP-START Technology for Zero-Emission Idling from Port Yard Tractors
BRIEF DESCRIPTION OF TECHNOLOGY	The active STOP-START system provides zero-emission operation when the yard tractors are immobile by automatically turning the engine off. It uses energy stored in ultracapacitors to supply electric power to the vehicle equipment. Effenco's bi-directional telemetry systems collect operating parameters to remotely monitor each vehicle status and system performance. The technology is fully developed, commercialized, and deployed in other ports. It's suitable for most medium heavy-duty vocational trucks such as port terminal tractors and drayage trucks. The project would involve the retrofit of a total of 16 tractors in two port terminals and on a mix of Tier 3 and Tier 4 engine technologies. It allows for immediate reduction of criteria pollutant and GHG emissions.
TECHNOLOGY CATEGORY	Emission Reduction / ZE
VEHICLE CATEGORY	Medium Heavy-Duty Trucks
REASONING: FUNDING & AMOUNT	\$823,050 Recommended for funding due to significant emission reductions localized in the geographic area of focus, excellent cost-effectiveness, no infrastructure upgrades requirements, and five new project-specific local jobs for two years. Overall a good application.

A letter of commitment to participate in the Effenco project from Yusen Terminals, LLC is included in Transmittal 1.

The recommended Air Quality Mitigation Program, Round 1 grant project conforms to the requirements of the China Shipping MOA, Amended Stipulated Judgment and Tidelands Trust. Based on the funding amounts, approximately \$4.3 million will remain for a Round 2 of the AQMF program. The recommendations to address more short-term community concerns are provided, while also having Round 2 funding for technologies that will benefit communities to a greater extent. At a future time, HCBF may come back to the Board seeking one additional project for funding under Round 1 grants.

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AQMF Disbursement of Funds – Upon Board approval, a single transfer from the AQMF to HCBF in the amount of \$823,050 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)

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 draw-downs 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 1 grant based on these factors.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of HCBF's Air Quality Mitigation Program, Round 1 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.

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FINANCIAL IMPACT:

The Harbor Department originally funded the AQMF. Approval of the Air Quality Mitigation Program, Round 1 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. The Harbor Department has made the required contributions to the AQMF for all eligible projects. As of July 31, 2019, the AQMF balance, managed by California Community Foundation, City National Bank, was \$5,140,576.18. Upon Board approval of the Air Quality Mitigation Fund, Round 1 Grants, a lump sum of \$823,050 will be transferred from the AQMF to HCBF.

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.

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 1 and AQMF Transfer Request

FIS Approval: 

CA Approval: 

APPROVED:

 FOR

EUGENE D. SEROKA
Executive Director

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