



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

DATE: MAY 8, 2018

FROM: EXECUTIVE OFFICE

**SUBJECT: RESOLUTION NO. _____ - APPROVAL OF HARBOR
COMMUNITY BENEFIT FOUNDATION'S COMMUNITY BENEFIT
GRANT PROGRAM, ROUND 5 – SHAREFEST PHASE 2 GRANT
AWARD AND THE TRANSFER OF PORT COMMUNITY MITIGATION
TRUST FUNDS**

SUMMARY:

Staff requests that the Board of Harbor Commissioners (Board) approve Harbor Community Benefit Foundation's (HCBF) recommendation to fund the Sharefest Community Development (Sharefest) grant Round 5 Phase 2 and transfer \$42,393 from the Port Community Mitigation Trust Fund (PCMTF) to HCBF. The PCMTF was established by the City of Los Angeles Harbor Department (Harbor Department) for the purpose of funding appropriate mitigation projects and grants addressing port-related impacts for the communities of San Pedro and Wilmington. The HCBF, an independent nonprofit organization established to operate the PCMTF, is responsible for identifying qualifying projects to receive grant funding from the PCMTF to be approved by the Board.

Upon the transfer of funds from the PCMTF to HCBF, HCBF will be financially responsible for the proposed project and for the disbursement of funds to grantee in accordance with the TraPac MOU, Operating Agreement and the Grant Agreement. The Harbor Department funded the original PCMTF, but 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;
2. Approve Harbor Community Benefit Foundation's action to fund Phase 2 from Round 5 of the Community Benefit Grant Program, in the amount of \$42,393, funded by the Port Community Mitigation Trust Fund;

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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 \$42,393 from J.P. Morgan Private 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 April 3, 2008, the Board approved an MOU between the City of Los Angeles and certain organizations and individuals (TraPac Appellants) to resolve an appeal of the certification of the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the TraPac Container Terminal Project (TraPac) to the Los Angeles City Council. The MOU provides for resolution of the EIR/EIS appeals and creation of the PCMTF designated for mitigation projects that mitigate impacts from port and port-related operations and are consistent with the Tidelands Trust and the MOU. In addition the MOU required the creation of a nonprofit entity, the HCBF, to operate the PCMTF and oversee the grant selection and grant-making process in accordance with the TraPac MOU.

On October 7, 2010, the Board approved the Operating Agreement of the MOU, among the Harbor Department, TraPac Appellants, and the HCBF. The Operating Agreement provides specific details regarding the PCMTF and the role and responsibilities of the nonprofit entity and the bylaws which govern it. The terms of the Operating Agreement will remain in effect as long as there is a balance in the PCMTF. As of March 31, 2018 the balance of the PCMTF was \$1,949,993. After the initial funding established by the TraPac Project, funds are added to the PCMTF primarily by contributions from the Harbor Department for projects designated in TraPac MOU Exhibit B that have EIRs certified by May 31, 2016 and have notices to proceed with construction or actual construction commences.

Use of the PCMTF by the HCBF is subject to rules, restrictions, compliance, and monitoring imposed by the MOU, Operating Agreement, and Tidelands Trust Doctrine. The approval of PCMTF-funded projects and transfer of funds from the PCMTF to the HCBF is subject to review and approval by the Board as well as approval as to form and legality by the Office of the City Attorney.

HCBF Role and Responsibilities - HCBF is an independent legal entity that serves as the neutral, third-party to administer the PCMTF 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 PCMTF to fund grant awards. HCBF must provide, for each project recommended for approval, "a Project-specific Tidelands nexus analysis that includes a description of the Port and Port-related operations to be

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mitigated and an analysis of how the recommended mitigation measure will address, reduce or eliminate such impacts...[and] how the recommended mitigation measure is reasonable and appropriate for an impact.” (Operating Agreement p. 6, Section 5.B.iv.) Additionally, HCBF must report on progress of previously approved grant funded projects and the balance of the PCMTF with all requests for PCMTF funding. Moreover, HCBF will remain the nonprofit organization to administer the PCMTF until the fund is completely spent, or HCBF is dissolved, or all parties agree to terminate the Operating Agreement or the PCMTF without reviewing the MOU.

Since its inception, HCBF has completed an Off-Port Impact Land Use Study, a Noise Assessment in Wilmington (Phase I of the Noise Mitigation Program), and launched three competitive grant programs: Community Benefit Grants, Healthy Harbor Grants, and Harbor Schools STEAM Initiative Grants. To date, HCBF has distributed \$6,300,083 in grants to fund projects and studies designed to address Port impacts on aesthetics, air quality, biological resources, cultural resources, health risks and land use for San Pedro and Wilmington.

Community Benefit Grant Program – Since 2013, the HCBF has awarded, and this Board has approved, the following community benefit grants totaling \$3,250,813:

- Round 1, December 12, 2013 – 19 projects for \$506,000
- Round 2A, October 16, 2014 – 20 projects for \$570,000
- Round 2B, March 19, 2015 – 3 projects for \$50,000
- Round 3, November 23, 2015 – 10 projects for \$350,000
- Round 4, October 24, 2017 – 15 projects for \$800,000
- Round 5, November 16, 2017 – 10 projects for \$330,019
- Round 6, January 16, 2018 – 10 projects for \$644,794

Sharefest Project

The HCBF Board of Directors selected the Sharefest project to landscape a vacant parcel adjacent to 22nd Street Park, as part of the Community Benefit Grant Program, Round 5. The Sharefest Project was split into two phases -- design and implementation, due to concerns from Harbor Department engineering staff regarding geologic impacts of proposed project irrigation system on the site. Phase 1 Design was approved by the Board and funded at \$4,950. Phase 2, implementation, was delayed until the Harbor Department engineering staff could review the project design. Plan design concerns were communicated to Sharefest and the plan was modified. The current project plan has been reviewed by Harbor Department engineering staff and there are no concerns. The HCBF Board of Directors now seeks to move forward into the implementation phase of this project which is expected to cost \$80,480. Due to funds becoming available due to a grant cancellation from Round 6, HCBF is seeking funding from the PCMTF in the amount of \$42,393. Board approval is requested to move forward with Sharefest project, Phase 2 and transfer of funds from the PCMTF, in accordance with

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the requirements of the TraPac Memorandum of Understanding (MOU) and Operating Agreement of the TraPac MOU (Operating Agreement).

The proposed project has a Tidelands nexus and will mitigate, reduce and address the Port of Los Angeles' (Port) impact on the local community of San Pedro. Upon approval, \$42,393 will be transferred from the PCMTF to HCBF for the grant award.

The recommended Community Benefit Grant project conforms to requirements of the TraPac MOU and Operating Agreement and Tidelands Trust. This project has been selected to receive PCMTF funding based on identification of impacts from Port or Port-related operations, the ability of the proposal to mitigate the identified impact, technical feasibility, cost-effectiveness, organizational capacity to complete the project, and the benefits the project proposal would provide within the communities of Wilmington and/or San Pedro, as explained in detail in the HCBF's April 5, 2018 Memorandum to the Harbor Department (Transmittal 1).

PCMTF Disbursement of Funds – Upon Board approval, a single transfer from the PCMTF to HCBF in the amount of \$42,393 will be authorized by the Harbor Department's authorized signatory. Contracts for approved projects and all other PCMTF 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 Operating Agreement of the TraPac MOU 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 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;
- 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.

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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 Round 5 – Sharefest Phase 2 grant based on these factors.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of HCBF's Community Benefit Grant Program, Round 5, Sharefest Phase 2 project and the transfer of funds to the PCMTF, which is an administrative activity. This action is limited to the administrative approval for the distribution of funds. Individual projects 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 the California Environmental Quality Act (CEQA) in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The Harbor Department originally funded the PCMTF. Approval of the Community Benefit Grant Program, Round 5 – Sharefest Phase 2 project will allow a draw-down of funds from the PCMTF with no requirement of the Harbor Department to provide any additional funding. The Harbor Department has made the required contributions to the PCMTF for all eligible projects. As of March 31, 2018, the PCMTF balance, managed by J.P. Morgan Private Bank, was \$1,949,993. Upon Board approval of the Community Benefit Grant Program, Round 5 – Sharefest Phase 2, a lump sum of \$42,393 will be transferred from the PCMTF to HCBF.

To date, including this disbursement, HCBF has allocated a total of \$6,342,476 to grantees and contractors in combined HCBF-administered funds. Upon transfer of funds, HCBF will be financially responsible for the disbursement of funds to grantees in accordance with the TraPac MOU, Operating Agreement and Grant Agreements.

CITY ATTORNEY:

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

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TRANSMITTAL:

1. HCBF Community Benefit Grant Program, Round 5 – Sharefest Phase 2 Grant and PCMTF Transfer Request

FIS Approval: MB

CA Approval: JML



DAVID J. LIBATIQUE
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

Author: T. Adams Lopez