

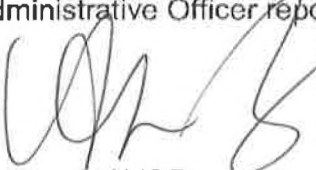
0150-09153-0001

TRANSMITTAL

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| TO Eugene D. Seroka, Executive Director Harbor Department | DATE AUG 28 2015 | COUNCIL FILE NO. |
| FROM The Mayor | COUNCIL DISTRICT 15 | |

PROPOSED FIRST AMENDMENT TO AGREEMENT NO. 09-2818 WITH THE HARBOR DEPARTMENT, TRAPAC APPELLANTS AND SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT TO INSTALL AIR FILTRATION SYSTEMS IN LOCAL SCHOOLS

Transmitted for further processing and Council consideration.
 See the City Administrative Officer report attached.


 Ana Guerrero
 MAYOR

MAS:ABN:10160003t

Rec'd 9/2/15

REPORT FROM

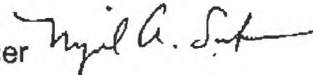
OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: August 26, 2015

CAO File No. 0150-09153-0001
Council File No.
Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Correspondence from the Harbor Department dated July 9, 2015; referred by the Mayor for report on July 13, 2015

Subject: **PROPOSED FIRST AMENDMENT TO AGREEMENT NO. 09-2818 WITH THE HARBOR DEPARTMENT, TRAPAC APPELLANTS AND SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT TO INSTALL AIR FILTRATION SYSTEMS IN LOCAL SCHOOLS**

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 15-7792 to authorize the proposed First Amendment (Amendment) No. 15-2818-A to Agreement No. 09-2818 (Agreement) among the Port, South Coast Air Quality Management District (SCAQMD) and other environmental and community stakeholders (Appellants) under the Trans Pacific Containers Service Corporation (TraPac) Memorandum of Understanding (MOU) to install air filtration systems in 39 local schools in the Port of Los Angeles (POLA) surrounding communities. The Port states that the schools have been impacted by the operations of TraPac's container terminal facility at Port Berths 136-147. In April 2010, the Mayor and Council approved the Agreement with the Port, the Appellants and SCAQMD for a five-year contract term and the provision of approximately \$6 million to install and maintain the air filtration systems and/or HVAC (heating, ventilation, and air conditioning) systems in those schools (C.F. 10-0322). The Port and Appellants established the Community Mitigation Trust Fund and proposed to select a non-profit entity to administer the funds to support collaborative efforts to develop and implement projects to reduce adverse environmental impacts within the community. At the request of the Port and Appellants, the SCAQMD agreed to administer the air filtration program. Currently, SCAQMD has completed the installation of the equipment at 34 of the 39 schools and has a remaining compensation balance of approximately \$1 million. The Port is requesting a proposed Amendment to extend the Agreement for an additional five-year contract term, retroactively from May 2015 to May 2020, to allow SCAQMD to complete construction at the five remaining schools by the end of 2015. The Port states that no additional funds are being requested and any remaining funds will be used to provide maintenance at all 39 schools during the additional five-year term.

The above referenced Resolution No. 15-7792 authorizing the proposed First Amendment and this report incorporate revised information received from the Port and other City departments subsequent to the initial request submittal.

BACKGROUND

In December 2007, the Board certified the TraPac Environmental Impact Report (TraPac EIR) prepared by the Port under the requirements of the California Environmental Quality Act (CEQA) for the container terminal project at Berths 136-147. In October 2009, the Mayor and Council approved a new 30-year lease agreement with TraPac that allowed them to expand and modernize Port-owned land and waterside area to redevelop container cargo terminals and wharf and backland facilities at Terminal Berths 136-147 (C.F. 09-2165). The lease is on approximately 226 acres of Port property, including wharf area. The wharf is a landing place or pier where ships may tie up and load or unload. As part of the lease agreement, TraPac was required to implement various environmental mitigation measures, which would lessen the environmental impacts of the terminal operations by reducing greenhouse gas emissions and other energy. Subsequent to the Board's approval of the TraPac EIR, the Appellants appealed it to the City Council, which led to the establishment of the initial Agreement. Under the MOU, the Port and Appellants settled the dispute by negotiating several clean air initiatives and environmental mitigation measures which would lessen the environmental impacts of the terminals operations. The purpose of the filtration systems is to reduce air particulates in school facilities. The MOU included a process to avoid appeals and lawsuits for EIRs in the future.

PROPOSED AMENDMENT FOR THE PORT, APPELLANTS AND SCAQMD

The original Agreement included the Port, Appellants and SCAQMD as participants in a plan to obtain an air filtration system to reduce air particulates in the school facilities in Wilmington and San Pedro. According to the Port, SCAQMD has implemented a project for a similar air filtration system in the City of Long Beach schools. SCAQMD, their contractors and the Appellants identified and ranked 39 schools that would be retrofitted based on the adverse effects from the Port-related emissions. The Port states that the approval of the Agreement fulfilled the legal responsibilities for the Port under the TraPac MOU. According to the Port, the delay in the installation schedule was partially due to the need to modify the air filtration systems originally selected for the Los Angeles Unified School District (LAUSD) schools.

The SCAQMD will use the remaining budget of \$1 million to complete construction at the five schools and to provide maintenance to the air filtration systems at all the 39 schools over the additional five-year contract term. The Agreement with SCAQMD limits its administrative costs to no more than ten percent of the funding spent on contractors to implement the program.

The City Attorney has approved the proposed contract amendment and Resolution No. 15-7792 as to form. The SCAQMD previously agreed to comply with all applicable City requirements and ordinances. Pursuant to Charter Section 1022, it has been determined that the services can be performed more feasibly and economically by an independent contractor than City employees. According to the Port, the proposed Amendment does not add or change the previously approved labor component to the Agreement. The Port Director of Environmental Management has determined that the proposed Amendment is an administrative activity to install the air filtration systems in schools and, therefore, the proposed activity is exempt from the requirements of the CEQA under Article II, Section 2(f), and Article III Class 1(6) of the Los Angeles CEQA Guidelines.

RECOMMENDATION

That the Mayor approves the request by the Harbor Department (Port) Board of Harbor Commissioners to:

1. Authorize Resolution No. 15-7792 approving a proposed First Amendment No. 15-2818-A to Agreement No. 09-2818 among the Port, South Coast Air Quality Management District (SCAQMD) and other environmental and community stakeholders (Appellants) under the Trans Pacific Containers Service Corporation (TraPac) Memorandum of Understanding to install air filtration systems in 39 local schools in the Port of Los Angeles (POLA) surrounding communities by extending the Agreement for an additional five-year contract term, retroactively from May 2015 to May 2020, to allow SCAQMD to complete construction at the five remaining schools by the end of 201, with no additional increase in funds, and
2. Return Board Resolution No. 15-7792 to the Port for further processing, including City Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed Amendment between the Harbor Department (Port), South Coast Air Quality Management District (SCAQMD) and other environmental and community stakeholders (Appellants) under the Trans Pacific Containers Service Corporation (TraPac) will extend the five-year contract by an additional five-year contract term, retroactively from May 2015 to May 2020, to allow SCAQMD to complete construction at the five remaining schools by the end of 2015. The Port transferred \$6 million from the Harbor Revenue Fund into the Community Mitigation Trust Fund in the original Agreement to administer and install air filtration systems in the local area schools. SCAQMD has not spent approximately \$1 million of the original \$6 million contract budget and will spend the balance of the funds to complete construction for the five schools and maintain the air filtration systems at all of the 39 schools during the additional five-year contract term.

TIME LIMIT FOR COUNCIL ACTION

Pursuant to Charter Section 373, "Long Term Contracts Approved by Council," and the Los Angeles Administrative Code Section 10.5, "Limitation and Power to Make Contracts," unless the Council takes action disapproving a contract that is longer than three years within 60 days after submission to Council, the contract will be deemed approved.