

RECOMMENDATION APPROVED;  
RESOLUTION NO. 15-7792 ADOPTED; AND  
AGREEMENT NO. 15-2818-A APPROVED  
BY THE BOARD OF HARBOR COMMISSIONERS

April 23, 2015



AMBER M. KLESGES  
Board Secretary



Executive Director's

Report to the

Board of Harbor Commissioners

**DATE:** APRIL 14, 2015

**FROM:** ENVIRONMENTAL MANAGEMENT

**SUBJECT:** RESOLUTION NO. 15-7792 - FIRST AMENDMENT TO AGREEMENT NO. 09-2818 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT, TRAPAC APPELLANTS AND SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT TO INSTALL AIR FILTRATION SYSTEMS IN LOCAL SCHOOLS

**SUMMARY:**

On April 3, 2008, the Board of Harbor Commissioners (Board) approved a Memorandum of Understanding (TraPac MOU) between the City of Los Angeles Harbor Department (Harbor Department) and the Appellants of the TraPac Environmental Impact Report (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. 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. SCAQMD has successfully completed the installation of the equipment at 34 of the 39 schools selected to be modified. Agreement No. 09-2818 is set to expire on May 06, 2015, with a remaining balance of approximately \$1,000,000 and SCAQMD has requested a five-year term extension. SCAQMD will complete construction at the five remaining schools by the end of 2015 and the remaining funds will be used to provide maintenance at all 39 schools throughout the five-year term extension. Staff recommends extending the term of Agreement No. 09-2818 for five years. The proposed extension requires no additional funding from the Harbor Department.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners:

1. Find that in accordance with the Los Angeles City Charter Section 1022, the work can be performed more feasibly by independent contractors than by City employees;

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2. Approve the First Amendment to Agreement No. 09-2818 between the City of Los Angeles Harbor Department, Appellants of the TraPac Environmental Impact Report and the South Coast Air Quality Management District to extend its term for five years and for no additional funding;
3. Authorize the Board Secretary to transmit said amendment to the Los Angeles City Council for approval in accordance with Charter Section 373 and Los Angeles Administrative Code Section 10.5(a);
4. Upon the approval of City Council in accordance with Los Angeles Administrative Code Section 10.5(a), authorize the Executive Director to execute and Board Secretary to attest to said amendment for and on behalf of the Board of Harbor Commissioners; and
5. Adopt Resolution No. 15-7792.

**DISCUSSION:**

On December 6, 2007, the Board certified the Final Environmental Impact Report for the Berths 136-147 (TraPac) Container Terminal and approved the TraPac Project. Various groups immediately appealed the certification/project approval to the City Council under the provisions of the California Environmental Quality Act (CEQA). On April 3, 2008, the Board approved the TraPac MOU between the Harbor Department and the Appellants. The TraPac MOU required, among other things, the Harbor Department to provide \$6,000,000 for the installation and maintenance of air filtration systems and/or HVAC air purifiers in schools in the communities of Wilmington and San Pedro, California, which are impacted by the operations of the TraPac Container Terminal. The purpose of the filtration systems is to reduce air particulates in school facilities.

At the request of the Harbor Department and Appellants, the SCAQMD agreed to administer the air filtration program. On December 3, 2009, the Board approved Agreement No. 09-2818 (Transmittal 2) with SCAQMD and Appellants for SCAQMD to implement the air filtration project in accordance with the TraPac MOU.

Agreement No. 09-2818 between the Harbor Department, the Appellants and SCAQMD was for a term of five years, and upon execution, the Harbor Department transferred \$6,000,000 to the SCAQMD to be used in administering of the air filtration project under the terms of the TraPac MOU. After extensive meetings with multiple stakeholders, the SCAQMD and their contractors identified and ranked thirty-nine schools to be retrofitted, based on adversely affected areas from Port-related emissions from the "Geospatial Analysis for Port of Los Angeles Community Mitigation Trust Fund Support" that was

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prepared by ENVIRON International Corporation on February 3, 2009. As of February 3, 2015, air filtration systems have been installed in 34 of the 39 schools selected. Air filtration systems originally selected for the Los Angeles Unified School District (LAUSD) schools had to be modified, causing a delay in installation of the systems in LAUSD schools.

The SCAQMD has not yet expended approximately \$1,000,000 from the original \$6,000,000 of the funds provided through Agreement No. 09-2818. Therefore, SCAQMD has requested that the term of Agreement No. 09-2818 be extended an additional five years. The construction at the five remaining schools will be completed by the end of 2015 and the remaining funds will be used to provide maintenance of the air filtration systems at all 39 schools throughout the five-year term extension. SCAQMD's compensation is capped at 10 percent of the amount of funds spent on contractors to implement the program. This extension of Agreement No. 09-2818 will allow the completion of the original 39-school work plan under the TraPac MOU regarding air-filtration devices and satisfy this element of the TraPac MOU.

Finally, when Agreement No. 09-2818 was approved by the Board in December 2009, the Board found that in accordance with Charter Section 1022, the work proposed to be contracted could be more feasibly performed by a contractor than by a City employee. Since this proposed Amendment does not add a new labor component or significantly increase an existing labor component and the original Charter Section 1022 determination elements are still accurate, a new Charter Section 1022 determination is not required.

**ENVIRONMENTAL ASSESSMENT:**

The proposed activity is an administrative activity to extend time needed to install and maintain air filtration systems at schools. As such, the Director of Environmental Management has determined that the proposed activity is exempt from the requirements of the California Environmental Quality Act in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines. Installation of the filtration systems by SCAQMD is an addition of health and safety equipment at existing facilities and is exempt from CEQA in accordance with Article III Class 1(6) of the Los Angeles City CEQA Guidelines.

**ECONOMIC BENEFITS:**

Approval of the proposed First Amendment will have no employment impact.

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**FINANCIAL IMPACT:**

In previously approved Board actions, the Harbor Department transferred \$6,000,000 into a Trust Fund as required under the TraPac MOU. After another approved Board action, the Harbor Department entered into Agreement No. 09-2818 with the Appellants and SCAQMD for the administration of the Air Filtration System Program referenced herein. The \$6,000,000 previously committed to the Trust Fund was transferred as a lump sum from Harbor Department Account 11926, Center 7000 and Program 000 to SCAQMD to fulfill the air filtration system requirement under the TraPac MOU. The Harbor Department also compensated SCAQMD for administering the air filtration system program at 10 percent of the amount spent on contractors for implementing the program. This percentage is included in the not-to-exceed amount of \$6,000,000. No further funding will be provided by the Harbor Department or the Trust Fund due to this extension.

The alternative of not extending the term of Agreement No. 09-2818 would require the remaining funds, plus interest, to be returned to the Trust Fund. Under the TraPac MOU, the Harbor Department would still be required to use these funds on air filtration systems for schools. Therefore, staff recommends extending the term of Agreement No. 09-2818 to allow SCAQMD to complete installation and provide maintenance of air filtration devices with the remaining funds.

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**CITY ATTORNEY:**

The Office of the City Attorney has reviewed and approved the First Amendment to Agreement No. 09-2818 as to form and legality.

**TRANSMITTALS:**

1. First Amendment to Agreement No. 09-2818
2. Agreement No. 09-2818

FIS Approval: MB (initials)  
CA Approval: JJ (initials)



CHRISTOPHER CANNON  
Director of Environmental Management



MICHAEL DIBERNARDO  
Deputy Executive Director

APPROVED:



FOR GENE SEROKA  
Executive Director

AUTHOR: AMBER COLUSO  
BOARD MEETING: 4/23/2015

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