



## Legislation Text

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**DATE:** November 09, 2021

**SUBJECT:**

**RESOLUTION ACCEPTING \$2,500,000.00 IN GRANT FUNDING FROM THE STATE OF CALIFORNIA, VW MITIGATION TRUST ZERO-EMISSION FREIGHT AND MARINE PROGRAM, TO PARTIALLY FUND ONE SHORE POWER STATION AND OUTLET AT NATIONAL CITY MARINE TERMINAL BERTH 24-10/11, AND AUTHORIZING AN AGREEMENT WITH THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**EXECUTIVE SUMMARY:**

On October 1, 2021, the Bay Area Air Quality Management District (AQMD) notified District staff that an application for \$2,500,000.00 in VW Mitigation Trust Fund grant funds, administered by the California Air Resources Control Board (CARB), to partially fund one shore power plug at the National City Marine Terminal (NCMT) was successful. VW Mitigation funds are available to fund a variety of beyond-compliance air emissions reductions project is the heavy-duty transportation sector. The District was awarded the full amount available for shore power projects under this solicitation. \$4,100,000.00 in match funding was included in the American Rescue Plan Act (ARPA) Economic Recovery Program (ERP) that was adopted by the Board of Port Commissioners at the October 2021 Board meeting. VW Mitigation Trust Grant funds will be provided on a reimbursement basis when the system is operational.

**RECOMMENDATION:**

Adopt a resolution accepting \$2,500,000.00 in grant funding from the State of California, VW Mitigation Trust Zero-Emission Freight and Marine Program, to partially fund one shore power station and outlet at National City Marine Terminal Berth 24-10/11.

**FISCAL IMPACT:**

This agenda item will result in a \$2,500,000.00 increase to the District's budget. Match funds were included in the American Rescue Plan Act (ARPA) Economic Recovery Program (ERP) that was adopted by the Board of Port Commissioners at the October 2021 Board meeting.

**COMPASS STRATEGIC GOALS:**

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.

- A thriving and modern maritime seaport.
- A Port with a healthy and sustainable bay and its environment.
- A financially sustainable Port that drives job creation and regional economic vitality.

## **DISCUSSION:**

The Port has been awarded \$2,500,000.00 in grant funding from the Volkswagen (VW) Environmental Mitigation Trust (Trust) for California to install one shore power plug at the National City Marine Terminal (NCMT).

The VW Mitigation trust will provide approximately \$423 Million for California to mitigate excess nitrogen oxide (NOx) emissions caused by VW's use of illegal emissions testing devices in certain vehicles. The VW Mitigation Trust provides funding for beyond-compliance air emissions projects in the heavy-duty transportation sector, including on-road freight trucks, transit and shuttle busses, school buses, forklifts and port cargo handling equipment, commercial marine vessels, and freight switcher locomotives.

The California Air Resources Board (CARB) is the lead agency in implementing VW funding grants. CARB is working with local air districts to administer the distribution of funds. Funds are made available in a series of installments. Applications can be submitted by both public agencies and private companies and are awarded on a first-come, first-served basis.

Port staff applied for funding for an ocean-going shore power plug under the Zero-Emission Freight and Marine Projects category. A total of \$34M is available for eligible projects in this category during the first funding round. Funding awards are administered by the Bay Area Air Quality Management District (AQMD), and are awarded on a first-come, first-served basis until March 22, 2022 or until all funds are awarded.

On October 1, staff was notified that the Port's application for shore power funding was successful. \$2.5M is the maximum award in this project category. The proposed grant agreement is included as Attachment A. The total project cost for one shore power plug is \$6.6M; the Port is required to fund the remaining \$4.1M in match funds. Match funding is included in the American Rescue Plan Act (ARPA) Economic Recovery Program (ERP) that was adopted by the Board of Port Commissioners at the October 2021 Board meeting. Grant funds will be provided on a reimbursement basis upon project completion.

On January 1, 2025 roll-on/roll-off vessels calling on California Ports will be required to plug into a grid-based shore power system, or use other mitigation technology, to reduce air emissions from diesel generators while at berth. To meet this regulatory requirement, and to provide power from the local electrical grid to provide power to ocean-going vessels while they are at berth, Port staff proposed installing the first shore power plug at NCMT Berth 24-10/11. Berth 24-10/11 is located on the south side of NCMT, adjacent to Pepper Park and the National City Aquatic Center. A terminal map is included as Attachment B.

As VW Mitigation Trust funding is intended to implement projects that are beyond-compliance, the system must be installed and plug in vessels at least one year before the 2025 CARB shore power regulation for roll-on/roll-off vessels is implemented. To meet this requirement, staff submitted the

following notional project schedule with the application package:

Activity	Notional Schedule
Design	Jan 1, 2022 - October 31, 2022
Procurement	November 1, 2022 - November 30, 2022
Advertisement and Contractor Selection	December 1, 2022 - December 31, 2022
Pre-Construction Activity	January 1, 2023 - February 28, 2023
Construction	March 1, 2023 - November 30, 2023
Testing and Commissioning	December 1, 2023 - December 31, 2023

Failure to meet the proposed schedule, or to plug in sufficient vessels in advance of the 2025 At-Berth regulation implementation may result in a reduction in reimbursable funds under this award.

Port staff recommends adoption a resolution accepting \$2,500,000.00 in grant funding from the State of California, VW Mitigation Trust Zero-Emission Freight and Marine Program, to partially fund one shore power station and outlet at National City Marine Terminal Berth 24-10/11, and authorizing an agreement with the Bay Area Air Quality Management District.

#### **General Counsel's Comments:**

The General Counsel's Office reviewed this agenda and approved the proposed agreement as to form and legality.

#### **Environmental Review:**

The proposed Board action, including without limitation, a resolution accepting \$2,500,000.00 in grant funding from the State of California, VW Mitigation Trust Zero-Emission Freight and Marine Program, to partially fund one shore power station and outlet at the National City Marine Terminal, Berth 24-10/11 was adequately covered in the Notice of Exemption (NOE) prepared by the District, on July 6, 2021 (37-2021-0482). The proposed Board action is not a separate "project" as defined in the California Environmental Quality Act (CEQA) but is a subsequent discretionary approval related to a previous CEQA determination. (CEQA Guidelines § 15378(c); Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist. (2012) 206 Cal.App.4th 1036.) The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2). Therefore, no further action under CEQA is required.

The proposed project complies with Section 87.(a)(1) of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. The proposed Board action also allows for the District to implement its obligations under Sections 35 and 81 of the Port Act, which authorize the Board to do acts necessary and convenient for the exercise of its power; and the use funds for necessary expenses of conducting the District. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

Finally, the project was covered in the Categorical Determination number 2021-077, which lists the applicable Coastal Act Exclusions approved by the District, on July 6, 2021. The proposed Board action is the first step to implement the proposed project described in the approved Categorical Determination. No additional action under the California Coastal Act is required at this time.

**Diversity, Equity, and Inclusion Program:**

This agenda sheet has no direct DEI impact.

**PREPARED BY:**

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**Attachment(s):**

Attachment A: VWFM-21-0162\_Contract\_Agreem.NCMT Shorepower.VW Mitigation Trust  
Attachment B: NCMT Shorepower at Berth 24-10/11