



## BPC Policy No. 120

**SUBJECT:** CAPITAL IMPROVEMENT PROGRAM (CIP)

**PURPOSE:** To establish a policy for the orderly development or improvement of the **certain** capital assets of the Port District **which provide public access and non-monetary public benefit** through a Capital Improvement Program (“CIP Policy”).

**PREAMBLE:** The ~~Unified Port District of San Diego~~ **San Diego Unified Port District (District)** has a responsibility to provide for the orderly development and improvement of the lands and capital assets under its jurisdiction to execute its State Tidelands Trust obligations. The ~~Port District~~ acknowledges that each area of tidelands in its trust offers different Public Trust assets and value, and that each possesses varying degrees of opportunity for development, real estate, maritime, recreation and conservation as well as constraints.

The ~~Port District~~, therefore, establishes this CIP Policy for the purpose of improving its CIP process and results. This CIP Policy is intended to facilitate capital ~~development~~ **improvement** projects and budgets which are strategically cohesive, ensure clear and consistent treatment of all proposed capital projects on the tidelands, streamline the process, increase efficiency, reduce costs and improve outcomes.

**Capital improvement projects under this CIP Policy are distinguished from Other Capital (OC) projects in that they provide public access and non-monetary public benefit, whereas OC projects are intended to promote revenue growth for the District, serve as a regional economic engine, support operational needs, and address immediate repairs beyond the scope of Major Maintenance.**

It is the policy of the ~~Port District~~ to evaluate capital ~~development~~ **improvement** projects as follows:

- ~~To reflect sound land use and capital improvement planning principles, as well as the strategic development, business and operational goals set by the Board of Port Commissioners (“BPC”).~~
- ~~To implement the appropriate and necessary sequencing of capital improvement projects based upon operational and business demands.~~
- ~~To ensure projects given priority have a direct relationship to the establishment or improvement of capital assets needed to facilitate upcoming priority developments and pressing operational needs.~~

- ~~● To distribute the Port's capital investments in a balanced manner throughout the tidelands located in all of the Member Cities.~~
- ~~● To advance projects that are consistent with the Port District Act and the Port's numerous duties and state mandates:
 
  - ~~A) To serve as an economic engine for the region;~~
  - ~~B) To be an environmental steward of the bay and tidelands;~~
  - ~~C) To provide public access to the waterfront;~~
  - ~~D) To provide recreational and community services as specified under the Port District Act; and~~
  - ~~E) To ensure public safety and Homeland Security.~~~~
- To distribute the Port's capital investments in a balanced manner throughout the tidelands located in all of the Member Cities.
- To reflect sound land use and capital improvement planning principles, as well as the strategic development, business and operational goals set by the Board of Port Commissioners ("BPC").
- To ensure projects given priority have a direct relationship to the establishment or improvement of capital assets needed to facilitate upcoming priority developments.
- To advance projects that are consistent with the Port District Act and the Port's numerous duties and state mandates:
  - A) To be an environmental steward of the bay and tidelands;
  - B) To provide public access to the waterfront;
  - C) To provide recreational and community services as specified under the Port District Act; and
  - D) To ensure public safety and Homeland Security.

The CIP process will proceed as follows:

### **Five Year CIP Program**

- ~~1. The CIP will be developed using a long-term land use planning strategy every five (5) years. A flow chart of a typical five year process is shown in Attachment (1).~~

- ~~2. The CIP project selection process should be open, inclusive, efficient and effective by producing a program within a reasonable period of time. The resulting CIP program should reflect the Port District's specific strategic goals (COMPASS) and business or operational needs. Application forms for new projects can be submitted by Port staff, Commissioners and representatives of member cities. Port Tenants and other public stakeholders can propose CIP project through Port staff, Commissioners and representatives of member cities.~~

### **Projects:**

- ~~3. For consideration during the five-year CIP review process, a project proponent will develop for each proposed on tidelands project the following objective assessment:~~

### **The CIP Funding Process**

The CIP will be developed using the process described as follows:

1. Starting in fiscal year 2024, funding will be sourced from fiscal year 2023 CIP surplus budget along with initial funding. These funds will be split equally between the subaccounts assigned to member cities from which the BPC can draw from for CIP projects within the applicable cities.
2. In subsequent years, additional funding for the program will be evaluated annually during the budget workshop. Provided new funding is available for allocation to the CIP, funds will be divided equally five ways in the subaccounts as per section 1 above.

### **CIP Project Proposal Process**

3. Five subaccounts shall be created, each with the purpose to fund capital projects within the Tidelands in individual member cities.
4. Once the funding for the CIP has been approved and appropriated into individual subaccounts, the solicitation process for projects may proceed. Each Commissioner may collaborate with its respective member city to prioritize projects sponsored within the member city.
5. Upon availability of funds in the subaccounts, Commissioners will have the option to propose the following uses of their city's respective CIP subaccount funds for the BPC's consideration:
  - a. Adding new projects
  - b. Adding funding to existing projects
  - c. Banking the funds for future projects

CIP projects may be phased such that the completion of a particular phase of the project results in a complete and usable product even if the project in its entirety is not complete.

Port staff will be available to assist Commissioners as they implement CIP process for projects within their cities. Any unused funding will roll-over into its respective subaccount in the subsequent fiscal year.

6. In coordination with their member cities, Commissioners will evaluate and prioritize projects for viability prior to submission to Port Staff based on the factors set forth to follow (in no particular order):
  - Contribution to the Port's strategic goals;
  - Adherence to Port objectives and the Port District Act;
  - Capacity to produce revenue and to enhance local and regional economic growth; and
  - Capacity to provide non-monetary public benefits.
  
7. For project consideration, a project proponent will develop for each proposed on-tidelands project the following objective assessment:
  - A) A project description including a statement of need for the project;
  - B) Identification of the specific strategic goals (COMPASS) the project addresses;
  - C) A financial analysis of the costs of the project, the availability of grant funding, matching funds, or other District funds (i.e., a CIP project could also potentially receive funding from the Maritime Industrial Impact Fund), as well as any expected return on investment ("ROI") – including operational costs, maintenance costs, and life-cycle costs - of the project;
  - D) An analysis of any anticipated non-monetary public benefits of the project;
  - E) An explanation of the project's compatibility with existing, related development projects both on and off-tidelands (including non-Port District development projects);
  - F) A rational assessment of the need for the timing of the improvements, and an explanation of the appropriateness of the timing of the investment;
  - G) An explanation of how the project implements or facilitates the implementation of the Port Master Plan or other approved plans; and
  - H) An analysis of the project's potential to create future economic benefit or impact if no immediate economic benefit is identified.
  
- ~~4. [Intentionally Omitted: The Maritime Terminal Impact Fund previously discussed in this section has been revised and relocated to a standalone Policy No. 773]~~
  
- ~~5. Where a proponent proposes a CIP project, the Port District must receive the proponent's completed information regarding the project at least 120 days before the BPC begins its five year review of the CIP. Once this information is received, an objective Port Staff assessment of the project including the factors set forth in section 3 will be prepared.~~
  
- ~~6. The proposed list of CIP projects, along with the proponent's information and Port Staff's assessment, shall be made publicly available at least 10 days before a CIP~~

~~workshop or BPC meeting in which the CIP program will be considered.~~

~~7. Proposed CIP projects will be evaluated and ranked based on factors set forth in section 3 and the following criteria (in no particular order). Port Staff shall attach the proposed projects evaluation and ranking, including the proponent's information, to the BPC as part of the annual CIP process described in section 8 of this policy:~~

~~A) Contribution to the Port's strategic goals (COMPASS);~~

~~B) Adherence to Port objectives and the Port District Act;~~

~~C) Represents a balanced distribution of the Port District's proposed capital investment throughout the tidelands and Member Cities;~~

~~D) Capacity to produce revenue and to enhance local and regional economic growth; and~~

~~E) Capacity to provide non-monetary public benefits.~~

8. Project evaluation will be completed by Port staff within 60 days of receipt of application. District may require additional review time if warranted, given the complexity of the project. In the event submissions require further clarification, District will collaborate with the applicant until the submission is ready for evaluation. After the evaluation is finalized by the District, it shall be provided to the respective city's Commissioner(s) at least one month before it is considered for approval at a regularly scheduled BPC meeting.

### Annual CIP Reviews

~~The annual CIP reviews will focus on review of existing projects in the approved CIP. Working through a staff committee, staff will review the existing CIP to determine recommendations for existing projects (such as remain funded; be postponed, delayed or removed; or added back into the CIP list if previously removed). New projects will be considered for funding during the annual reviews only when new funding is available, as defined below. A flow chart of a typical annual review process is shown in Attachment (2).~~

### Annual Review of Existing CIP Projects

9. Port staff's annual review of existing CIP projects will be conducted ahead of the annual budget workshop to provide recommendations to the BPC for any changes or adjustments to existing projects in the program (go forward, remain funded; be postponed, delayed or removed; or added back into the CIP list if previously deferred). Any recommended changes will be included in the budget workshop staff report.

The procedure for the annual reviews shall be as follows:

- A. For the annual reviews, an additional set of project filters will be applied to evaluate the status of existing projects. An example list of project filters is included in Attachment ~~(3)~~ (1). Filters applied to the existing projects may be modified from time to time based upon Board **BPC** direction.
- B. Existing projects will not be re-ranked against each other during the annual reviews. ~~The project filters will be applied to determine if projects remain on the list, are removed from the list or deferred for future consideration. If projects are removed or deferred, any remaining funding balances will be reallocated to the CIP Reserve~~ **their respective subaccount**. Projects deferred will remain in the CIP until the Board **BPC** removes the project from the CIP. ~~The Board may elect to remove an existing project from the CIP at any time. The project filters applied to existing projects can be used as guidelines for the Board's determination to remove projects.~~ **The BPC may elect to remove an existing project from the CIP at any time, in consultation with the respective city's Commissioner sponsor.**
- ~~C. During the annual reviews, additional funding may be recommended for continuation of existing approved projects as determined by the CIP staff committee.~~
- ~~D. With respect to funding for new projects, each spring prior to the fall workshop, there shall be a determination made by District staff regarding availability of additional funding for CIP.~~
- ~~E. Provided that the CIP is fully funded, annually at the April Board meeting, the Board will determine the amount of funding available for new CIP projects and the subsequent decision to solicit project application forms for consideration at the following fall CIP workshop.~~
- ~~F. Application forms for new projects may be submitted for the annual CIP reviews by Port staff, Commissioners and Member Cities. Forms must be received by July 15th of each year for consideration for the fall CIP workshop.~~
- ~~G. For new projects, application forms shall be prepared in accordance with section (3).~~
- ~~H. New projects will be evaluated based upon criteria in sections 3 and 7 (pages 2 and 3) above. Proposed new projects must meet both criteria 7(A) and 7(B) and at least one of the criteria 7(C), 7(D), or 7(E). Projects which do not meet the criteria as described will not be considered for funding during that year's annual review. New projects which are found to meet the initial criteria will be reviewed for funding recommendation and will be ranked through the staff committee reviews. BPC will determine which new projects will be funded by the CIP.~~
- ~~I. For the annual reviews, the proposed list of CIP projects (new and existing), shall be made publicly available at least 7 calendar days before the CIP~~

~~workshop or BPC meeting in which the CIP program will be considered.~~

### Out of Cycle Requests

- ~~9. Out of cycle requests are defined as requests for modifications to the CIP which arise between the fall CIP workshops.~~

~~Out of cycle requests may be considered by the Board for the following situations:~~

- ~~i. Additional funding needed to complete approved CIP projects in progress,~~
- ~~ii. Unplanned projects as defined in Board Policy No. 080, Unplanned Work Consideration,~~
- ~~iii. Opportunities for grants that require matching funds or to position the District to receive grants,~~
- ~~iv. Member City requests for re-prioritization of funds among existing approved projects which require no additional CIP funding and where there is a business reason for consideration as an out of cycle request~~

~~Out of cycle requests will be reviewed by the staff committee and if recommended to move forward will proceed to the Board as soon as practical.~~

- ~~10. Funding for CIP projects will be established by the Executive Director consistent with the BPC adopted budget. Funds for new CIP projects will be placed in a CIP Reserve at the end of each fiscal year based on available unrestricted/undesignated reserves. Once in the CIP Reserve, the funds can be allocated to projects in the five-year plan in accord with the procedures set forth above.~~

~~CIP projects may be phased such that the completion of a phase of the project results in a complete and usable product even if the project in its entirety is not complete.~~

- ~~11. [Intentionally Omitted: The Maritime Terminal Impact Fund previously discussed in this section has been revised and relocated to a standalone Policy No. 773]~~

### **New Projects and Additional Funding for Existing Projects**

**C. Commissioners may submit new projects for the BPC's consideration that have been vetted through sections 6 and 7, and within their approved CIP funding at any time provided there is available funding in the respective CIP subaccount.**

**D. At any regularly scheduled Board meeting, the Executive Director may request the BPC to approve modifications to the CIP for the following situations:**

- i. Additional funding needed to complete approved CIP projects in progress,**

- ii. Unplanned projects as defined in BPC Policy No. 080, Unplanned Work Consideration,
- iii. Opportunities for grants that require matching funds or to position the District to receive grants,
- iv. Member City requests for re-prioritization of funds among existing approved projects which require no additional CIP funding and where there is a business reason for consideration,
- v. Executive Director requests for re-prioritization of funds among existing approved projects which require no additional CIP funding and where there is a business reason for consideration

All modifications will be reviewed by the CIP staff committee and if recommended to move forward will proceed to the BPC as soon as practical.

### **Reporting to the Board**

10. The CIP budget once approved by the BPC shall constitute direction from the BPC regarding Port District administration of the program. The Executive Director will update the BPC periodically on the execution of the approved CIP program, and may propose on an individual basis, consistent with the objectives and analysis identified above, additional projects for BPC consideration and approval. If new or additional information is discovered during the implementation of an approved CIP project that makes the implementation of the project infeasible or impractical, then this information will be reported promptly to the Board BPC.

### **CIP Contingency**

11. As a recommended guideline, when the Board BPC approves new funding for the CIP, the Board BPC may approve an additional funding amount for a program contingency. The program contingency will be used for unforeseen conditions during the execution of CIP projects. The budgeting guidelines for the program contingency amount will be based on a percentage of the total program budget per the following table: distinct from the subaccounts and will be available to address unforeseen conditions during the execution of any approved project in the program. The budgeting guideline for the program contingency is 10% of the aggregate total of the individual project budgets.

Guidelines for Program Contingency Amount – Table 1

Total CIP Program Budget	Program Contingency Amount
Less than \$25 million	12%
Greater than \$25 million, and Less than \$50 million	10%
Greater than \$50 million	8%

At the completion of a CIP project, any funds remaining in the approved CIP budget will be reallocated to the CIP Reserve account. Reserve funds are available for BPC Policy No. 120 **DRAFT**

~~allocation to existing or new CIP projects at the discretion of the Board. Reallocation of funds from CIP Reserve to any individual projects will require Board approval in accordance with this policy as well as other applicable policies including Board Policy No. 090, Transfer Between or Within Appropriated Items in Budget.~~ **its respective CIP subaccount. These funds are available for allocation to existing or new CIP projects at the discretion of the BPC. Reallocation of funds to any individual projects will require BPC approval in accordance with this policy as well as other applicable policies including BPC Policy No. 090, Transfer Between or Within Appropriated Items in Budget.**

- ~~14. Notwithstanding any other provision of this policy, the annual funding for the CIP may be changed or otherwise suspended from time to time if the BPC makes a finding that, because of a fiscal emergency there is an established need for all or part of these funds to be expended for the repair, operation, maintenance or development of Port District infrastructure critical and paramount to the operation of the Port District.~~

~~For purposes of this provision, “fiscal emergency” means an extraordinary occurrence or combination of circumstances that was unforeseen and unexpected and which requires immediate and sudden action of a drastic but temporary nature.~~

~~Attachment (1): Flow chart — typical five year CIP process (EXAMPLE)~~

~~Attachment (2): Flow chart — typical annual CIP process (EXAMPLE)~~

~~Attachment (3): Project filters for annual reviews (EXAMPLE)~~

### **Fiscal Emergency Provision**

- 12. Notwithstanding any other provision of this policy, the annual funding for the CIP may be changed or otherwise suspended from time to time if the BPC makes a finding that, because of a fiscal emergency there is an established need for all or part of these funds to be expended for the repair, operation, maintenance or development of Port District infrastructure critical and paramount to the operation of the Port District.**

**For purposes of this provision, “fiscal emergency” means an extraordinary occurrence or combination of circumstances that was unforeseen and unexpected and which requires immediate and sudden action of a drastic but temporary nature.**

**Attachment (1): Project filters for annual reviews (EXAMPLE)**

RESOLUTION NUMBER AND DATE: 2015-138, dated October 21, 2015 (Supersedes BPC Policy No.120, Resolution 2015-28, dated April 14, 2015; Resolution 2015-25, dated March 10, 2015; Resolution 2014-45, dated March 4, 2014; Resolution 2011-45, dated April 12, 2011; Resolution 2008-116, dated July 1, 2008; and Resolution 82-13, BPC Policy No. 120 **DRAFT**

dated January 5, 1982)