

SAN DIEGO UNIFIED PORT DISTRICT

**MEMORANDUM**

**Date:** September 13, 2022

**To:** Board of Port Commissioners

**Via:** Cid Tesoro  
Vice President, Facilities and Engineering  
ctesoro@portofsandiego.org

**From:** Ernesto Medina  
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**Subject:** Clerical Error Correction to Draft BPC Policy No. 120 (Attachment B) for Agenda File No. 2022-0228

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The purpose of this memo is to notify the Board of Port Commissioners (BPC) about a clerical error correction pertaining to agenda item no. 19, for the BPC's consideration at the September 13, 2022 BPC meeting.

Attachment B in File No. 2022-0228, "RESOLUTION APPROVING AMENDMENT TO BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 120, CAPITAL IMPROVEMENT PROGRAM (CIP), MODIFYING THE ANNUAL FUNDING DETERMINATION AND THE PROJECT SELECTION PROCESS." Has been revised as follows:

**1) Preamble, last paragraph, last bullet:**

- "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."

Revised to read:

- "A) To be an environmental steward of the bay and tidelands;
- B) To provide public access to the waterfront;

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C) To provide recreational and community services as specified under the Port District Act; and

D) To ensure public safety and Homeland Security.”

Reason: This revision corrects a formatting to start the numbering with the letter A, instead of B.

**2) CIP Project Approval Process, Part 6, delete third bullet:**

“Capacity to produce revenue and to enhance local and regional economic growth; and”

**3) CIP Project Approval Process, Part 7, delete item H:**

“H. An analysis of the project's potential to create future economic benefit or impact if no immediate economic benefit is identified.”

Reason: These corrections corrolate with the uses of CIP, which are proposed to be limited to public access and non-monetary public benefit projects.

If you have questions regarding this memo or need additional information regarding this clerical revision, please Ernesto Medina at (619) 686-7229/e-mail at [emedina@portofsandiego.org](mailto:emedina@portofsandiego.org).



# BPC Policy No. 120

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

**PURPOSE:** To establish a policy for the orderly development or improvement of 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 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 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 District, therefore, establishes this CIP Policy for the purpose of improving its CIP process and results. This CIP Policy is intended to facilitate capital 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 District to evaluate capital improvement projects as follows:

- 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~~B) To be an environmental steward of the bay and tidelands;
- ~~B~~C) To provide public access to the waterfront;
- ~~C~~D) To provide recreational and community services as specified under the Port District Act; and
- ~~D~~E) To ensure public safety and Homeland Security.

### **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 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.~~
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 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 (1). Filters applied to the existing projects may be modified from time to time based upon BPC direction.
- B. Existing projects will not be re-ranked against each other during the annual reviews. If projects are removed or deferred, any remaining funding balances will be reallocated to their respective subaccount. Projects deferred will remain in the CIP until the BPC removes the project from the CIP. The BPC may elect to remove an existing project from the CIP at any time, in consultation with the respective city's Commissioner sponsor.

### **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. 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 BPC.

### **CIP Contingency**

11. As a recommended guideline, when the BPC approves new funding for the CIP, the BPC may approve an additional funding amount for a program contingency. The program contingency will be 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.

At the completion of a CIP project, any funds remaining in the approved CIP budget will be reallocated to 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.

### **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, dated January 5, 1982)