



Legislation Text

File #: 2022-0246, Version: 1

DATE: September 13, 2022

SUBJECT:

CALIFORNIA AIR RESOURCES BOARD AND SAN DIEGO AIR POLLUTION CONTROL DISTRICT COMMUNITY AIR PROTECTION PROGRAM FUNDING FOR ELECTRICAL IMPROVEMENTS PHASE 3 AT THE TENTH AVENUE MARINE TERMINAL PROJECT

- A) ADOPT A RESOLUTION AUTHORIZING ACCEPTANCE OF GRANT FUNDS IN THE AMOUNT OF \$2,723,000 FOR THE ELECTRICAL IMPROVEMENTS PHASE 3 AT THE TENTH AVENUE MARINE TERMINAL PROJECT, AND**
- B) ADOPT AN ORDINANCE AMENDING THE DISTRICT'S FY 2023 BUDGET, INCREASING THE EQUIPMENT OUTLAY AND OTHER CAPITAL PROJECTS APPROPRIATION BY \$2,723,000 FOR THE ELECTRICAL IMPROVEMENTS PHASE 3 AT THE TENTH AVENUE MARINE TERMINAL PROJECT. ADDITIONAL PROJECT FUNDS WILL BE BUDGETED IN THE APPROPRIATE FISCAL YEAR SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET.**

EXECUTIVE SUMMARY:

On April 28, 2022, the San Diego Air Pollution Control District (APCD) announced that the District's application for \$2,723,000 in Community Air Protection Program funds for crane charging infrastructure as part of the Electrical Improvements Phase 3 AT TAMT Project had been tentatively approved. District and APCD staff have worked collaboratively to finalize the grant agreement so that the Board of Port Commissioners may accept the grant funds. If approved by the Board the District would provide a match amount of \$1,167,000. The District's match is fully budgeted in the Economic Recovery Program budget.

RECOMMENDATION:

- A. Adopt a Resolution authorizing acceptance of grant funds from the San Diego Air Pollution Control District in the amount of \$2,723,000 for the Electrical Improvements Phase 3 at Tenth Avenue Marine Terminal Project, and
- B. Adopt an ordinance amending the District's FY 2023 Budget, increasing the Equipment Outlay and Other Capital Projects appropriation by \$2,723,000 for the Electrical Improvements Phase 3 at Tenth Avenue Marine Terminal Project.

FISCAL IMPACT:

This agenda item will result in a positive fiscal impact of \$2,723,000 to the District's Equipment Outlay and Other Capital Projects budget appropriation.

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:

District staff applied to the San Diego Air Pollution Control District (APCD) on February 18 for funds from the California Air Resources Board (CARB) Community Air Protection Program to support electrification and battery charging infrastructure on the Tenth Avenue Marine Terminal (TAMT). The electrification and battery charging infrastructure is intended to be constructed with planned TAMT Phase 3 electrical infrastructure upgrades on the terminal and will support the two all-electric mobile heavy lift harbor cranes, currently on order, that are expected to be delivered during the first quarter of calendar year 2023.

Community Air Protection Program funds target emissions reduction projects in disadvantaged communities, low-income communities, or environmental justice communities. Funds are to be used to voluntarily purchase infrastructure that reduces harmful air emissions.

On April 28, District staff was notified by APCD staff that the District's application had been tentatively approved at an award amount of \$2,723,000. Match funding of \$1,167,000 is required. Match funds are currently budgeted in the Economic Recovery Program FY 2023 budget in the TAMT Electrical Improvements Phase 3 Project.

District staff and APCD staff worked collaboratively between May and August to confirm CARB's agreement to award Community Air Protection funds to fund the portion of the District's TAMT Phase III electrical infrastructure upgrades that are the crane charging infrastructure. APCD was provided an on-site tour of the project location at the Tenth Avenue Marine Terminal on July 28. District and APCD staff also worked closely to refine the project timeline so that it aligned closely with the expected crane delivery. Key milestones are outlined in the grant agreement, included as Attachment A, and are as follows:

- Equipment ordered within 30 days of final design completion.
- All equipment on sight for installation by December 31, 2023.
- Installation competition and equipment operational by April 10, 2024.

District and APCD staff finalized the attached grant agreement (Attachment A) in August. CARB and APCD have requested that the grant agreement be accepted and fully executed prior to construction contract execution.

General Counsel's Comments:

The Office of the General Counsel has reviewed and approved this agenda, grant agreement, and proposed resolution and ordinance, as presented, as to form and legality.

Environmental Review:

The proposed Board actions, including without limitation, resolution authorizing acceptance of grant funds in the amount of \$2,723,000 for the Tenth Avenue Marine Terminal Phase 3 Electrical Improvement Project; and ordinance amending the FY23 Economic Recovery Budget to increase the Tenth Avenue Marine Terminal Phase 3 Electrical Improvements Project by \$2,723,000 was adequately analyzed in the Final Environmental Impact Report (FEIR) for the Tenth Avenue Marine Terminal Redevelopment Plan and Demolition and Initial Rail Component (UPD# EIR-2015-39, SCH #2015-031046, Clerk Document No. 65901) prepared and certified by the District on December 13, 2016 (Resolution No. 2016-199). The proposed project is not a separate project for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.) Additionally, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR, the District finds and recommends that the proposed Board actions do not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the previous FEIR due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the previous FEIR, (b) identifies significant impacts more severe than those analyzed in the previous FEIR, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, or (d) shows mitigation measures or alternatives which are considerably different from those analyzed in the previous FEIR would substantially reduce one or more significant effects on the environment. Because none of these factors have been triggered, pursuant to CEQA Guidelines §15162(b), the District has determined no further analysis or environmental documentation is necessary. Accordingly, the proposed Board actions are merely a step in the furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

The proposed Board actions comply with Section 87 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, building, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion, accommodation of commerce and navigation. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent with the Public Trust Doctrine.

The proposed Board actions are considered excluded development pursuant to Sections 8.a. Existing Facilities (1), (2), (4), and (12); 8.b. Replacement or Reconstruction (1) and/or 8.c. New Construction or Conversion of Small Structures (2) of the District's Coastal Development Permit

Regulations because the project would consist of electrical infrastructure upgrades that would involve a negligible change of the existing use of the property. A categorical determination of exclusion and notice of approval was previously issued for this project on June 30, 2022, and became effective 10 working days after notification to California Coastal Commission staff, since no appeals were received. Therefore, issuance of a Coastal Development Permit or subsequent exclusion is not required for the proposed Board actions.

Diversity, Equity, and Inclusion Program:

This agenda sheet has no direct impact on District workforce or contract reporting at this time.

PREPARED BY:

Aimee Heim
Director, Government & Civic Relations

Attachment(s):

Attachment A: Port of San Diego_Community Air Protection Program_APCD2022-CARL-0055