



Legislation Text

File #: 2022-0307, **Version:** 1

DATE: October 11, 2022

SUBJECT:

ACCEPTANCE OF GRANT FUNDS FROM THE STATE OF CALIFORNIA NATURAL RESOURCES AGENCY, DEPARTMENT OF PARKS AND RECREATION, DIVISION OF BOATING AND WATERWAYS (DBW) FOR THE FY23 SURRENDERED AND ABANDONED VESSEL EXCHANGE (SAVE) PROGRAM IN THE AMOUNT OF \$108,089 AND GRANTING INDEMNITY

EXECUTIVE SUMMARY:

In September 2022, the California State Parks Agency, Division of Boating and Waterways (DBW), announced awards under the FY 2022/2023 Surrendered and Abandoned Vessel Exchange (SAVE) program. SAVE provides grant funds for the abatement, removal, storage and/or disposal of eligible water hazards and surrendered vessels. The District was awarded \$108,089. The SAVE program requires a 10% match, which is fully funded in General Services budget.

RECOMMENDATION:

Adopt a Resolution authorizing the acceptance of grant funds from the State of California Natural Resources Agency, Department of Parks and Recreation, Division of Boating and Waterways (DBW) for the FY23 Surrendered and Abandoned Vessel Exchange (SAVE) Program in the amount of \$108,089 and granting indemnity.

FISCAL IMPACT:

Funds for FY 2023 expenditures are budgeted in the General Services As-Needed Maintenance expense budget. There are no ongoing costs associated with this expenditure.

COMPASS STRATEGIC GOALS:

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

- A Port that the public understands and trusts.
- A Port with a healthy and sustainable bay and its environment.
- A Port that is a safe place to visit, work and play.

DISCUSSION:

In September 2022, DBW announced awards under the FY 2022/2023 Surrendered and Abandoned Vessel Exchange (SAVE) program. SAVE provides grant funds for the abatement, removal, storage

and/or disposal of eligible water hazards and surrendered vessels. The District was awarded \$108,089 in this year's funding round.

Pursuant to DBW's authority under *Harbors & Navigation* Code Section 525, in order to accept the grant funds, the District must enter into a grant agreement with DBW for the removal and disposal of abandoned, wrecked or dismantled non-commercial vessels, or parts thereof, or any other partially submerged objects which pose a substantial hazard to navigation within the District's jurisdiction, and also agree to remove and dispose of surrendered vessels, or parts thereof, which are in danger of becoming a hazard to navigation or causing environmental degradation within the District's jurisdiction. The San Diego Harbor Police removes marine debris or abandoned vessels, which are then transported to a District-owned facility in National City for storage and disposal. Grant funds are used to reimburse the costs associated with the storage and disposal of marine debris and abandoned vessels. The Surrendered and Abandoned Vessel Exchange Grant Agreement is included as Attachment A.

The terms of the grant agreement require that the District protect, hold harmless, indemnify and defend DBW, its agents, officers, and/or employees against any and all actions, claims, and damages to persons or property, penalties, obligations and liabilities that may be asserted or claimed by any person, firm, associations, entity, corporation, political subdivision, or other organization or person arising out of or in connection with the District or District's contractor's or subcontractor's activities hereunder, whether or not there is concurrent passive negligence on the part of DBW, its agents, officers, and/or employees.

District staff recommends that the Board approve the agreement granting indemnity to DBW, as the grant funding will enable the District to remove derelict and abandoned vessels that can cause navigational hazards and environmental pollution in San Diego Bay. Additionally, the work to be done to remove derelict and abandoned vessels and objects will largely be done by service providers that will in turn indemnify the District, and for that work done by the District pursuant to the grant agreement, the District has appropriate insurance coverage should a loss occur.

This grant will provide unbudgeted, unanticipated funding beyond what is currently budgeted for the removal and disposal of surrendered vessels and other navigational hazards in furtherance of the District's mission. The grant has a 10% match requirement. The District has agreed to provide matching funds in the amount of \$10,809, for a full program amount of \$118,898. The District's match is fully funded in General Services budget.

General Counsel's Comments:

The Office of the General Counsel reviewed this agenda and approved the proposed agreement as presented to it as to form and legality.

Environmental Review:

The proposed Board action, including without limitation, the acceptance of grant funds from the State of California Natural Resources Agency, Department of Parks and Recreation, Division of Boating

and Waterways for the FY 2023 Surrendered and Abandoned Vessel Exchange (SAVE) Program, is categorically exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) of the District's Guidelines for Compliance with CEQA because the project would consist of accepting grant funds for the abatement, removal, storage, and/or disposal of eligible surrendered vessels that pose hazards to navigation that would involve no expansion of use beyond that previously existing. 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). The project was previously determined to be exempt from CEQA on December 8, 2020. Pursuant to Section 15378(c) of the CEQA Guidelines, the term "project" refers to the activity being approved, which may be subject to several discretionary approvals of governmental agencies and does not mean each separate governmental approval. Accordingly, the proposed Board action is a subsequent discretionary approval of a previously approved project. No further action under CEQA is required.

The proposed Board action complies 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, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and 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 action is consistent with the Public Trust Doctrine.

The proposed Board action is considered excluded development pursuant to Sections 8.a. (Existing Facilities) and 8.d. (Minor Alterations of Land) of the District's Coastal Development Permit Regulations because the project would consist of accepting grant funds for the abatement, removal, storage, and/or disposal of eligible surrendered vessels that pose hazards to navigation that would involve negligible or no expansion of use beyond that previously existing. A categorical determination of exclusion and notice of approval was previously issued for this project on December 8, 2020 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 action.

Diversity, Equity, and Inclusion Program:

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

PREPARED BY:

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Attachment(s):

Attachment A: Surrendered and Abandoned Vessel Exchange Grant Agreement