



# San Diego Unified Port District

Attachment A to Agenda File No. 2019-0299

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3165 Pacific Hwy.  
San Diego, CA 92101

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**File #:**2018-0328

**DATE:** July 17, 2018

**SUBJECT:**

**RESOLUTION SELECTING THE NATIONAL CITY BAYSHORE BIKEWAY PROJECT FOR \$900,000 FROM THE MARITIME INDUSTRIAL IMPACT FUND IN ACCORDANCE WITH BOARD OF PORT COMMISSIONERS POLICY NO. 773, TO FUND A PORTION OF THE PROJECT, CONTINGENT ON: NATIONAL CITY BEING AWARDED A CALIFORNIA DEPARTMENT OF TRANSPORTATION ACTIVE TRANSPORTATION GRANT; NATIONAL CITY ENTERING INTO AN AGREEMENT WITH THE SAN DIEGO UNIFIED PORT DISTRICT TO RECEIVE MATCH FUNDS; AND EXPIRATION OF 60 DAY NOTICE PERIOD TO THE STATE LANDS COMMISSION UNDER PORT ACT SECTION 30.5, INTENT TO SPEND MONEY OFF TIDELANDS, WITHOUT OBJECTION**

**EXECUTIVE SUMMARY:**

The City of National City has submitted a request to use Marine Industrial Impact Funds (MIIF) to fund a portion of the San Diego Association of Government's (SANDAG) Bayshore Bikeway located in the City of National City. The City of National City has requested \$900,000 in MIIF funds to be used as a portion of the match funding for a California Department of Transportation (CALTRANS) Active Transportation Grant application, to be submitted by the City of National City by July 31, 2018. Demonstration of match fund availability will significantly increase the competitiveness of the application. The proposed project satisfies the evaluation criteria set forth for use of the MIIF in accordance with Board of Port Commissioners (Board) Policy No. 773. San Diego Unified Port District (District) funds will be committed contingent on National City's successful grant award, execution of an agreement between National City and the Port District related to the funds, and expiration of the 60 day notice period to the State Lands Commission under Port Act Section 30.5, Intent to Spend Money Off Tidelands, without objection.

**RECOMMENDATION:**

Adopt a Resolution selecting the National City Bayshore Bikeway Project for \$900,000 in Maritime Industrial Impact Fund funding in accordance with Board of Port Commissioners Policy No. 773, and contingent on: National City being awarded a California Department of Transportation Active Transportation Grant; National City entering into an agreement with the San Diego Unified Port District to receive match funds; and expiration of a 60 day notice period to the State Lands Commission under Port Act section 30.5, Intent to Spend Money off Tidelands, without objection.

**FISCAL IMPACT:**

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Per discussion below, suggested implementation will not begin until FY2020, therefore there is no fiscal impact to the FY 2019 budget. Funds required in the amount of \$900,000 will be included in the FY 2020 budget to be funded from the MIIF.

**COMPASS STRATEGIC GOALS:**

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

- A Port that the public understands and trusts.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.

**DISCUSSION:**

The MIIF (Board Policy No. 773) was created to offset the impacts off tidelands of Maritime Industrial activities on tidelands. It was recognized at the time of creation that certain adjacent communities (in this case neighborhoods in National City) might be impacted disproportionately by nearby waterfront industrial activities.

The proposed CALTRANS Active Transportation Grant seeks to mitigate those impacts by providing bicycle and walking transportation options to nearby communities. The District is a longstanding supporter of active transportation projects, including the Bayshore Bikeway. When completed, the Bayshore Bikeway will serve as a connector that links the District's five member cities. A major part of the District's mission is to provide access to the waterfront. The District has a strong interest in integrated planning, mobility, and sustainability, and the proposed Segment 5 project is in line with the goals of the District's comprehensive Port Master Plan update, which is currently underway.

The proposed project will enhance bicycle connections to public transit, parks, and the working waterfront, which includes Naval Base San Diego and District tenant such as ship builders, ship repairers, and other industrial businesses. The project will promote bicycling and public transportation as a safe and viable travel choice that reduces greenhouse gas emissions and promotes a healthy and active lifestyle.

Staff has reviewed the proposed grant match requested by National City, and, using the criteria set forth in Board Policy No. 773, staff recommends that the project is qualified to receive funding if the grant is awarded and contingent of CEQA being conducted. The proposed project qualifies because:

- There are limited active transportation options on tidelands in National City due to maritime operations activity; and will be mitigated by portions of bike path in this proposal that are off of tidelands. District match is a reasonable expenditure of MIIF funds given that deficit of active transportation options.
- The grant match has been requested by a member city per Board Policy No. 773.

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- The request amount of \$900,000 in MIIF funding is reasonable given that the total project cost is estimated to be \$5,000,000.
- The Project would integrate with the National City Balanced Plan.

Therefore Staff recommends the Board select the National City Bayshore Bikeway Project for \$900,000 in MIIF funding in accordance with Board Policy No. 773, and contingent on: National City being awarded a CALTRANS Active Transportation Grant; CEQA review being conducted for the project; and expiration of a 60 day notice period to the State Lands Commission under Port Act Section 30.5, Intent to Spend Money off Tidelands, without objection.

If approved, National City will be the lead on this project. The District is supporting their grant application through the use of MIIF funds; National City will remain the lead with project implementation responsibility including CEQA review. It is estimated that there is approximately \$1.5 million in the Maritime Industrial Impact Fund.

**Next steps:**

- *Grant application due to CALTRANS on July 31;*
- *Notification of proposed awards Dec 31, 2018;*
- *California Transportation Commission (CTC) adopts programming recommendations early 2019*
- *National City Balanced Plan EIR to go to BPC Nov 2019 - this project is included in that Environmental Impact Report.*
- *Coastal Commission approvals - Port Master Plan Amendment for portion of bike path on tidelands*
- *Final Design*
- *Coastal Development Permits - from District and City*
- *Construction*

**General Counsel's Comments:**

The Office of the General Counsel has reviewed the issues presented in this agenda sheet and approves as to form and legality. .

**Environmental Review:**

The proposed Board action does not constitute a project or an "approval" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15352 because the Board's set aside of MIIF Funds to show matching funds in a grant application does not constitute a binding commitment to proceed the project and will not result in any direct or indirect physical change to the environment prior to CEQA review being conducted. *City of Irvine v. County of Orange* 221 Cal.App.4th 846 (2013). If the grant is awarded, National City, as the CEQA lead agency will have to conduct CEQA review as a condition of receiving the MIIF funding. The District would be a responsible CEQA agency. The District's consideration of the potential agreement with National City for the proposed funding shall be subject to appropriate environmental analysis under CEQA. If National City is not awarded the grant or the CEQA analysis is disapproved, the set aside MIIF funds

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in the budget may be available to other qualifying programs subject to appropriate approvals. Additionally, pursuant to Section 15378(b)(4) of the State CEQA Guidelines, a project does not include the creation of government funding mechanisms or other government fiscal activities.

In addition, this Board action complies with Sections 30.5 and 87 of the Port Act. Section 87 of the Port Act allows for the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. The proposed Board action is also conditioned on consistency with Section 30.5, which allows the District, subject to no objection from the State Lands Commission, to spend money off of tidelands if the money is for, among other things, activities adjacent to tidelands and the activities are incidental to carrying out the purposes identified in Section 87 of the Port Act. 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 proposed Board action is not “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit (CDP) Regulations. Therefore, issuance of a CDP or exclusion is not required. However, prior to construction of the bikeway, appropriate permits will be required, including a CDP. The Board’s action in no way limits the exercise of the District’s discretion under the District’s CDP Regulations.

**Equal Opportunity Program:**

Not applicable.

**PREPARED BY:**

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