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Title: RESOLUTION ADOPTING A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF NATIONAL CITY TO PROVIDE \$900,000 IN MARITIME INDUSTRIAL IMPACT FUNDS FOR A PORTION OF SECTION FIVE OF THE BAYSHORE BIKEWAY, IN ACCORDANCE WITH BOARD OF PORT COMMISSIONERS POLICY NO. 773, RESOLUTION 2018-133, AND AS MATCH TO THE CITY OF NATIONAL CITY'S SUCCESSFUL CALIFORNIA DEPARTMENT OF TRANSPORTATION ACTIVE TRANSPORTATION GRANT APPLICATION

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| 10/8/2019 | 1 | Board of Port Commissioners | adopted | |

DATE: October 8, 2019

SUBJECT:

RESOLUTION ADOPTING A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF NATIONAL CITY TO PROVIDE \$900,000 IN MARITIME INDUSTRIAL IMPACT FUNDS FOR A PORTION OF SECTION FIVE OF THE BAYSHORE BIKEWAY, IN ACCORDANCE WITH BOARD OF PORT COMMISSIONERS POLICY NO. 773, RESOLUTION 2018-133, AND AS MATCH TO THE CITY OF NATIONAL CITY'S SUCCESSFUL CALIFORNIA DEPARTMENT OF TRANSPORTATION ACTIVE TRANSPORTATION GRANT APPLICATION

EXECUTIVE SUMMARY:

The Maritime Industrial Impact Fund (MIIF) (Board Policy No. 773) was created to offset the impacts off tidelands of Maritime Industrial activities that take place on tidelands. It was recognized at the time of creation that certain adjacent communities were disproportionately impacted by industrial operations on District jurisdiction. The CALTRANS Active Transportation Grant Program seeks to provide bicycle and walking transportation options to communities. In July 2018, the Board selected the City of National City's National City Bayshore Bikeway Project (Project) for \$900,000 in MIIF funding in accordance with Board Policy No. 773. The MIIF funds will be used as match to the City's successful Active Transportation Grant application and for environmental review, entitlements and design of the Project. The proposed Memorandum of Understanding (MOU) specifies the terms of a transfer of MIIF funds to the City of National City. In particular, the MIIF funds will be paid in in two instalments: \$200,000 and \$700,000 for a total of \$900,000 and shall only be used for costs associated with environmental review, surveys, design and permitting The Project will enhance

bicycle connections to public transit, parks, and the working waterfront, which includes Naval Base San Diego and District tenants such as ship builders, ship repairers, and other industrial businesses.

RECOMMENDATION:

Adopt a resolution entering into a MOU with the City of National City to provide \$900,000 in MIIF funding to fund a portion of the National City Bayshore Bikeway project.

FISCAL IMPACT:

Entering into this Memorandum of Understanding will result in a reduction of the Maritime Industrial Impact Fund of \$900,000 over the course of two fiscal years. The fund currently has approximately \$1.5M available and would be reduced to approximately \$600,000.

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 that is a safe place to visit, work and play.

DISCUSSION:

The Maritime Industrial Impact Fund (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 (like neighboring communities in the City of National City) might be impacted disproportionately by nearby waterfront industrial activities.

The CALTRANS Active Transportation Grant Program seeks to mitigate similar impacts by providing bicycle and walking transportation options to 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.

In July 2018, the Board conditionally select the National City Bayshore Bikeway Project (Project) for \$900,000 in MIIF funding in accordance with Board Policy No. 773 Board approved \$200,000 in MIIF funds to be expended in FY2020, and an additional \$700,000 to be expended in FY2021, for a total of \$900,000. The initial installment of \$200,000 will pay for the environmental review (California Environmental Quality Act and/or National Environmental Policy Act) and preliminary design and topographic survey needed for environmental review. If the environmental review is approved, the remaining funding will pay for further design, engineering and permitting for the Project. The proposed Memorandum of Understanding (MOU) includes the terms and conditions for the MIIF funding. Construction is expected to begin in Spring 2022.

The City of National City is the proponent and lead agency of the Project and will implement the Project. National City was notified that they had been awarded grant funding in early 2019. The

District is supporting their grant application through the use of MIIF funds as match. To date, there is approximately \$1.5 million in the MIIF.

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

General Counsel's Comments:

The Office of General Counsel has reviewed this agenda sheet and attachments, as presented to it, and approves them as to form and legality.

Environmental Review:

The proposed Board action would authorize an MOU with the City of National City to specify the process for the District to fund design and entitlements for the Bayshore Bikeway Segment Five from the MIIF Fund. The proposed Board action does not constitute a "project" or an "approval" under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15378 and 15352 because no direct or indirect changes to the physical environment would occur. Further, as specified in the MOU, the District's reimbursement to the City for final design and engineering of the Project is expressly conditioned on completion and approval of environmental review in accordance with the California Environmental Quality Act, which is currently underway, prior to funding.

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. Future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District's certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The Board's action in no way limits the exercise of the District's discretion under the District's CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

Equal Opportunity Program:

Not Applicable

PREPARED BY:

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Attachment(s):
Attachment A: 07/17-18 BPC Action Agenda Item #19
Attachment B: Resolution No. 2018-133
Attachment C: Final Draft NC Bayshore Bikeway MOU