



pavement, storm drains, and utilities from the South Campus based on an obligation in the Relocation Agreement<sup>1</sup> between the San Diego Unified Port District (District), Rohr, Inc. (Rohr) and the City of Chula Vista. An increase in the project budget is requested to implement the Relocation Agreement.

**RECOMMENDATION:**

- A) Adopt an ordinance amending the FY 2018 budget increasing the FY 2018 Capital Improvement Program appropriation by \$6,118,100 to be funded with \$2,587,900 from restricted reserves and \$3,530,200 from cumulative undesignated reserves from previous years related to the Chula Vista Bayfront South Campus Pavement and Foundation Demolition Project.
  
- B) Adopt a resolution approving an amendment to the FY 2014-2018 5-year Capital Improvement Program to increase the Chula Vista Bayfront South Campus Pavement and Foundation Demolition Project budget by \$6,118,100 pursuant to BPC Policy No. 120, Capital Improvement Program (CIP).

**FISCAL IMPACT:**

Approval of this action will authorize the amendment of the FY 2014-2018 5-year CIP budget from \$129,720,400 to \$135,838,500 and will amend the FY 2018 Budget CIP appropriation from \$35,858,600 to \$41,976,700.

The South Campus Pavement and Foundation Demolition Project (P0040) is included in the FY 2014-2018 CIP with \$1,402,000 in the FY 2018 budget. As of January 31, 2018, the remaining budget is approximately \$1,241,200. The proposed CIP amendment of \$6,118,100 will increase the total project budget to \$7,520,100. Funding for this project budget amendment is available from restricted reserves and cumulative undesignated reserves from previous years through FY 2017.

Estimated project costs and funding sources are summarized as follows:

|                                      |                           |
|--------------------------------------|---------------------------|
| Construction (Rohr)                  | \$6,085,200               |
| Administration and Management (Rohr) | \$1,272,100               |
| SUBTOTAL OF ROHR WORK                | <u>\$7,357,300</u>        |
| 9% Contingency                       | \$602,000                 |
| District Consultants                 | \$250,000                 |
| TOTAL ESTIMATED PROJECT COST         | <u><u>\$8,209,300</u></u> |
| <br>                                 |                           |
| Rohr Credit                          | \$850,000                 |
| Remaining CIP Funds                  | \$1,241,200               |
| Restricted Reserves                  | \$2,587,900               |
| Cumulative Undesignated Reserves     | \$3,530,200               |
| TOTAL FUNDING SOURCES                | <u><u>\$8,209,300</u></u> |

**COMPASS STRATEGIC GOALS:**

This project furthers the environmental remediation and redevelopment of the Chula Vista Bayfront. This agenda item supports the following Strategic Goals:

- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.

### **DISCUSSION:**

In 1999, the District entered into a Relocation Agreement with Rohr, the City of Chula Vista, and the Redevelopment Agency of the City of Chula Vista. The Relocation Agreement provides, among other things, that the District be responsible for the demolition and removal of structures and associated infrastructure located on the South Campus, including the demolition of buildings, foundations, pavement, storm drains, utilities and appurtenances. The District subsequently removed all buildings from the South Campus in 2005 through 2007. The foundations, pavement and other remaining improvements at the south end of the site were removed in 2014 to facilitate the Pacifica land exchange. The last improvements that remain are at the north end of the site, known as Phase 4B.

Disputes arose between the District and Rohr concerning responsibility for, and allocation of costs related to certain aspects of the demolition. On May 12, 2017, the Board authorized a Partial Settlement Agreement<sup>2</sup> (Agreement) with Rohr which agreed upon the allocation of responsibility and costs for demolition and removal of the remainder of the improvements on South Campus Phase 4B to facilitate conducting further environmental investigations of the South Campus. Under the terms of that Agreement, Rohr will contract for and manage South Campus Demolition, Phase 4B, in consultation with the District, and the District will pay Rohr for certain administration, design, management, demolition and removal costs (Rohr Work). The Agreement also provides for Rohr to contribute \$850,000 toward concrete disposal that would otherwise be a District responsibility.

Rohr and their prime contractor and construction manager, Haley & Aldrich Construction Services, Inc. (HCS) have estimated the District's share of Rohr Work for South Campus Demolition, Phase 4B at \$7,357,300. The total estimated project cost of \$8,209,300 includes a 9% contingency and funds for District consultants to provide quality control. Rohr will credit \$850,000 for concrete disposal.

All South Campus demolition work to date has been performed under the CIP project, South Campus Pavement and Foundation Demolition (P0040). The most recent project was South Campus Demolition, Phase 4A which prepared the Pacifica Exchange Parcel. It was anticipated in the agenda sheet<sup>3</sup> for the 4A project that Phase 4B would be funded by the CIP funds remaining after completion of Phase 4A, supplemented by future funding. As of January 31, 2018, the South Campus CIP project has a budget of \$1,402,000 with remaining funds of \$1,241,200.

The additional needed funds totaling \$6,118,100 have been identified with \$2,587,900 coming from restricted reserves and \$3,530,200 coming from cumulative undesignated reserves from previous years through FY 2017. Staff is requesting that these funds be transferred to the FY 2014-2018 5-year Capital Improvement Program and designated for the Chula Vista Bayfront South Campus Pavement and Foundation Demolition Project, increasing the total project budget from \$1,402,000 to \$7,520,100.

Board approval of this action will provide funding to implement the last phase of South Campus Demolition, advancing preparation of the area for redevelopment and complying with executed agreements.

### **General Counsel's Comments:**

The Office of the General Counsel has reviewed the issues set forth in this agenda and found no legal concerns as presented. The Office of the General Counsel assisted District staff in resolution of legal issues regarding the interpretation of the Relocation Agreement, and will continue to assist District staff in its implementation.

### **Environmental Review:**

The proposed Board actions for budget amendments for the Chula Vista Bayfront South Campus Demolition Phase 4B project was adequately covered in the previously adopted BF Goodrich Relocation Agreement Mitigated Negative Declaration (MND) (Case No: IS-99-21), prepared and approved by the City of Chula Vista Redevelopment Agency in June 1999, as well as the Addendum to the Final Environmental Impact Report (FEIR) for the Chula Vista Business Park Expansion and Port Master Plan Amendment (SCH #96101030; UPD #83356-EIR-327), prepared by the District in April 2005. In addition, implementation of the Chula Vista Bayfront Master Plan (CVBMP), including the requested action to adopt plans and specifications and award the contract for the demolition project, has been addressed by the CVBMP and Port Master Plan Amendment Final Environmental Impact Report (FEIR) (UPD #83356- EIR-658, SCH #2005081077), which was certified by the Board on May 18, 2010, (BPC Resolution 2010-78). 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.) Accordingly, the proposed Board action is merely a step in furtherance of the original project for which environmental review was performed, and no further environmental review is required.

In addition, the proposed Board action complies with Section 87 of the Port Act, which allows for visitor-serving commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities. 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 project site is located in an area that, prior to California Coastal Commission (CCC) certification of the Chula Vista Bayfront Master Plan Port Master Plan Amendment in August 2012, was within the CDP jurisdiction of the California Coastal Commission (CCC). District staff submitted a CDP application to the CCC for the demolition project on April 13, 2012. The CCC issued CDP No. 6-12-022 to the District for the demolition project on July 11, 2012. Additionally, the CCC issued an Immaterial Amendment to Coastal Development Permit No. 6-12-022 (6-12-022-A1) on January 2, 2014. The proposed Board actions are consistent with the project description in the CCC-issued CDP, as amended. No additional action under the California Coastal Act is required at this time.

### **Equal Opportunity Program:**

Not applicable.

### **PREPARED BY:**

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Capital Project Manager, Engineering-Construction

**Attachments:**

Attachment A: Site Plan of South Campus, Phase 4B

<sup>1</sup> Relocation Agreement and Escrow Instructions. Clerk's Document No. 39466.

<sup>2</sup> Partial Settlement Agreement. Clerk's Document No. 67204.

<sup>3</sup> San Diego Unified Port District Board Meeting - November 19, 2013, Agenda Item 23.