



Legislation Text

File #: 2018-0248, Version: 1

DATE: July 17, 2018

SUBJECT:

CHULA VISTA BAYFRONT PARKS:

- A) ORDINANCE AMENDING THE FISCAL YEAR (FY) 2019 BUDGET INCREASING THE FY 2019 CAPITAL IMPROVEMENT PROGRAM (CIP) APPROPRIATION BY \$1,653,750 TO BE FUNDED FROM RESTRICTED RESERVES RELATED TO THE CHULA VISTA BAYFRONT PROJECT**
- B) RESOLUTION APPROVING AN AMENDMENT TO THE FY 2019-2023 5-YEAR CIP TO INCREASE THE SITE PREPARATION AT CHULA VISTA BAYFRONT PROJECT BUDGET BY \$1,653,750 PURSUANT TO BOARD OF PORT COMMISSIONERS POLICY NO. 120, CAPITAL IMPROVEMENT PROGRAM**
- C) RESOLUTION AUTHORIZING AMENDMENT NO. 3 TO THE AGREEMENT WITH KTU+A FOR CHULA VISTA PARKS DESIGN SERVICES INCREASING THE MAXIMUM AMOUNT PAYABLE UNDER THE AGREEMENT BY \$1,676,460 FOR A NEW MAXIMUM AMOUNT OF \$2,076,460, ADDING ADDITIONAL WORK, AND EXTENDING TERM THROUGH JUNE 30, 2020. FUNDS FOR FY 2019 ARE BUDGETED IN THE FY 2019 CIP APPROPRIATION; ALL FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETED IN THE APPROPRIATE FISCAL YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET**

EXECUTIVE SUMMARY:

This action will amend the FY 2019 Budget Capital Improvement Program appropriation as well as amend the FY 2019-2023 Capital Improvement Program (CIP) and approve a project budget increase for Site Preparation at Chula Vista Bayfront. The action will also authorize an amendment to the agreement with KTU+A for Chula Vista Bayfront Park Design Services increasing the agreement amount by \$1,676,460 to a total of \$2,076,460, adding additional work, and extending the term through June 30, 2020. The additional funds will be used to provide public outreach, develop the schematic design of Harbor and Sweetwater Parks, and to provide final design, bid and construction support services for the Sweetwater Bicycle Path and Promenade Project.

RECOMMENDATION:

- A) Adopt an Ordinance amending the Fiscal Year (FY) 2019 Budget increasing the FY 2019 Capital Improvement Program (CIP) appropriation by \$1,653,750 to be funded from restricted reserves related to the Chula Vista Bayfront project

- B) Adopt a Resolution approving an amendment to the FY 2019-2023 5-Year CIP to increase the Site Preparation at Chula Vista Bayfront project budget by \$1,653,750 pursuant to Board of Port Commissioners Policy No. 120, Capital Improvement Program
- C) Adopt a Resolution authorizing Amendment No. 3 to the agreement with KTU+A for Chula Vista Parks Design Services increasing the maximum amount payable under the agreement by \$1,676,460 for a new maximum amount of \$2,076,460, adding additional work, and extending the term through June 30, 2020. Funds for FY 2019 are budgeted in the FY 2019 CIP appropriation; all funds required for future fiscal years will be budgeted in the appropriate fiscal year, subject to Board approval upon adoption of each fiscal year's budget.

FISCAL IMPACT:

Approval of this action will authorize the amendment of the FY 2019-2023 5-year CIP budget from \$51,206,000 to \$52,859,750 and will amend the FY 2019 Budget CIP appropriation from \$33,321,000 to \$34,974,750.

The Site Preparation at Chula Vista Bayfront Project (P0460) is included in the FY 2019-2023 CIP with a total budget amount of \$9,240,000 and approximately \$5,950,000 remaining, which includes a \$4,800,000 grant, and is budgeted in FY 2019. The proposed CIP amendment of \$1,653,750 will increase the total project budget to \$10,893,750. Funding for this project budget amendment is available from restricted reserves related to the Chula Vista Bayfront.

COMPASS STRATEGIC GOALS:

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:

On April 10, 2018, the District entered into the Disposition and Development Agreementⁱ (DDA) between the District, the City of Chula Vista and RIDA Chula Vista, LLC. In accordance with paragraph 4.4(b) of the DDA, the District is responsible to prepare Schematic Plans for Phase 1A Infrastructure Improvements, including Sweetwater and Harbor Parks. Section 5 of Attachment No. 4 to the DDA, Conceptual Outline of the Joint Exercise of Powers Agreement Plan of Finance, lists SDG&E relocation fees of \$1,653,750 as a District funding contribution. Staff is requesting that these funds be transferred to the FY 2019-2023 5-year Capital Improvement Program and designated for the Chula Vista Bayfront Site Preparation Project, increasing the total project budget from \$9,240,000 to \$10,893,750.

The Board authorized selection of KTU+A and authorized an agreement for design services for the Sweetwater Park and Harbor Park in the Chula Vista Bayfront on July 27, 2016. KTU+A, in association with Peterson Studio, was selected from thirteen firms that responded to the District's advertised solicitation of written responses in accordance with BPC Policy No. 110. Staff anticipated requesting Board authorization of amendments in the future to include additional design services, and as needed, bid and construction phase services.

The two parks are planned to be built in the first phase of the development of the Bayfront. Sweetwater Park improvements are required by the Chula Vista Bayfront Development Policies, certified by the Coastal Commission, and to be completed prior to the issuance of a Certificate of Occupancy for the Resort Hotel and Convention Center. Harbor Park includes the existing Bayside Park and is located between the proposed Resort Hotel and Convention Center and San Diego Bay.

Also on April 10, 2018, the District entered into a Grant Agreementⁱⁱ with the State of California Natural Resources Agency for Urban Greening Grant funding of \$4,800,000 for the Sweetwater Bicycle Path & Promenade. The schedule to accommodate that grant requires that design and construction of the Sweetwater Path proceed expeditiously.

Staff is requesting approval of Amendment No. 3 to increase the KTU+A agreement capacity by \$1,676,460 for a new, not-to-exceed total of \$2,076,460, and will extend the contract period to June 30, 2020. Approval of this action will authorize public outreach and schematic design for Sweetwater and Harbor Parks and provide \$1,415,270 for these services. Approval of this action will also authorize final design, bid and construction support services for the Sweetwater Bicycle Path and provide \$261,190 for these services.

General Counsel's Comments:

The Office of the General Counsel has reviewed and approved the proposed amendment as to form and legality.

Environmental Review:

The proposed Board actions for authorizing amendments to the fiscal year 2019 Capital Improvement Program Appropriation by \$1,653,750, authorizing amendments to the fiscal year 2019-2023 five-year Capital Improvement Program, and authorizing amendment number three to the agreement with KTU&A for Chula Vista parks design services increasing the amount payable by \$1,706,940 was adequately covered in the Chula Vista Bayfront Final EIR (State Clearinghouse No. 2005081077) prepared and adopted/certified by the District in May 2010. 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 Chula Vista Bayfront Final EIR, the District finds and recommends that the approval of the amendments to the Capital Improvement Program and agreement with KTU&A does 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 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 FEIR, (b) identifies significant impacts would not be more severe than those analyzed in the 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, and (d) no changes to mitigation measures or alternatives have been identified or are required. Because none of these factors have been triggered and the adoption of the approval of the acceptance of grant funds and

amendment to the Capital Improvement Program, the District has the discretion to require no further analysis or environmental documentation (CEQA Guidelines §15162(b)). Pursuant to CEQA Guidelines §15162(b), the District finds and recommends that no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step in 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.

In addition, the proposed Board action allows for the District to implement its obligation under Section 87(a)(5) of the Port Act because it designates funding that will be used for the construction of a park in the Chula Vista Bayfront Master Plan area. 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 direction or action does not allow for “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 because they will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing 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 direction or 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:

Due to limited known subconsulting opportunities, no Small Business Enterprise (SBE) participation goal was established for this agreement. KTU+A has identified SBE’s as part of their team.

PREPARED BY:

Mark McIntire
Capital Project Manager, Engineering-Construction

Attachment:

Attachment A: Amendment No. 3 to Agreement No. 119-2016CH with KTU+A

ⁱ Disposition and Development Agreement, Clerk’s Document No. 68398

ⁱⁱ Grant Agreement for Sweetwater Bicycle Path & Promenade, Clerk’s Document No. 68461