



Legislation Details (With Text)

File #: 2023-0080 **Version:** 1 **Name:**

Type: Action Item **Status:** Passed

File created: 3/9/2023 **In control:** Board of Port Commissioners

On agenda: 5/9/2023 **Final action:** 5/9/2023

Title: CONGRESSIONALLY DIRECTED FUNDING:
A. ADOPT A RESOLUTION AUTHORIZING ACCEPTANCE OF A COMMUNITY PROJECT FUNDING GRANT IN THE AMOUNT OF \$2,000,000 FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR FREEDOM PARK AT NAVY PIER PROJECT AND EXECUTION OF THE ACCOMPANYING GRANT AGREEMENT, AND

B. ADOPT A RESOLUTION AUTHORIZING ACCEPTANCE OF A COMMUNITY PROJECT FUNDING GRANT IN THE AMOUNT OF \$3,000,000 FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE BEACH AND BOAT LAUNCH AT THE HARBOR PARK PROJECT AND EXECUTION OF THE ACCOMPANYING GRANT AGREEMENT.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 4. 2023-0080 Attachment A - Draft Grant Agreement Freedom Park, 2. 4. 2023-0080 Attachment B - Grant Agreement B-23-CP-CA-0253, 3. 4. 2023-0080A Draft Resolution, 4. 4. 2023-0080B Draft Resolution

Date	Ver.	Action By	Action	Result
5/9/2023	1	Board of Port Commissioners	adopted	

DATE: May 9, 2023

SUBJECT: Congressionally Directed Funding

CONGRESSIONALLY DIRECTED FUNDING:

A. ADOPT A RESOLUTION AUTHORIZING ACCEPTANCE OF A COMMUNITY PROJECT FUNDING GRANT IN THE AMOUNT OF \$2,000,000 FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR FREEDOM PARK AT NAVY PIER PROJECT AND EXECUTION OF THE ACCOMPANYING GRANT AGREEMENT, AND

B. ADOPT A RESOLUTION AUTHORIZING ACCEPTANCE OF A COMMUNITY PROJECT FUNDING GRANT IN THE AMOUNT OF \$3,000,000 FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE BEACH AND BOAT LAUNCH AT THE HARBOR PARK PROJECT AND EXECUTION OF THE ACCOMPANYING GRANT AGREEMENT.

EXECUTIVE SUMMARY:

In December 2022 the United States Congress passed, and the President signed, the *Consolidated Appropriations Act 2023* with the Federal FY23 budget. Included in the FY23 budget were the following funding allocations for District projects:

- \$2,000,000 to support Freedom Park at Navy Pier (Freedom Park), and

- \$3,000,000 to support the Harbor Park Beach and Boat Launch (Harbor Park) at the Chula Vista Bayfront.

The Department of Housing and Urban Development (HUD) was identified as the administrative agency to distribute these funds to the District. Since budget adoption, HUD staff has been working to establish a process to distribute Congressionally Directed Funds that aligns with existing federal government grant administration processes, including federal oversight of projects and reporting requirements. District staff has worked collaboratively with HUD since March 2023. The HUD grant agreements for each respective award are included as Attachments A and B. Adopting a resolution accepting the funds is the first step to budgeting federal funds for these critical projects.

RECOMMENDATION:

Adopt two resolutions authorizing acceptance of Community Project Funding grants in the amounts set forth below and execution of the accompanying grant agreements:

- a) \$2,000,000 from HUD for the Freedom Park at Navy Pier project, and
- b) \$3,000,000 from HUD for the Beach and Boat Launch at the Harbor Park project

FISCAL IMPACT:

If the Board adopts the resolutions accepting Congressional Directed Funds, the funds will be reflected in the District's FY24 Budget, scheduled to be presented to the Board for approval on June 13, 2023. No match funds are required to accept the Congressionally Directed Community Investment Funds. Congressionally Directed Funds will be budgeted in each fiscal year as provided in the Discussion section below, subject to Board approval with each fiscal year's budget.

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 financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

On December 23, 2022 the United States Congress passed, and on December 29, 2022 the President signed the *Consolidated Appropriations Act, 2023* with the Federal FY23 budget. Included in the FY23 budget was funding to support two District priority projects:

- \$2,000,000 Freedom Park at Navy Pier (Freedom Park), and
- \$3,000,000 to support the Harbor Park Beach and Boat Launch (Harbor Park).

The Department of Housing and Urban Development (HUD) is the administrative agency responsible for the distribution of these funds to the District, and grant administration. Since budget adoption, HUD staff has been working to establish a process to distribute Congressionally Directed Funds that aligns with existing federal government grant administration processes. HUD has provided the District with grant agreements for the respective awards (Attachments A and B). Adopting a resolution accepting the funds is a necessary step to allocating the funds for these critical projects.

Match funding is not required.

Harbor Park

In December 2020, the District issued a non-appealable Coastal Development Permit (CDP) for Harbor Park. The CDP proposed the development of the Park, which is anticipated to occur in phases based on available financing. Park construction will involve the demolition of existing improvements within the project site, followed by site preparation for future improvements, including: grading, landscaping, promenades and walkways, playground, parking areas, and other public amenities; development of a new pier; restoration of the existing shoreline revetment; and enlargement and replenishment of the existing beach, in the Harbor District of the Chula Vista Bayfront (CVB). The Chula Vista Bayfront Master Plan (CVBMP) envisioned the Harbor District being the area with the highest intensity use within the CVB, and encourages an active, vibrant mix of uses and public spaces.

The initial phase of Harbor Park, anticipated to cost a total of \$10,000,000 and includes an improved Beach and boat launch and adjacent shoreline improvements, landscaping, parking, promenade and walkways. A study that will identify the program for Phase 1 of Harbor Park is tentatively scheduled to commence in mid-2023, with an anticipated completion in late 2023. Construction of Phase 1 is anticipated to start in mid-2024 and be completed in late 2025.

District staff intends to apply the \$3,000,000 Congressional Directed Funding to the required \$10,000,000 in necessary funding to complete permitting, design, preparation of plans and specifications, and construction of the project.

Freedom Park

On February 9, 2023, the California Coastal Commission voted unanimously to issue a Coastal Development Permit (CDP) to the District and USS Midway Museum, a nonprofit public benefit corporation (Midway) for the Freedom Park project on Navy Pier located directly to the north of the Midway Museum. The CDP allows for the demolition of the headhouse structure at the entrance to the pier, structural repairs/rehabilitation on and under the pier in the vicinity of the demolished headhouse, and then the construction of the park thereon. A structural pile improvement project is currently underway beneath the pier. The District anticipates starting demolition of the headhouse building in early 2024, followed by additional structural improvements on and under the pier, and subsequently construction of Freedom Park. The park's opening is anticipated for 2028.

Other than the structural pile improvement project, which is to be completed at the District's cost, the Midway is obligated to fund the remaining construction costs to complete Freedom Park pursuant to that certain MOU between the District and the Midway. Following satisfaction of the various conditions set forth in the applicable HUD grant agreement, staff intends to provide the \$2,000,000 in grant funds to the Midway for payment of construction costs for which the Midway is responsible. Both the Midway's obligation to fund construction costs and the District's obligation to provide the \$2,000,000 in Congressionally Directed Funds to Midway for the Midway to apply to such construction costs will be further memorialized in a three-party construction agreement for the Freedom Park project to be entered into by and among the District, the Midway, and the general contractor to be selected at the completion of the procurement process.

Congressionally Directed Funding

During the spring of 2022, US Senators and Congressional Representatives were invited to submit

Congressionally Directed Spending Requests to either the US Senate Committee on Appropriations or the US House Committee on Appropriations, as part of the FY23 federal budget process. Each elected representative's office solicited community-driven project requests during an abbreviated application period. District staff submitted multiple requests, including the funding requests included in this agenda item. Representative Scott Peters (CA-50) and Representative Juan Vargas (CA-52) moved the District's funding requests for Freedom Park and Harbor Park Beach and Boat Launch, respectively, forward to the full House Appropriations Committee for consideration. Both projects were included by the full Committee in the FY23 Consolidated Appropriations Act.

The United States Congress passed a series of Continuing Resolutions in late 2022, delaying the adoption of an FY23 federal budget until after the fiscal year started in October. Congress passed, and the President signed, the federal FY23 budget in December 2022. Upon the President's signature, District staff confirmed that \$3,000,000 in funding for Harbor Park, as well as \$2,000,000 in funding to support Freedom Park at Navy Pier was included in the approved federal budget. HUD was identified as the funding agency. Since budget adoption, HUD staff has been working to establish a process to distribute Congressionally Directed Funds that aligns with existing federal government grant administration processes.

The grant agreements for each project are included as Attachments A and B. The Navy Pier and Harbor Park projects are projected to span multiple fiscal years. Therefore, Congressionally Directed Funds for future fiscal years will be budgeted in the appropriate fiscal year, subject to Board approval upon adoption of each fiscal year's budget. The agreements are subject to various conditions and federal regulations that must be complied with by the District to use the funds, including oversight by HUD over aspects of the aforementioned projects (e.g., review pursuant to NEPA) and reporting requirements.

General Counsel's Comments:

The Office of the General Counsel has reviewed this agenda and the attachments as presented to it and approves the same as to form and legality.

Environmental Review:

The proposed Board action item to authorize acceptance of a Community Project Funding grant in the amount of \$2,000,000 from the Department of Housing and Urban Development for the Freedom Park at Navy Pier Project. The Freedom Park at Navy Pier Project was issued a Coastal Development Permit (CDP) (CDP No. 6-22-1069; Clerk Document No. 74984) by the California Coastal Commission on February 17, 2023. In their approval of the CDP, the California Coastal Commission found that the project was adequately analyzed in the North Embarcadero Alliance Visionary Plan Master Final Environmental Impact Report (EIR) (SCH # 1999031037) regarding the relocation and operation of the USS Midway and other potential development, including but not limited to, public access improvements, on the North Embarcadero, and further, that any portions of the Freedom Park at Navy Pier Project arguably not included within that EIR are exempt from CEQA under California Code of Regulations, Title 14, §§ 15273, 15301, including subdivisions (d) and (l), 15304, 15308, 15321(a)(2), 15332.) The Commission's CEQA-certified program relieves the Commission from having to prepare an Environmental Impact Report for approval of coastal development permits (see Public Resources Code, 21080.5; California Code of Regulations, Title 14, § 15251(c).) The California Coastal Commission's staff report is its CEQA-equivalent environmental document. Therefore, no further approvals are required pursuant to the CEQA, the District's CEQA

Guidelines, the California Coastal Act, or the District's CDP Regulations.

Additionally, the proposed Board action, including without limitation, to authorize acceptance of Community Project Funding grant in the amount of \$3,000,000 from the Department of Housing and Urban Development for the Beach and Boat Launch at Harbor Park Project, was adequately analyzed in the Final Environmental Impact Report (FEIR) for the Chula Vista Bayfront Master Plan (UPD#83356-EIR-658; SCH #2005081077, Clerk Document No. 56562) prepared and certified by the District on May 18, 2010 (Resolution No. 2010-78), the Addendum to the FEIR, which was adopted by the Board on August 13, 2013 (Resolution No. 2013-138), the Second Addendum to the FEIR, which was adopted by the Board on April 10, 2018 (Resolution No. 2018-0069), and the Third Addendum to the FEIR, which was adopted by the Board on December 8, 2020 (Resolution No. 2020-116). 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 FEIR, the District finds and recommends that the proposed Board action for the Beach and Boat Launch at Harbor Park Project 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 previous 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 previous FEIR, (b) identifies significant impacts more severe than those analyzed in the previous 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, or (d) shows mitigation measures or alternatives which are considerably different from those analyzed in the previous FEIR would substantially reduce one or more significant effects on the environment. Because none of these factors have been triggered, pursuant to CEQA Guidelines §15162(b), the District has determined no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step in the furtherance of the original project for which environmental review (pursuant to CEQA) was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review pursuant to CEQA is required. However, prior to execution of the grant agreement, the District will need to complete NEPA review for both projects. District staff will work with HUD staff to complete those NEPA reviews and anticipate them to be complete within one year.

The proposed Board action for the Beach and Boat Launch at Harbor Park Project was covered in the Coastal Development Permit (CDP) for Chula Vista Bayfront Harbor Park (CDP-2021-01; Clerk Document No. 72271) approved for issuance by the District on December 8, 2020 (Resolution No. 2020-117). The proposed Board action is consistent with the CDP. No additional action under the California Coastal Act is required at this time for proposed Board action item related to the Beach and Boat Launch at Harbor Park Project.

Both proposed Board actions comply with Sections 21, 35, and 87 of the Port Act which allow for the Board to pass resolutions, to do all acts necessary and convenient for the exercise of its powers, and for public recreation uses and purposes, and the construction, maintenance, and operation of parks, public recreation facilities, and appliances incidental, necessary, or convenient for the promotion and accommodation of such uses. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent

with the Public Trust Doctrine.

Diversity, Equity, and Inclusion Program:

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

PREPARED BY:

Laura Wagner,
Grants Coordinator, Government & Civic Relations

Attachment(s):

Attachment A: Community Project Funding Grant Agreement Freedom Park at Navy Pier
Attachment B: Community Project Funding Grant Agreement Harbor Park