



## Legislation Text

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**File #:** 2017-0340, **Version:** 1

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**DATE:** August 8, 2017

**SUBJECT: CAPITAL IMPROVEMENT PROGRAM**

**RESOLUTION ESTABLISHING THE 2019-2023 CAPITAL IMPROVEMENT PROGRAM (CIP) TO INCLUDE REMAINING PROJECTS AND FUNDS FROM THE 2014-2018 CIP AND WAIVING BPC POLICY NO. 120, SECTION 3-7, TO ELIMINATE THE SOLICITATION OF NEW PROJECTS AND THE CIP WORKSHOP FOR 2017**

### **EXECUTIVE SUMMARY:**

In accordance with Board of Port Commissioner's (BPC) Policy No. 120, the Port facilitates capital development projects through a 5-year CIP. The FY 2014-2018 CIP will end June 30, 2018. Based on direction from the Board, staff recommends the establishment of a new 5-year CIP for FY 2019-2023 and the rollover of projects that will be on-going at the end of June 2018.

Staff presented the CIP to the Board on April 25 and May 16, 2017. The Board provided direction to staff at each meeting regarding the CIP. Based on this direction, staff recommends formalizing the FY 2019-2023 CIP and eliminating the solicitation of new projects this year.

The waiving of BPC Policy No. 120 Sections 3-7 will align with the Board's direction to eliminate the solicitation of new projects this year and the CIP workshop.

### **RECOMMENDATION:**

Adopt a resolution establishing the 2019-2023 Capital Improvement Program (CIP) to include remaining projects and funds from the 2014-2018 CIP and waiving BPC Policy No. 120, Section 3-7, to eliminate the solicitation of new projects and the CIP Workshop for 2017.

### **FISCAL IMPACT:**

There will be no fiscal impact as a result of this resolution. CIP project budgets have been approved by the Board in past actions. Appropriation of funds in future fiscal years will be submitted with the annual budget for Board approval.

### **COMPASS STRATEGIC GOALS:**

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

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.

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

## **DISCUSSION:**

In accordance with Board of Port Commissioner's (BPC) Policy No. 120, the Port will facilitate capital development projects through a 5-year CIP. The FY 2014-2018 CIP will end June 30, 2018. Based on direction from the Board, staff recommends the establishment of a new 5-year CIP for FY 2019-2023 and the rollover of projects that will be on-going at the end of June 2018.

Staff presented the CIP to the Board on April 25 and May 16, 2017. The Board provided direction to staff at each meeting regarding the CIP. Based on this direction, staff recommends formalizing the FY 2019-2023 CIP and eliminating the solicitation of new projects this year.

At the April 25, 2017 Board meeting, staff highlighted the current 5-year program, discussed the Port's current fiscal state, and asked the Board for direction regarding the approach for establishing the FY 2019-2023 CIP including not to solicit new project proposals and instead, return to a future Board meeting to review the existing portfolio of projects.

Per the Board's direction, staff returned to the May 16, 2017 Board meeting with a presentation of completed projects, projects ready for funding, and existing projects needing additional funding. Staff recommended adding one new project to the CIP, which combined two completed studies, and increasing funding to four existing projects. The Board accepted staff's recommendations and added the project and funds to the current CIP (FY 2014-2018). The projects and funding increases are highlighted below:

- Added - Beach Avenue Street End Improvements and Comfort Station - \$2M
- Increased - Demolition and Site Improvements of Transit Sheds 1 and 2 at TAMT - \$5.7M
- Increased - Site Preparation at Chula Vista Bayfront - \$1M
- Increased - National City Marina District Preliminary Planning - \$1M
- Increased - Former Navy Pier Head House Demolition - \$6M

The funding for these projects came from unrestricted resources in the total amount of \$15.7M. These changes were incorporated into the FY 2017/2018 Budget.

This action will formalize the Board's direction to staff establishing the FY 2019-2023 CIP, the roll over of existing projects into the next 5-year CIP (FY 2019-2023) that will be ongoing, including those added May 16, 2017, and waiving BPC Policy No. 120 Sections 3-7 to eliminate the solicitation of new projects and the CIP workshop for 2017.

The waiving of BPC Policy No. 120 Sections 3-7 will align with the Board's direction to eliminate the solicitation of new projects this year and the CIP workshop. Sections 3-7 describe the CIP process of project solicitation, review, and addition to the program.

By eliminating the solicitation of new projects and the CIP workshop for 2017 no new CIP projects are

planned for FY 2018/2019. A timeline is provided to depict the CIP decision making process in Attachment A, Figure 1. This doesn't prevent the Board from adding new projects if they are brought forth out of cycle in accordance with BPC Policy No. 120 Section 9.

Staff plans to return to the Board in spring 2018 to make a determination of available funds for new projects in FY 2019/2020. This decision will be the determining factor for whether or not a CIP workshop will be held in 2018 to add projects to the CIP in FY 2019/2020 (Attachment A, Figure 2).

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

The Office of the General Counsel has reviewed and approved this agenda as to form and legality.

### **Environmental Review:**

This proposed Board action for the establishment of a new 5-year CIP for FY 2019-2023 to include remaining projects and funds from the 2014-2018 CIP and elimination of the solicitation of new projects and the CIP workshops for 2017 does not constitute a "project" or an "approval" of a "project" under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur, and the Board's direction to staff does not constitute a binding commitment to implement or approve any of the items in the CIP. 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 which do not involve any commitment to any specific project, which may result in a potentially significant impact on the environment. The establishment of the CIP fits within Section 15378(b)(4) as the action only identified potential items and does not involve any commitment to carrying out those items.

CEQA requires that the District adequately assess the environmental impacts of its projects. Accordingly, each item identified in the CIP will require review under CEQA prior to the District's commitment to carry out said item. In regards to that CEQA review, the Board reserves its discretion to adopt any and all feasible mitigation measures, alternatives to a project, including a no project alternative, a statement of overriding consideration, if applicable, and approve or disapprove a project and any permits or entitlements necessary for the same. Those decisions may be exercised in the sole and absolute discretion of the Board. Based on the totality of the circumstances and the entire record, the Board's direction does not commit the District to a definite course of action prior to CEQA review being conducted. No further action under CEQA is required at this time.

In addition, the presentation and direction to staff allows for the District to administrate its obligations under the Port Act and/or other laws. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed presentation is consistent with the Public Trust Doctrine.

Finally, the presentation and direction to staff 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. Therefore, issuance of a CDP or exclusion is not required. However, the District's projects require processing under the District's CDP Regulations. If the Board considers approval of future development projects formulated as a result of the FY 2018 Final Budget, appropriate permitting under District's CDP Regulations will be completed and

considered by the Board, if necessary. 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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Attachment(s):

Attachment A: CIP Project Solicitation Timelines