



## Legislation Text

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**File #:** 2018-0507, **Version:** 1

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**DATE:** December 11, 2018

**SUBJECT:**

**RESOLUTION APPROVING THE TRANSFER OF FUNDS WITHIN THE FY2019-2023 CAPITAL IMPROVEMENT PROGRAM BUDGET APPROPRIATION FROM CIP RESERVE AND CONTINGENCY TO CIP CAPITAL LABOR IN THE AMOUNT OF \$1,500,000 PURSUANT TO BPC POLICIES NO. 90 AND NO. 120**

**EXECUTIVE SUMMARY:**

The Capital Improvement Program (CIP) was established for the orderly development or improvement of the capital assets of the Port pursuant to BPC Policy No. 120. The internal costs of staff (capital labor) for each project are completely funded by the CIP and are deducted from the personnel expense budget for this investment.

The FY2019-2023 CIP budget included an estimate of \$1,850,000 for capital labor which was forecast in January 2018 to be remaining at the end of FY 2017/18. During the second half of FY2017/18, the Chula Vista Bayfront project achieved major milestones which necessitated the deployment of additional staff in order to meet District obligations. These additional resources accelerated the use of capital labor and the actual remaining balance at the beginning of FY2018/19 was 1,088,437.

The Board has transferred funds to capital labor as needed over the past 3 years to fund the cost of internal labor pursuant to BPC No. 120. Staff anticipates the balance of capital labor will be depleted in January 2019 and recommends transferring \$236,700 from CIP Contingency and \$1,263,300 from CIP Reserve, for a total of \$1,500,000, to CIP Capital Labor. This is expected to provide the required capital labor through the remainder of FY2018/19. At the 2019 budget workshop, staff will recommend funding additional capital labor to support the CIP program through FY 2019/20.

**RECOMMENDATION:**

Adopt a resolution approving the transfer of funds within the FY 2019-23 Capital Improvement Program budget appropriation from CIP Reserve and Contingency to CIP Capital Labor in the amount of \$1,500,000 pursuant to BPC Policies No. 90 and No. 120

**FISCAL IMPACT:**

Approval of this resolution will authorize the transfer of funds within the CIP; reducing CIP Contingency \$236,700 and CIP Reserve \$1,263,300, for a total of \$1,500,000, and increasing CIP Capital Labor \$1,500,000.

There is no fiscal impact to the District.

### **COMPASS STRATEGIC GOALS:**

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

- A Port that the public understands and trusts.

### **DISCUSSION:**

The Capital Improvement Program (CIP) was established for the orderly development or improvement of the capital assets of the Port pursuant to BPC Policy No. 120. The internal costs of staff (capital labor) for each project are completely funded by the CIP. As projects are designed and constructed Port staff charge specific projects for their time. The cost of this time is charged to the CIP capital labor budget reducing the Port's annual personnel expense for this investment.

The FY2019-2023 CIP budget included an estimate of \$1,850,000 for capital labor which was forecast to be remaining at the end of FY 2017/18. The estimate reflected in the budget is submitted in January for the upcoming fiscal year. During the second half of FY2017/18, the Chula Vista Bayfront project achieved major milestones which necessitated the deployment of additional staff in order to meet District obligations. These additional resources accelerated the use of capital labor and the actual remaining amount at the beginning of FY 2018/19 was 1,088,437.

The Board has transferred funds to capital labor as needed over the past 3 years to fund the cost of internal labor pursuant to BPC No. 090 and BPC No. 120. On May 10, 2016 the Board approved the transfer of \$1.9M from CIP Contingency to CIP Capital Labor. These funds were to provide for staff time through June 30, 2018 when the FY2014-2018 CIP ended.

Staff have continued to execute CIP projects with the remaining funds into FY2018/19 but anticipate the capital labor balance will be depleted in January 2019. Staff recommends transferring funds within the CIP to fund capital labor through the remainder of FY2018/19 for all projects. The allocation of funds from CIP Contingency and Reserve to existing or new projects is at the discretion of the Board. Staff recommends the transfer of \$236,700 from CIP Contingency and \$1,263,300 from CIP Reserve, for a total of \$1,500,000, to CIP Capital Labor. At the 2019 budget workshop, staff will recommend funding additional capital labor to support the CIP program through FY 2019/20.

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

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

### **Environmental Review:**

The proposed Board direction or action, including without limitation, a resolution authorizing the transfer of funds within the Capital Improvement Program budget, does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section

15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of Board's action or direction that requires the District or the Board's discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a "no project alternative" or adopting a Statement of Overriding Consideration, if required. The current Board direction in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

In addition, the proposed Board action complies with Sections 21, 35, and 81 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 to use District funds for expenses of conducting the District. 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:**

Not applicable.

#### **PREPARED BY:**

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