



Legislation Text

File #: 2019-0149, **Version:** 1

DATE: May 14, 2019

SUBJECT:

EMERGENCY REPAIR OF THE FLOATING UPWELLER SYSTEM AT TUNA HARBOR

- A) RESOLUTION BY A 4/5 VOTE RATIFYING THE EMERGENCY ACTION TAKEN BY THE EXECUTIVE DIRECTOR AND AUTHORIZING CONTINUED ACTION FOR THE EMERGENCY REPAIR OF THE FLOATING UPWELLER SYSTEM (FLUPSY) AT TUNA HARBOR INCLUDING PROCUREMENT OF CONSULTANT FOR SITE INVESTIGATION, PROVIDING DESIGN RECOMMENDATIONS FOR REPAIR AND COST, AND PROCUREMENT OF A CONTRACTOR TO REPAIR THE DAMAGE**
- B) RESOLUTION APPROVING THE TRANSFER OF FUNDS WITHIN THE FY2019 BUDGET FROM PERSONNEL EXPENSE TO EXPENSE MAJOR MAINTENANCE PROJECT - EMERGENCY REPAIR OF THE FLOATING UPWELLER SYSTEM AT TUNA HARBOR IN THE AMOUNT OF \$220,000 PURSUANT TO BOARD POLICY 90**

EXECUTIVE SUMMARY:

Due to a recent series of strong storm events and intense wake from the bay, one of the two guide piles securing the FLUPSY at the end of Dock 2 at Tuna Harbor was found to have been leaning from its vertical position and lost its ability to properly anchor the system. The FLUPSY sustained damage to its pile guides and was moved away from its location to prevent further damage. Urgent repair is required to remove the leaning pile and install replacement pile(s) to provide an adequate structural supporting system for the FLUPSY. In order to restore the FLUPSY to its original location for nurturing oysters, an expeditious repair is essential.

Pursuant to Public Contracting Code Section 22035 and 22050, Section 58 of the Port Act, and Board Resolution 2000-03, the Executive Director declared an emergency at the April 9, 2019 Board meeting. This authorized the immediate execution of contracts to investigate, quantify, and repair the damage to protect District owned property. The declaration of an emergency waives the necessity of formal bidding procedures as required by the State of California Public Contract Code; the Board is requested to consider this action. Pursuant to Board Resolution 2000-03, a 4/5 affirmative vote of the Board is required.

An initial estimate of project costs is \$245,000. The Expense Major Maintenance Contingency has \$25,000 available to fund the project. Staff recommends the Board transfer \$220,000 from the FY2019 Personnel Expense to fund the remaining costs.

RECOMMENDATION:

Adopt a resolution by a 4/5 vote ratifying the emergency action taken by the Executive Director and authorizing continued action for the emergency repair of FLUPSY at Tuna Harbor including procurement of consultant for site investigation, providing design recommendations for repair and cost, and procurement of a contractor to repair the damage.

Adopt a resolution approving the transfer of funds within the FY2019 budget from Personnel Expense to Expense Major Maintenance Project - Emergence Repair of the Floating Upweller System at Tuna Harbor in the amount of \$220,000 pursuant to Board Policy 90.

FISCAL IMPACT:

Pursuant to BPC Policy No. 90, the proposed transfer of \$220,000 from the District's Personnel Expense appropriation to the Expense Major Maintenance appropriation within the FY2019 budget will fully fund the emergency project.

COMPASS STRATEGIC GOALS:

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

- 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.

DISCUSSION:

On June 20, 2017, the Board authorized an agreement through the District's Blue Economy Incubator with San Diego Bay Aquaculture (SDBA), LLC for a 5-year pilot project to demonstrate shellfish aquaculture nursery operations using a FLoating UPweller System (FLUPSY) (Resolution 2017-085). As part of the agreement, the District purchased the FLUPSY and installed it at the end of Dock #2 at Tuna Harbor. It remains the District's asset/property, and SDBA is responsible for operating it as a shellfish nursery.

Due to a recent series of strong storm events and intense wake from the bay, one of the two guide piles securing the FLUPSY at the end of Dock 2 at Tuna Harbor was found to have been leaning from its vertical position and lost its ability to properly anchor the system (refer to Attachment A). The FLUPSY sustained damage to its pile guides and was moved away from its location to prevent further damage. Urgent repair is required to remove the leaning pile and install replacement pile(s) to provide an adequate structural supporting system for the FLUPSY. In order to restore the FLUPSY to its original location for nurturing oysters, an expeditious repair is essential.

Engineering staff is working on obtaining the necessary permits to commence the work as soon as possible, and a consultant has been retained to provide a structural analysis and recommendations for the repair. Prior to developing a complete scope of work for the repair, the consultant will investigate critical pile availability to minimize delivery time. Concurrent with repair plan development, Engineering staff is coordinating with marine contractors to procure work proposals.

Pursuant to Public Contracting Code Section 22035 and 22050, Section 58 of the Port Act, and Board Resolution 2000-03, the Executive Director declared an emergency at the April 9, 2019 Board

meeting. This authorized the immediate execution of contracts to investigate, quantify, and repair the damage to protect District owned property. The declaration of an emergency waives the necessity of formal bidding procedures as required by the State of California Public Contract Code; the Board is requested to consider this action. Pursuant to Board Resolution 2000-03, a 4/5 affirmative vote of the Board is required.

An initial estimate of project costs is \$245,000 for design services and construction. As the project progresses this may fluctuate depending on investigation findings, final design, and availability of materials. The Expense Major Maintenance Contingency has \$25,000 available to fund the project. Staff recommends the Board transfer \$220,000 from the FY2019 Personnel Expense to fund the remaining costs. Personnel Expense is anticipated to have savings from position vacancies at the end of the fiscal year.

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.

Environmental Review:

The proposed Board direction or action, including without limitation, a resolution authorizing repair of the FLUPSY, procurement of a consultant and contractor for design recommendations and repair, and transfer of funds within the FY2019 budget is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities) and/or 15302 (Replacement or Reconstruction) and Sections 3.a. (1) and/or 3.b. (1) of the District's Guidelines for Compliance with CEQA because the project would consist of repair, reconstruction, and replacement of existing mooring facilities that would involve no expansion of use beyond that previously existing and would have substantially the same purpose and capacity as the structure being replaced. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2). No further action under CEQA is required.

In addition, the proposed Board direction or action complies with sections 21, 35, 81, 83, 86, and 87 of the Port Act, which allow the Board to pass resolutions; to do all acts necessary and convenient for the exercise of its powers; to use funds for the expenses of conducting the District, including operation and maintenance of facilities; to use funds for acquisition, construction, completion, and maintenance of harbor and port facilities; to transfer amounts from one appropriated item to another in the budget allowance; and for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board direction or action is consistent with the Public Trust Doctrine.

Finally, the proposed Board direction or action is considered "excluded development" pursuant to Sections 8.a. (10) (Existing Facilities) and 8.b. (3) (Replacement or Reconstruction) of the District's Coastal Development Permit Regulations because the project would consist of repair, reconstruction, and replacement of existing mooring facilities that would involve no expansion of use beyond that previously existing and would be located on the same site and have substantially the same purpose

and capacity as the structure being replaced. Issuance of a Coastal Development Permit is not required for the proposed Board direction or action.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachments:

Attachment A: Photographs

Attachment B: Resolution 2000-03