



## Legislation Text

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**File #:** 2019-0524, **Version:** 1

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**DATE:** February 11, 2020

**SUBJECT:**

**RESOLUTION AUTHORIZING ACCEPTANCE OF GRANT FUNDS FROM THE STATE OF CALIFORNIA NATURAL RESOURCES AGENCY, DEPARTMENT OF PARKS AND RECREATION, DIVISION OF BOATING AND WATERWAYS (DBW) FOR THE FY 2019/2020 SURRENDERED AND ABANDONED VESSEL EXCHANGE (SAVE) PROGRAM IN THE AMOUNT OF \$200,000 AND GRANTING INDEMNITY**

### **EXECUTIVE SUMMARY:**

On December 20, 2019, the California State Parks Agency, Division of Boating and Waterways (DBW), announced awards under the FY 2019/2020 Surrendered and Abandoned Vessel Exchange (SAVE) program. SAVE provides grant funds for the abatement, removal, storage and/or disposal of eligible water hazards and surrendered vessels. The District was awarded the full requested amount, \$200,000. The District has agreed to provide matching funds in the amount of \$472,000, for a full program amount of \$672,000. The District's match is fully funded in General Services' budget.

### **RECOMMENDATION:**

Adopt a Resolution authorizing the acceptance of grant funds from the State of California Division of Boating and Waterways for the FY 2019/2020 Surrendered and Abandoned Vessel Exchange Program in the amount of \$200,000 and granting indemnity.

### **FISCAL IMPACT:**

Grant funds, if accepted, would positively impact the General Services' department budget by \$200,000. Matching funds have been identified in the General Services budget. There are no ongoing costs associated with this expenditure.

### **COMPASS STRATEGIC GOALS:**

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

- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.
- A Port that is a safe place to visit, work and play.

### **DISCUSSION:**

On December 20, 2019, DBW announced awards under the FY 2019/2020 SAVE program. SAVE provides grant funds for the abatement, removal, storage and/or disposal of eligible water hazards and surrendered vessels. The District was awarded the full requested amount, \$200,000.

Pursuant to DBW's authority under *Harbors & Navigation* Code Section 525, in order to accept the grant funds, the District must enter into a grant agreement with DBW for the removal and disposal of abandoned, wrecked or dismantled non-commercial vessels, or parts thereof, or any other partially submerged objects which pose a substantial hazard to navigation within the District's jurisdiction, and also agree to remove and dispose of surrendered vessels, or parts thereof, which are in danger of becoming a hazard to navigation or causing environmental degradation within the District's jurisdiction. The San Diego Harbor Police is responsible for removing marine debris or abandoned vessels, which are then transported to the Marine Group Boat Works facility for storage and disposal. Grant funds are used to reimburse the costs associated with the storage and disposal of marine debris and abandoned vessels. The Surrendered and Abandoned Vessel Exchange Grant Agreement is included as Attachment A.

The terms of the grant agreement require that the District protect, hold harmless, indemnify and defend DBW, its agents, officers, and/or employees against any and all actions, claims, and damages to persons or property, penalties, obligations and liabilities that may be asserted or claimed by any person, firm, associations, entity, corporation, political subdivision, or other organization or person arising out of or in connection with the District or District's contractor's or subcontractor's activities hereunder, whether or not there is concurrent passive negligence on the part of DBW, its agents, officers, and/or employees. District staff recommends that the Board approve the agreement granting indemnity to DBW, as the grant funding will enable the District to remove derelict and abandoned vessels that can cause navigational hazards and environmental pollution in San Diego Bay. Additionally, the work to be done to remove derelict and abandoned vessels and objects will largely be done by services providers that will in turn indemnify the District, and for that work done by the District pursuant to the grant agreement, the District has appropriate insurance coverage should a loss occur.

This grant will provide unbudgeted, unanticipated funding beyond what is currently budgeted for the removal and disposal of surrendered vessels and other navigational hazards in furtherance of the District's mission. The grant has a 10% match requirement. The District has agreed to provide matching funds in the amount of \$472,000, for a full program amount of \$672,000. The District's match is fully funded in General Services' budget.

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

The Office of the General Counsel has reviewed the agenda sheet and San Diego SAVE 19 Grant Agreement (Attachment A) as presented to it and approves same as to form and legality.

### **Environmental Review:**

The proposed Board action to accept the DBW grant award under the FY 2019/2020 SAVE Program and the District's continuation of the existing and ongoing removal of surrendered and abandoned vessels, is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines

Sections 15301 (Existing Facilities), and 15304 (Minor Alterations to Land), as well as CEQA Guidelines Section 15061 because the activities identified in the agreement involve no expansion of use beyond that previously existing, and would not involve the removal of mature scenic trees. The District, through its Harbor Police Department, currently retrieves and removes or causes the retrieval and removal of surrendered and abandoned vessels in San Diego Bay. The District's acceptance of the grant award, which would be a source of funding for such retrieval and removal, would not expand or change existing operations. Further, 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 action complies with Section 87 of the Port Act, which allows 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 project is consistent with the Public Trust Doctrine.

The proposed Board action is considered an "excluded development" pursuant to Section 8.a. (Existing Facilities), and 8.d. (Minor Alterations to Land) of the District's Coastal Development Permit (CDP) Regulations, as the activities identified in the agreement the District's acceptance of the grant funds would be used to fund existing operations. Therefore, the project would involve negligible no expansion of use beyond that previously existing, and would not involve the removal of mature scenic trees as this project is located in the water of San Diego Bay, consistent with Section 8.a and 8.d of the District's Coastal Development Permit Regulations. Finally, a portion of the project is located in an area that has not been incorporated into the Port Master Plan and is therefore, not entirely within the District's coastal development permitting jurisdiction. This portion of the project is within the coastal development permitting jurisdiction of the California Coastal Commission, and approval for the portion of the project outside of the District's permitting authority must be obtained from that agency.

### **Equal Opportunity Program:**

Not applicable.

### **PREPARED BY:**

Aimee Heim  
Manager, Grants & Policy, Government & Civic Relations

Attachment(s):  
Attachment A: San Diego SAVE 19 Grant Agreement