



## Legislation Text

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**DATE:** August 9, 2022

**SUBJECT:**

**RESOLUTION SUPPORTING THE DISTRICT'S SUBMISSION OF A GRANT APPLICATION TO THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006, PROP 68, FUNDED BY THE OCEAN PROTECTION COUNCIL IN THE AMOUNT OF \$500,000 FOR A PERIOD OF THREE YEARS AND CONFIRMING THAT THE DISTRICT WILL ACCEPT THE GRANT IF AWARDED TO THE DISTRICT AND A GRANT AGREEMENT IS APPROVED BY THE BOARD OF PORT COMMISSIONERS**

### **EXECUTIVE SUMMARY:**

On June 13, 2022, the District submitted a Prop 68 Letter of Intent to the Ocean Protection Council's (OPC) "Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006" Prop. 68 Grant Program, requesting \$500,000 in grant funds to prepare plans, specifications, and obtain entitlements for the creation of more than 20 acres of salt marsh and native upland scrub habitat for a future shovel-ready restoration project in the Sweetwater District of the Chula Vista Bayfront (Project). (Attachment A, Prop 68 Letter of Intent.)

On July 14, 2022, the OPC informed District staff that the Prop 68 Letter of Intent was selected to advance to full proposal submission. The full proposal requires additional information, including a resolution from the Board of Port Commissioners (Board) that supports the application, and confirms that if awarded, grant funds in the amount of \$500,000 for three years will be accepted.

Under Board Policy No. 110, grant awards shall be presented to the Board for its consideration, acceptance and authorization to enter into an agreement if the grant award is for more than \$175,000. Staff recommends that the Board adopt a resolution supporting staff's submission of the Prop 68 Letter of Intent and confirming that the grant award will be accepted if the grant is awarded and a grant agreement is approved by the Board.

### **RECOMMENDATION:**

Adopt a resolution supporting staff's submission of the Prop 68 Letter of Intent and confirming that the grant award will be accepted if the grant is awarded to the District and a grant agreement is approved by the Board.

### **FISCAL IMPACT:**

This item has no fiscal impact. The total cost of the project is \$621,000 and if the full grant amount is

granted, the remaining \$121,000 will be paid through in-kind services totaling 100 hours of staff time which has already been budgeted in personnel costs.

### **COMPASS STRATEGIC GOALS:**

This agenda item for the acceptance of grant funding, if awarded, 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:**

#### **Chula Vista Bayfront Master Plan**

The Chula Vista Bayfront Master Plan<sup>1</sup> (Master Plan) includes a 29 acre Sweetwater Park (formerly Signature Park) which is surrounded by 3,000 acres of valuable natural resources, including the San Diego Bay National Wildlife Refuge and the Chula Vista Wildlife Reserve. This unique location provides opportunities to restore and enhance natural habitats as a primary Master Plan component. Protection and restoration of native habitats has been an integral part of the planning process for the Chula Vista Bayfront, as detailed in the controlling documents for the Master Plan.

The objectives of the Master Plan are to:

- Create a vibrant, active, unified waterfront with strong connections to the City of Chula Vista (City) and the region;
- Create new public access, recreational amenities, and shoreline enhancements;
- Protect biological resources within and around the Bayfront through habitat restoration and ecological buffers;
- Stimulate economic growth for the District, the City, the South Bay, and the San Diego region;
- Improve land use compatibility and develop economically feasible land uses throughout the Bayfront to serve the local community and region, as well as serve the public trust purposes; and
- Develop property in a manner that minimizes environmental impacts and reinforces the public realm in a manner befitting the setting and regional significance of the area.

#### **Natural Resource Management Plan**

The primary planning documents for the Master Plan include the Mitigation Monitoring and Reporting Program<sup>2</sup> developed as part of the California Environmental Quality Act (CEQA) process, the Chula Vista Bayfront Master Plan Settlement Agreement entered into between the District, the City, the Redevelopment Agency of the City, and the Bayfront Coalition (Settlement Agreement)<sup>3</sup>, and the Chula Vista Bayfront Development Policies<sup>4</sup> and Public Access Program<sup>5</sup>. The Settlement Agreement outlines the preservation, conservation, monitoring, and enhancement objectives for the Wildlife Habitat Areas (as defined in the Settlement Agreement and generally consisting of national wildlife refuge lands, wetlands, and no-touch buffer areas) adjacent to the Chula Vista Bayfront planning area, provides for management and protection of natural habitats through preparation of an adaptive management plan known as the "Natural Resources Management Plan<sup>6</sup>" (NRMP), and identifies priorities for habitat restoration.

As a condition of the Settlement Agreement, a South Bay Wildlife Advisory Group (WAG) comprised of representatives from multiple environmental groups and resource and regulatory agencies was established. The WAG is tasked with advising the District and the City on natural resource management issues and restoration plans and priorities, initiating and supporting funding requests to implement restoration objectives, and partnering with the District and City to engage in education and volunteerism.

The minimum objectives of the NRMP include:

- Long term protection, conservation, monitoring and enhancement of wetland habitats, coastal sage and coastal strand vegetation, and upland natural resources;
- Preservation of the biological function of all bayfront habitats serving as breeding, wintering, or migratory rest stops for avifauna;
- Protection of nesting, foraging, and rafting wildlife from disturbance;
- Avoidance of actions within the Chula Vista Bayfront that would adversely impact or degrade the water quality of San Diego Bay; and
- Maintenance and improvement of water quality where possible.

### **OPC Prop 68 Grant Program**

To support the District's and City's Master Plan, with advice from the WAG, and meet the objectives of the NRMP, the District submitted a Prop 68 Letter of Intent to the OPC "Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006", Prop 68 Grant to support the planning and restoration of salt marsh and upland sage scrub habitat adjacent to the Sweetwater Park and the Refuge. Funding from Prop 68 is intended to support projects that provide Californians with access to safe natural spaces and to continue investments in the state's diverse ecosystems to ensure high quality of life for all Californians. Funding is also intended to protect and restore the state's natural resources for the benefit and enjoyment of future generations.

The OPC grant, if awarded, will provide funding for the procurement of services from engineering design contractors, and would include conducting environmental mapping, soil testing, biological surveys, hydraulic analysis, and the preparation of final construction design documents in the amount of \$500,000. Once the design is complete, the project will be shovel-ready.

OPC staff has selected the District's project to submit a full grant proposal. OPC's full grant proposal requires a resolution from the Board that supports the application and confirms that grant funding will be accepted if awarded. Under Board Policy No. 110, grant awards shall be presented to the Board for its consideration, acceptance and authorization to enter into an agreement if the grant award is for more than \$175,000. A final grant agreement between the District and OPC will be brought to the Board for consideration if the application is successful.

### **Conclusion**

Staff recommends the Board adopt a resolution supporting staff's submission of the Prop 68 Letter of Intent and confirming that the grant award will be accepted if the grant is awarded to the District and a grant agreement is approved by the Board.

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

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

### **Environmental Review:**

The proposed Board action, including without limitation, adoption of a resolution supporting staff's submission of the Prop 68 Letter of Intent from the OPC grant program to prepare the plans and specifications and obtain entitlements for the creation of coastal salt marsh and upland habitats and confirming the acceptance of grant funding if awarded to the District and a grant agreement is approved by the Board was adequately analyzed in the FEIR for the CVBMP (UPD #83356-EIR-658; SCH #2005081077; Clerk Document No. 56562), 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 Board action 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 and Addenda, the District finds and recommends that the proposed Board action 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 FEIR and Addenda 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 FEIR and Addenda, (b) identifies significant impacts would not be more severe than those analyzed in the FEIR and Addenda, (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, and (d) no changes to mitigation measures or alternatives have been identified or are required. Pursuant to CEQA Guidelines §15162(b), the District finds and recommends that no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step-in furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

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 and Addenda, the District finds and recommends that the proposed Board action 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 and Addenda 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 and Addenda, (b) identifies significant impacts more severe than those analyzed in the previous FEIR and Addenda, (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 and Addenda 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 was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

The proposed Board action complies with Section 87 of the Port Act, which allows for the establishment and maintenance of tidal and submerged lands for open space, ecological preservation, and habitat restoration. 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.

### **Diversity, Equity, and Inclusion Program:**

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

### **PREPARED BY:**

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### **Attachment(s):**

Attachment A: Prop 68 Letter of Intent

1. Chula Vista Bayfront Master Plan (Clerk Document No. 56562)
2. Mitigation Monitoring and Reporting Program (Clerk Document No. 56555)
3. Settlement Agreement (Clerk Document No. 56523)
4. Chula Vista Bayfront Development Policies (Clerk Document No. 59407)
5. Public Access Program (Clerk Document No. 59408)
6. Natural Resources Management Plan (Clerk Document No. 65065)