



Legislation Text

File #: 2022-0228, **Version:** 1

DATE: September 13, 2022

SUBJECT:

RESOLUTION APPROVING AMENDMENT TO BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 120, CAPITAL IMPROVEMENT PROGRAM (CIP), MODIFYING THE ANNUAL FUNDING DETERMINATION AND THE PROJECT SELECTION PROCESS.

EXECUTIVE SUMMARY:

Board of Port Commissioners (BPC) Policy No. 120 was established for the orderly development and the improvement of the capital assets of the San Diego Unified Port District (District) through a Capital Improvement Program (CIP) (current Policy No. 120, Attachment A). The District acknowledges that each area of tidelands in its trust offers different Public Trust assets and value, and that each possesses varying degrees of opportunity for development, real estate, maritime, recreation and conservation as well as constraints. Therefore, the District establishes this CIP Policy for the purpose of improving its CIP process and results. This CIP Policy is intended to facilitate capital improvement projects and budgets which are strategically cohesive, ensure clear and consistent treatment of all proposed capital projects on the tidelands, streamline the process, increase efficiency, reduce costs, and improve outcomes.

The financial impacts as result of the COVID-19 Pandemic have adversely affected the amount to allocate towards CIP until such time that the District has developed a substantial reserve. The project selection process must adapt to a program with a smaller budget, with greater efficiency in program administration.

Staff recommends an amendment to BPC Policy No. 120 (Attachment B) modifying the annual funding determination and improving the efficiency of the project selection process.

RECOMMENDATION:

Adopt a resolution approving amendment to BPC Policy No. 120, Capital Improvement Program (CIP), modifying the annual funding determination and the project selection process.

FISCAL IMPACT:

This agenda item has no fiscal impact.

COMPASS STRATEGIC GOALS:

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

- A Port that the public understands and trusts.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

The District is responsible for the orderly development and improvement of the lands and capital assets under its jurisdiction to execute its State Tidelands Trust obligations. Recognizing the different values that each area in the tidelands offers, BPC Policy No. 120 was established to facilitate capital improvement projects and budgets, ensure clear and consistent treatment of all proposed capital projects on the tidelands, streamline the process, increase efficiency, reduce costs, and improve outcomes.

BPC Policy No. 120 reflects the District's endeavors to have an active CIP with projects throughout the tidelands. However, the current policy does not assure projects and budgets are evenly distributed throughout the member cities. The process is reflective of an era when there was significant funding for the CIP, which resulted in multiple projects in each member city. The program operates on a 5-year cycle where project solicitation and BPC project selection occur in the beginning of the cycle and remainder is spent on project delivery. The solicitation resulted in a large volume of potential projects which left the BPC to select a very small subset of projects. This meant that a variety of project types would compete amongst each other for the limited funding. Those projects that were not selected would have to wait another five years for the next opportunity to compete for funding. Currently, the District is still recovering from the financial impact of the COVID-19 Pandemic, which has adversely affected the program. Furthermore, the program is now at the end of its current 5-year term, with an estimated \$2.4M remaining after the current fiscal year. This has provided an opportunity to reevaluate the policy and seek a more equitable and efficient distribution of capital investments throughout the tidelands.

Notable recommended modifications to BPC Policy No. 120 include the following:

- A balanced distribution of the District's capital investment throughout the tidelands in all the member cities, by equally splitting available CIP funds five ways.
- Starting in fiscal year 2024, initial funding will be sourced from fiscal year 2022-2023 CIP surplus along with a one-time startup fund.
- Five CIP subaccounts will be created, each with the purpose of managing the availability of funds for capital projects on tidelands within the individual member cities.
- In subsequent years, additional funding for the program will be determined annually during the budget workshop. Provided new funding is available for allocation to the CIP, funds will be divided equally five ways as stated above.
- Accounts may accrue funds to subsequently fund a project.
- Commissioners, with input from their member cities, prioritize their project applications for the

full BPC's consideration.

- The CIP will no longer be a relatively static 5-Year program. Project applications may be received and processed at any time (contingent on available subaccount funding).
- Annual Reviews may be conducted at the staff level by applying the filters listed in Attachment C and recommending any necessary adjustments to the BPC for approval as required.

Revisions to BPC Policy No. 120 are shown in a redline version of the policy in Attachment D.

Staff recommends approving the amendment to BPC Policy No. 120 modifying the annual funding determination and improving the efficiency of the project selection process.

General Counsel's Comments:

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

Environmental Review:

The proposed Board action, including without limitation, resolution approving amendments to Board of Port Commissioners (BPC) Policy 120, Capital Improvement Program (CIP), for modifying the annual funding determination and the project selection process, does not constitute a project under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because there is not a potential to result in a direct or indirect physical change in the environment. Therefore, the proposed Board action is not subject to CEQA and no further action under CEQA is required.

The proposed Board action complies with Sections 21 and 35 of the Port Act, which allow the Board to pass resolutions; and to do all acts necessary and convenient for the exercise of its powers. 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 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 Regulations. Therefore, issuance of a Coastal Development Permit or an exclusion finding is not required.

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: Current BPC Policy No. 120

Attachment B: Proposed BPC Policy No. 120 Amendment

Attachment C: Proposed Attachment (1) Capital Improvement Program Filters for Annual Reviews

Attachment D: Recommended Revisions to BPC Policy No. 120 (Redlines)