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## BPC Policy No. 773

**SUBJECT:** MARITIME INDUSTRIAL IMPACT FUND (MIIF)

**PURPOSE:** To establish a policy for the orderly selection of projects to offset the adverse impacts to areas as a result of the presence of maritime industry and terminals through a Maritime Industrial Impact Fund (MIIF).

**PREAMBLE:**

The San Diego Unified Port District (District) seeks to provide a predictable and systematic way to select projects that mitigate disproportionate adverse impacts and constraints to certain communities as a result of the presence of District's maritime industry and terminals. The selection of the projects shall be conducted in a transparent, efficient and cost-effective manner.

On July 6, 2010, the District established the Maritime Industrial Impact Fund (MIIF), formerly Maritime Terminal Impact Fund. The MIIF was established in recognition that certain communities may be subject to disproportionate adverse impacts and constraints as a result of the presence of maritime industry and terminals, which at the same time enable a significant benefit to the District, or region, as a whole. The MIIF is used to fund projects to mitigate Off-Tidelands impacts from District's maritime terminals and maritime industry. MIIF projects must be located off Tidelands.

This policy sets forth the process and requirements for the District's consideration and possible approval of MIIF projects. This policy also establishes the framework to create administrative procedures, which will include more detailed direction for evaluating and processing MIIF applications and projects. The administrative procedures will be published and maintained by the Executive Director. The administrative procedures shall comply with the provisions of this policy, and all applicable regulations and laws.

### Definition of Off-Tidelands Impacts

For purposes of this policy, "Off-Tidelands impacts" are defined as impacts to communities adjacent to, directly associated with, or resulting from the District's maritime industry and terminals, which are of a unique, adverse or exclusionary nature.

Off-Tideland impacts are recognized when a direct relationship or nexus between the District's On-Tidelands maritime industrial operations result in adverse impacts that can be reasonably established as specified under the Port District Act. Examples of such impacts can include, but are not limited to, diminished air quality; visual impacts; heavy movement of vehicles or equipment through adjacent commercial or residential areas; or disproportionate degradation or use of public infrastructure such as roads, streets or

sidewalks, all of which may occur within and disproportionately impact the communities in proximity to the District's marine terminals and maritime industry.

In recognition of the fact that these communities are also subject to adverse impacts and constraints resulting from sources other than the District's maritime terminals and maritime industry, the District's contributions to mitigation efforts are limited to a reasonable portion of the overall mitigation costs. The portions shall be determined based on the portion of the impact associated with the cause.

The District is currently, and intends to remain, in compliance with all applicable regulatory requirements with respect to maritime terminal operations and adjacent impacts. The District considers this MIIF policy to be above and beyond compliance, to reflect best practices and sound land use planning principles, and to be in the public interest.

### **Process for Applying for MIIF Projects**

Member Cities and other public entities may propose projects to be considered for MIIF approval. The MIIF applications will be considered based on the criteria set forth in this policy. Therefore, applications for MIIF projects should present as much information and detail as available to the applicant. At a minimum, applications **must** include the following:

- A) A project description including a statement of need for the project, amount of MIIF funding requested, an overall budget for the project, and the amount and sources of non-MIIF funding, including documented in-kind services. If the overall project budget is greater than \$5M, applicant must describe how the project could be scaled and/or completed in phases, with corresponding budget amounts; and
- B) A description of the relationship or nexus between the District's maritime industrial operations and the Off-Tidelands impacts which the project seeks to mitigate; and
- C) A description of why the amount of requested MIIF funding is reasonable in light of the relationship or nexus between the District's On-Tidelands operations and the Off-Tidelands impacts which the project seeks to mitigate and other factors contributing to such adverse impacts. For certain types of projects, use of numeric calculations (e.g., traffic studies to compare marine industrial-related traffic to non-marine terminal traffic), should be included, while for other projects, conceptual comparisons are possible.

District staff will coordinate with applicants to clarify and supplement the application prior to Board consideration of the request for MIIF funding. However, it is the responsibility of the applicant to present as much information as available when completing the application.

To support the request for MIIF funding on qualified projects, applications **should** also include the following:

- 1) An analysis of any anticipated non-monetary public benefits of the project;
- 2) An explanation of how the project implements or facilitates the implementation of approved District plans;
- 3) An analysis of the project's potential economic benefit. Examples could be, but are not limited to job creation due to the project (direct, indirect or induced) or reduction in expenditures from operational changes; and
- 4) Any other relevant information supporting the funding of the project.

Once an application is received, District staff will review the application, work with an applicant to clarify and supplement the application, and present the application to the Board along with its recommendation regarding the MIIF request. If District staff recommends denial of a request, the applicant may request the MIIF project be presented to the Board.

### **Evaluation Criteria for MIIF Funding**

Any MIIF funding, whether partial, in-kind, phased, or complete, requires Board approval. Approval of MIIF projects must comply with the Port District Act and the District's role as a Tidelands trustee. Applications presented to the Board by District staff will be evaluated and considered based on the application, District staff recommendations, any other material presented, and any testimony at the Board meeting, using the factors and criteria identified below.

- A project description including the statement of need for the project, the amount of MIIF funds requested, the overall budget for the project, and the amount and sources of non-MIIF funding;
- The extent to which the application demonstrates the relationship or nexus between the District's On-Tidelands operations and the Off-Tidelands impacts which the project seeks to mitigate;
- The extent to which the application demonstrates that the amount of requested MIIF funds is reasonable in light of the extent of the relationship or nexus between the District's On-Tidelands operations and the Off-Tidelands impacts which the project seeks to mitigate and other factors contributing to such negative impacts;
- Any anticipated non-monetary public benefits of the project;

- How the project implements or facilitates the implementation of approved District plans;
- The project's potential to create economic benefit. Examples could be, but are not limited to job creation due to the project (direct, indirect or induced) or reduction in expenditures from operational changes; and
- Any other relevant information relating to the project

Board approval of funding for MIIF projects is for budgeting purposes only. Expenditure of MIIF monies may be conditioned on, and subject to: further consideration of notice or approval of the California State Lands Commission; environmental analysis under the California Environmental Quality Act (CEQA) and other laws; consistency with the California Coastal Act; other needed entitlements; execution of an Agreement between the District and applicant; and other requirements, as applicable.

### **MIIF Project Selection**

Applications for MIIF funding can be proposed at any time, however projects will be reviewed by District staff and presented to the Board on a semi-annual basis, in Fall and Spring. This will allow for projects to be submitted and reviewed within an allotted time frame and for submitted projects to be fairly compared.

The District will develop administrative procedures to more fully set forth the application, staff review, and Board presentation process.

The MIIF was originally funded by the Board with a capital contribution of \$500,000. Additional annual funding for the MIIF is authorized at one-half of one percent (0.5%) of District's gross maritime industrial revenue. The District's gross maritime industrial revenue includes District's terminal revenues earned from the operation of the Tenth Avenue Marine Terminal and the National City Marine Terminal each year as well as District's revenue from its maritime industrial tenants located between the District's two terminals. The Board may allocate additional funds to the MIIF at its discretion. MIIF projects are not precluded from receiving additional funding from other sources. Total funding for approved MIIF projects may not exceed the balance of MIIF funding available.

All MIIF approved projects must have the funding obligated within 36 months and the period of performance will be no longer than five years from date of execution of agreement or MOU with applicant.

### **Reporting to the Board of Port Commissioners**

The Executive Director will report to the Board periodically on the status of approved MIIF projects. A report will contain the list of approved MIIF projects, funds expended to

date, overall MIIF fund unobligated balance, new projects submitted by member cities for consideration, and the status of proposed MIIF project reviews.

RESOLUTION NUMBER AND DATE: 2015-80, dated June 11, 2015 (Supersedes BPC Policy No. 773, Resolution 2015-25, dated March 10, 2015)

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