



VENTURA PORT DISTRICT

BOARD OF PORT COMMISSIONERS

Chris Stephens, Chairman
Michael Blumenberg, Vice Chairman
Brian Brennan, Secretary
Jackie Gardina, Commissioner
Everard Ashworth, Commissioner

Brian D. Pendleton, General Manager
Todd Mitchell, Business Operations Manager
Andy Turner, Legal Counsel
Jessica Rauch, Clerk of the Board

PORT COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, FEBRUARY 3, 2021

TELECONFERENCE
5 TELECONFERENCE LOCATIONS

VENTURA PORT DISTRICT OFFICE
1603 ANCHORS WAY DRIVE
VENTURA, CA 93001

CLOSED SESSION – 6:30PM

REGULAR MEETING – 7:00PM

IN ACCORDANCE WITH THE CALIFORNIA GOVERNOR'S EXECUTIVE STAY AT HOME ORDER AND THE COUNTY OF VENTURA HEALTH OFFICER DECLARED LOCAL HEALTH EMERGENCY AND BE WELL AT HOME ORDER RESULTING FROM THE NOVEL CORONAVIRUS, THE VENTURA PORT DISTRICT ADMINISTRATION BUILDING IS CLOSED TO THE PUBLIC. THIS MEETING IS BEING HELD IN ACCORDANCE WITH THE STATE EMERGENCY SERVICES ACT, THE GOVERNOR'S EMERGENCY DECLARATION, AND THE GOVERNOR'S EXECUTIVE ORDER NO. 25-20 ISSUED ON MARCH 12, 2020 TO ALLOW ATTENDANCE BY MEMBERS OF THE PORT COMMISSION BY TELECONFERENCE IN FULL COMPLIANCE WITH THE BROWN ACT.

PUBLIC PARTICIPATION OPTIONS

WATCH THE MEETING LIVE

Join a Zoom meeting LIVE:

<https://us02web.zoom.us/j/82819923874>

Webinar ID: 828 1992 3874

1-669-900-6833

1-877-853-5257

SUBMIT PUBLIC COMMENT VIA EMAIL

If you do not wish to speak live but would like to submit a written comment on a specific agenda item, please do so via email by 4:00PM on the day of the meeting. Please submit your comment to the Clerk of the Board at jrauch@venturaharbor.com.

When sending an email, please indicate in the subject line, the agenda item number (i.e. General Public Comment or Consent Item A). Written comments should be no more than 1000 characters in length. Written comments will be distributed to the Commissioners and will be posted as a supplemental packet on the District's website at <https://venturaharbor.com/board-meetings-minutes/>.

PROVIDE PUBLIC COMMENT LIVE AT THE MEETING USING ZOOM

To speak on a specific agenda item during the live Zoom meeting, please fill out the Public Comment Slip and email the Clerk of the Board at jrauch@venturaharbor.com by 4:00PM on the day of the meeting so you can participate appropriately. You can use one (1) comment slip for multiple items.

If you decide to speak during the meeting and did not fill out a Public Comment slip, attendees can dial *9 if on the phone or use the 'raise hand' function in Zoom.

CLOSED SESSION – 6:30PM

CALL TO ORDER: *By Chairman Chris Stephens.*

ROLL CALL: *By the Clerk of the Board.*

PUBLIC COMMUNICATIONS (3 minutes)

*The Public Communications period is set aside to allow public testimony on items only on the Closed Session Agenda. Each person may address the Commission for up to three minutes or at the discretion of the Chair. Attendees can dial *9 or use the 'raise hand' function in Zoom if they would like to speak during public comment periods.*

CONVENE IN CLOSED SESSION – 6:35PM

CLOSED SESSION AGENDA

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:

- | | |
|----------------------|--|
| a) Property: | Parcel 20 |
| Negotiating Parties: | Brian D. Pendleton, Todd Mitchell, Andy Turner
Derecktor Marine Holdings, LLC |
| Under Negotiation: | Terms of Master Lease Amendment |

ADJOURNMENT

OPEN SESSION – 7:00PM

CALL TO ORDER: *By Chairman Chris Stephens.*

PLEDGE OF ALLEGIANCE: *By Chairman Chris Stephens.*

ROLL CALL: *By the Clerk of the Board.*

ADOPTION OF AGENDA (3 minutes)

Consider and approve, by majority vote, minor revisions to agenda items and/or attachments and any item added to or removed/continued from the Port Commission's agenda. Administrative Reports relating to this agenda and materials related to an item on this agenda submitted after distribution of the agenda packet are available for public review at the Port District's office located at 1603 Anchors Way Drive, Ventura, CA during business hours as well as on the District's website - www.venturaharbor.com.

APPROVAL OF MINUTES (3 minutes)

The Minutes of the January 20, 2021 Regular Meeting will be considered for approval.

PUBLIC COMMUNICATIONS (3 minutes)

*The Public Communications period is set aside to allow public testimony on items not on today's agenda. Each person may address the Commission for up to three minutes or at the discretion of the Chair. Attendees can dial *9 or use the 'raise hand' function in Zoom if they would like to speak during public comment periods.*

CLOSED SESSION REPORT (3 minutes)

Closed Sessions are not open to the public pursuant to the Brown Act. Any reportable actions taken by the Commission during Closed Session will be announced at this time.

BOARD COMMUNICATIONS (5 minutes)

Port Commissioner's may present brief reports on port issues, such as seminars, meetings and literature that would be of interest to the public and/or Commission, as a whole. Port Commissioner's must provide a brief summary and disclose any discussions he or she may have had with any Port District Tenants related to Port District business.

STAFF AND GENERAL MANAGER REPORTS (5 minutes)

Ventura Port District Staff and General Manager will give the Commission updates on important topics or items of general interest if needed.

LEGAL COUNSEL REPORT (5 minutes)

Legal Counsel will report on progress of District assignments and any legislative or judicial matters.

CONSENT AGENDA: (5 minutes)

Matters appearing on the Consent Calendar are expected to be non-controversial and will be acted upon by the Board at one time, without discussion, unless a member of the Board or the public requests an opportunity to address any given item. Approval by the Board of Consent Items means that the recommendation is approved along with the terms set forth in the applicable staff reports.

A) Approval of New Office Lease Agreement for Sugar Lab Bake Shop, LLC

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Sugar Lab Bake Shop, LLC for space located at 1575 Spinnaker Drive #207 and #208 consisting of approximately 840 square feet for a five (5) year term with a three (3) year option.

STANDARD AGENDA:

1) Approval of Fiscal Year 2020-2021 Mid-Year Budget Adjustments and Capital Improvement Plan

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No. 3405, approving the Mid-Year Budget Adjustments for Fiscal Year 2020 - 2021 effective January 1, 2021.

2) Award of Contract for Inner Harbor and Ventura Keys Maintenance Dredging

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners take the following actions:

- A) Find, based upon the evidence presented below, that a contract awarded to Manson Construction Company pursuant to Section 20751.2 of the California Public Contract Code is likely to cost less than a contract awarded pursuant to Section 20751.
- B) Award the Inner Harbor and Ventura Keys Maintenance Dredging contract to Manson Construction Company at a rental rate of \$5,500 per hour in accordance with the Agreement.

3) Approval of Change Order for the Commercial Fishing Equipment Storage Improvement Project

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a change order for the Commercial Fishing Equipment Storage Improvement Project to Staples Construction Company, Inc. in the amount of up to \$13,885.00.

4) Brown Act Presentation Follow-up

Recommended Action: Informational.

That the Board of Port Commissioners receive an update based on comments made during last meeting's presentation from Lagerlof, LLP on the Ralph M. Brown Act.

5) Ventura Port District Operations Update as it Relates to COVID-19

Recommended Action: Informational. (Verbal Report)

That the Board of Port Commissioners receive an update on:

- a) The COVID-19 Ventura Harbor Rental Abatement and Deferment Program; and,
- b) Status of Ventura Port District operations.

ADJOURNMENT

*This agenda was posted on Friday, January 29, 2021 by 5:00 p.m. at the Port District Office
and online at www.venturaharbor.com - Port District Business - Meetings and Agendas.*

♦

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Ventura Port District at (805) 642-8538 or the California Relay Service at 711 or (800) 855-7100. Notification 72 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)



VENTURA
PORT DISTRICT
Established 1952

BOARD OF PORT COMMISSIONERS

FEBRUARY 3, 2021

APPROVAL OF MINUTES

JANUARY 20, 2021 REGULAR MEETING

VENTURA PORT DISTRICT

BOARD OF PORT COMMISSIONERS MINUTES OF JANUARY 20, 2021



CLOSED SESSION

CALL TO ORDER:

The Ventura Board of Port Commissioners Regular Closed Session Meeting was called to order by Chairman Chris Stephens at 6:32PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom meeting.

ROLL CALL:

Commissioners Present:

Chris Stephens, Chairman
Michael Blumenberg, Vice Chairman via teleconference
Brian Brennan, Secretary via teleconference
Jackie Gardina via teleconference
Everard Ashworth via teleconference

Commissioners Absent:

None.

Port District Staff:

Brian Pendleton, General Manager
Todd Mitchell, Business Operations Manager
Jessica Rauch, Clerk of the Board

Legal Counsel:

Andy Turner via teleconference
Elsa Sham via teleconference

PUBLIC COMMUNICATIONS: None.

CONVENED TO CLOSED SESSION AT 6:33PM.

ADJOURNMENT: Closed Session was adjourned at 6:45PM.

OPEN SESSION

ADMINISTRATIVE AGENDA:

CALL TO ORDER:

The Ventura Board of Port Commissioners Regular Open Session Meeting was called to order by Chairman Chris Stephens at 7:00PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom Meeting.

PLEDGE OF ALLEGIANCE: By Clerk of the Board, Jessica Rauch.

ROLL CALL:

Commissioners Present:

Chris Stephens, Chairman
Michael Blumenberg, Vice Chairman via teleconference
Brian Brennan, Secretary via teleconference
Jackie Gardina via teleconference
Everard Ashworth via teleconference

Commissioners Absent:

None.

Port District Staff:

Brian Pendleton, General Manager
Todd Mitchell, Business Operations Manager
Jessica Rauch, Clerk of the Board
John Higgins, Harbormaster via teleconference
Dave Werneburg, Marina Manager via teleconference
Joe Gonzalez, Capital Improvements Manager via teleconference
Jennifer Talt-Lundin, Marketing Manager via teleconference
Gloria Adkins, Accounting Manager via teleconference
Robin Baer, Property Manager
Sergio Gonzalez, Maintenance Supervisor

Legal Counsel:

Andy Turner via teleconference
Elsa Sham via teleconference

ADOPTION OF AGENDA

ACTION: Commissioner Brennan moved to adopt the January 20, 2021 agenda.

Commissioner Ashworth seconded. The vote was as follows:

AYES: Commissioner Stephens, Brennan, Gardina, Ashworth, Blumenberg
NOES: None.

Motion carried 5-0.

APPROVAL OF MINUTES

The Minutes of the January 6, 2021 Regular Meeting and the January 6, 2021 Public Facilities Corporation Annual Meeting were considered as follows:

ACTION: Commissioner Blumenberg moved to approve the minutes of the January 6, 2021 Regular Meeting and the January 6, 2021 Public Facilities Corporation Annual Meeting.

Commissioner Gardina seconded. The vote was as follows:

AYES: Commissioner Stephens, Brennan, Gardina, Ashworth, Blumenberg
NOES: None.

Motion carried 5-0.

PUBLIC COMMUNICATIONS: None.

CLOSED SESSION REPORT: Mr. Turner stated that the Board met in closed session; discussed and reviewed all items on the closed session agenda. The Board gave direction to staff as how to proceed. No action was taken that is reportable under The Brown Act.

BOARD COMMUNICATIONS: Commissioner Blumenberg visited the Village and commended staff on how clean it was after the winds. He also complemented the new patio at the old Blackbeard's space and looks forward to Sugar Lab opening. Commissioner Brennan reported that City Council will be having their goal setting workshop this weekend and asked if the District has given any input.

STAFF AND GENERAL MANAGER REPORTS: Mr. Pendleton reported that he worked with the Ventura County Special Districts Association to submit a letter to the County of Ventura asking for support for Special Districts throughout the County who have not been provided COVID funding. He also reported that tenants were notified of new COVID funding opportunities. Staff sent letters to its legislators asking to keep special districts in mind for funding. He also reported the unfortunate passing of District Landscaper Rigoberto Cardona. Mr. Higgins reported on the weather events that occurred over the past week. Mr. Mitchell gave an update on dredging and the Army Corps Work Plan.

LEGAL COUNSEL REPORT: None.

CONSENT AGENDA:

A) Approval of Second Amendment to Brophy Bros. Restaurant & Clam Bar Restaurant Lease Agreement

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve the Second Amendment to the Lease between the Ventura Port District and Brophy and Sons, Inc. DBA Brophy Bros. Restaurant & Clam Bar.

Public Comment: John Bennett, owner of Brophy Bros. Restaurant & Clam Bar appreciated how fast the amendment was put together and commended staff for their assistance in responding during the wind event. Sam Sadove was pleased to see that the District would not use COVID impacted 2020 sales for determining the eligibility of Brophy Bros. to qualify for their Option. He also asked if there was a noticing requirement since this lease is over 10 years.

ACTION: Commissioner Brennan moved to approve the Second Amendment to the Lease between the Ventura Port District and Brophy and Sons, Inc. DBA Brophy Bros. Restaurant & Clam Bar.

Commissioner Ashworth seconded. The vote was as follows:

AYES: Commissioners Stephens, Blumenberg, Brennan, Gardina, Ashworth.
NOES: None.

Motion carried 5-0.

STANDARD AGENDA:

1) Approval of a Cooperative Agreement between the Ventura Port District and City of San Buenaventura for Maintenance Dredging of the Ventura Keys Stub Channel and Inner Harbor

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve the Cooperative Agreement for the Maintenance Dredging of the Ventura Keys Stub Channel between the Port District and the City of San Buenaventura.

Report by Todd Mitchell, Business Operations Manager.

Public Comment: None.

ACTION: Commissioner Blumenberg moved to approve the Cooperative Agreement for the Maintenance Dredging of the Ventura Keys Stub Channel between the Port District and the City of San Buenaventura.

Commissioner Gardina seconded. The vote was as follows:

AYES: Commissioners Stephens, Blumenberg, Brennan, Gardina, Ashworth.
NOES: None.

Motion carried 5-0.

2) Award of Contract for 1567 Spinnaker Drive Building A Reroofing Project

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners award the 1567 Spinnaker Drive Building A Reroofing Project contract to Garland/DBS, Inc. in the amount of \$291,982.

Report by Todd Mitchell, Business Operations Manager.

Public Comment: None.

ACTION: Commissioner Brennan moved to award the 1567 Spinnaker Drive Building A Reroofing Project contract to Garland/DBS, Inc. in the amount of \$291,982.

Commissioner Blumenberg seconded. The vote was as follows:

AYES: Commissioners Stephens, Blumenberg, Brennan, Gardina, Ashworth.
NOES: None.

Motion carried 5-0.

3) Brown Act Presentation

Recommended Action: Informational.

That the Board of Port Commissioners receive a presentation from Lagerlof, LLP on the Ralph M. Brown Act.

Report by Andy Turner and Elsa Sham, Legal Counsel, Lagerlof, LLP.

Public Comment: Sam Sadove requested the presentation be included in the minutes; recited Government Code Section 54954.3; discussed the three parameters to be discussed in closed session; questioned why the Zoom meeting format changed; and recited Government Code Section 54953.3.

Legal Counsel's presentation was posted on the District's website.

Closed public comment at 8:22PM.

ACTION: The Board of Port Commissioners received a presentation on the Ralph M. Brown Act.

4) Ventura Port District Operations Update as it Relates to COVID-19

Recommended Action: Informational. (Verbal Report)

That the Board of Port Commissioners receive an update on:

- a) The COVID-19 Ventura Harbor Rental Abatement and Deferment Program; and,
- b) Status of Ventura Port District operations.

Report by Brian D. Pendleton, General Manager.

Public Comment: None.

Closed public comment at 8:38PM.

ACTION: The Board of Port Commissioners received an update on COVID-19 related items.

ADJOURNMENT: The meeting was adjourned in honor of Rigoberto Cardona at 8:39PM.

The next meeting is Wednesday, February 3, 2021.

Brian Brennan, Secretary



BOARD OF PORT COMMISSIONERS

FEBRUARY 3, 2021

CONSENT AGENDA ITEM A

APPROVAL OF NEW OFFICE LEASE

AGREEMENT WITH

SUGAR LAB BAKE SHOP, LLC

**VENTURA PORT DISTRICT
BOARD COMMUNICATION**

CONSENT AGENDA ITEM A
Meeting Date: February 3, 2021

TO: Board of Port Commissioners
FROM: Todd Mitchell, Business Operations Manager
Robin Baer, Property Manager
SUBJECT: Approval of New Office Lease Agreement with Sugar Lab Bake Shop, LLC

RECOMMENDATION:

That the Board of Port Commissioners approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Sugar Lab Bake Shop, LLC for space located at 1575 Spinnaker Drive #207 and #208 consisting of approximately 840 square feet for a five (5) year term with a three (3) year option.

SUMMARY:

Staff has negotiated a lease with Sugar Lab Bake Shop, LLC for an office unit above their current restaurant space at 1575 Spinnaker Drive in suites 207 and 208. The space is sought by the tenant to provide additional office space and a location to host virtual and in-person classes and demonstrations.

LONG-TERM GOALS:

- Goal 3: Economic Vitality
 - Increase economic development, vitality, and diversity of the District through effective leasing and marketing strategies.

5-YEAR OBJECTIVES:

- Objective V: Harbor Village
 - Maintain and improve Harbor Village infrastructure and enhance the overall visitor experience
 - 2: Leasing/Property Management Action Plan

BACKGROUND:

Sugar Lab executed a restaurant lease with the District on March 5, 2020. Sugar Lab has expressed interest in leasing an office space for separate office work as well as to provide virtual and in-person classes and demonstrations to the public without interfering with the bakery's operations.

FISCAL IMPACT:

This new lease reflects current market rental rates for offices in the complex. The District will revert the suite to a vanilla shell as well as remove one wall to facilitate a class/demonstration room. There will be step increases annually in base rent starting in year two. Classroom/demonstration fees will be subject to percentage rent as they will be charged through the restaurant.

ATTACHMENTS:

None.



BOARD OF PORT COMMISSIONERS

FEBRUARY 3, 2021

STANDARD AGENDA ITEM 1

APPROVAL OF FISCAL YEAR 2020 –
2021 MID-YEAR BUDGET
ADJUSTMENTS AND CAPITAL
IMPROVEMENT PLAN

**VENTURA PORT DISTRICT
BOARD COMMUNICATION**

STANDARD AGENDA ITEM 1
Meeting Date: February 3, 2021

TO: Board of Port Commissioners
FROM: Brian D. Pendleton, Deputy General Manager
Todd Mitchell, Business Operations Manager
Gloria Adkins, Accounting Manager
SUBJECT: Approval of Fiscal Year 2020-21 Mid-Year Budget Adjustments and Capital Improvement Plan

RECOMMENDATION:

That the Board of Port Commissioners adopt Resolution No. 3405, approving the Mid-Year Budget Adjustments for Fiscal Year 2020-2021 effective January 1, 2021.

SUMMARY:

The Districts annual budget is reviewed at mid-year for any necessary changes. These adjustments are then presented to the Board for discussion and approval. Below, staff has provided an explanation for the adjustments being requested to the Fiscal Year 2020-21 budget.

LONG-TERM GOALS:

- Goal 6: Public Service
 - Provide exceptional public service and transparency at all levels within the organization through effective leadership, training, mentoring, and oversight. This promotes accountability, increased public trust, and more efficient, effective and public focused organization.

5-YEAR OBJECTIVES:

- Objective E: Public and Civic Engagement Plan
 - Strengthen communication and further develop close working relationships with stakeholders, business partners, and civic leaders
 - 1: Collaborate with business partners and stakeholders through increased engagement, communication, and participation.

BACKGROUND:

The District's fiscal year covers the period of one year from July 1 of one calendar year through June 30 of the following calendar year. The operating budget is an essential component of the management planning and control process. This budget process is required by the Governmental Accounting Standards Board, which has jurisdiction over special districts. The concept of fiscal accountability requires that a government agency justify its actions in the context of budgetary restrictions on the use of its resources.

The General Manager in collaboration with the Business Operations Manager, the Accounting Manager and all Department Managers evaluate the income and expense categories of the budget at mid-year to determine where adjustments may be necessary. Following this analysis, appropriate adjustments are made to the budget and recommended to the Board for approval.

As a result of this process, net cash flows in from normal operations (operating revenues minus operating expenditures) are projected at \$2,232,000 for the year. This is \$429,800 more than anticipated in the original Fiscal Year 2020-21 budget. The following outlines the requested adjustments to operating revenues and operating expenditures:

Operating Revenue

The operating revenue is being increased by \$555,250 for a total of \$8,492,750 (a change of +7%). This increase is the net effect of the following items, as summarized below:

- The parcel lease income represents the master tenant lease revenue. Under this category, the Portside Partners lease income has been decreased by \$188,000 and the lease appreciation & signing rents have been increased by \$912,000. The changes in these two sub-categories are as a result of:
 - Portside Partners income was reduced \$188,000 as a result of the impacts of COVID.
 - The appreciation rent due to the District as a result of the change in ownership of Safe Harbor Marinas (owners of Ventura Isle Marina (VIM)) to Sun Communities, Inc.
 - The purchase of a lease option as part of the assignment of the Parcel 20 Master Lease to Derecktor Marine Holdings, LLC.
- Miscellaneous income/rentals category has been decreased by \$90,000 to reflect a decrease in investment income from lower interest rates resulting in reduced investment earnings.
- The commercial fishing premises category is decreased \$10,000 for a correction in the definition of the Del Mar lease premises which results in a reduction in projected revenue from this tenant.
- The fish offloading category is decreased \$20,000 to reflect a continuation of very slow squid seasons.
- The booth/vendor income is decreased \$2,750 due to COVID restrictions.
- The revenue for harbor event permits is decreased \$15,000 also due to COVID restrictions.
- The Harbor Village Marina slip income increased \$11,000. The replacement of dock pedestals and new marina management software is resulting in improved reporting and capturing of utility fees in the District-operated marina.
- Harbor Village CAM income is decreased \$28,000 due to an extension of the COVID rent abatement relief program and to remove the portion of income that would have resulted from a planned CAM rate increase to the tenants. This rate increase is being postponed due to the current impact of COVID.
- The Harbor Village merchant's promotion dues is decreased \$14,000 due to an extension of the COVID rent abatement relief program.

Other Revenue

The property taxes and assessments category has been increased \$110,000 to reflect an increase in the District's pro-rata share of the County's annual property taxes. This category was reevaluated after receiving the December 2020 allocation of the taxes from the County.

Operating Expenditures

The operating expenses are being increased by \$125,450 for a total of \$6,260,750 (a change of +2%). This increase is the net effect of the following items as summarized below:

- Total personnel expenses are being decreased \$66,100 in the second half of the fiscal year to reflect reductions in personnel expenses in the Admin and Maintenance departments.
- The conferences, meetings & training category is decreased \$25,000 as a result of public gatherings being prohibited as an impact of COVID.

- The dock & fish pier maintenance & repairs category is decreased \$7,500 based on a reduction in the assessed need at this time.
- General liability insurance is increased \$10,700 to reflect a premium increase due to increased coverage for the District's vessel and marine insurance policies.
- Grounds maintenance is increased \$7,500 for additional third-party landscaping services.
- Operating supplies is increased \$14,100 for new maintenance work order software and Village marina management software and training.
- Professional Services-Ventura Shellfish Enterprise (VSE) project is increased \$99,500 for legal, environmental, and fiscal impact consultant services and for the completion of a navigational risk assessment as was required by the U.S. Coast Guard.
- Professional & outside services is increased \$48,750 for additional human resources assistance and increased third-party security services being provided in the Village due to the need for additional security during the pandemic and continuing in response to increased vandalism and theft.
- The utilities and trash expense categories are being increased \$33,000 due to high restroom usage and increased pressure washing needs as well as increased takeout trash being produced in the Village due to COVID.
- Dredging related expenses is increased \$10,500 as a net effect of additional water quality testing in the harbor (cost-shared with the City of Ventura) offset by the reduction of dredging related conferences be cancelled or going virtual due to the impacts of COVID.

Building Tenant Improvements

Building tenant improvements are decreased by \$119,000 for a total of \$296,000. Attachment 3 included with this report summarizes the planned tenant improvements.

Capital Improvement and Accessibility Improvement Plans

The capital improvement and accessibility projects are increased by \$375,100 for a total of \$1,663,700. The principal changes reflect projects started in the previous Fiscal Year that were not completed and/or were not invoiced, prior to the end of the year and were therefore have been carried forward. The delayed completion of the Ventura Harbor Village Paint Project makes up the most significant item carried forward. Attachment 4 is an adjusted capital improvement and accessibility improvement plan for the fiscal year.

CONCLUSION:

The COVID-19 pandemic continues to bring significant impact and ongoing uncertainty regarding the fiscal outlook through the rest of the Fiscal Year. The range of impacts to harbor business tenants is extremely broad. Although several businesses have been fortunate in their ability to work successfully within the limitations imposed by the pandemic (a few have even achieved their best year ever), some businesses have been forced to remain closed for over ten months now.

In a focused effort to retain our Harbor business tenants, the Port District adopted the Covid-19 Rental Abatement and Deferment Program on April 1, 2020. This program has been extended through March 31, 2021. The program has been offered to all Harbor Master (and their subtenants), Village, and Charter Tenants. The number of tenants participating has fluctuated from month to month based on government restrictions in effect during the global pandemic and the resulting impacts to business activity.

Staff across all departments have managed to generally reduce spending below the reduced budgets adopted as part of FY20-21, although certain additional spending has been necessary due in large part to Covid. Staff has submitted an application to FEMA for partial reimbursement of these expenses. The Port District is executing on a number of budgeted Capital Projects including the commercial fishing storage facility and purchase of a new fish pier crane for which the California Coastal Conservancy will fund an amount up to \$318,600 via a successful grant application.

Despite positive indicators early in the season, the squid fishing industry is experiencing yet another extremely disappointing season to date, resulting in a lack of landings. The fishing fleet continues to occupy the District's marina, but the landings revenue continues to be far below normal.

Under the leadership of the Board of Port Commissioners and the General Manager, the District continues to maintain an optimistic view of its fiscal future beyond the end of the pandemic largely due to solid performance by many of the District's business tenants, conservative budgeting and strong fiscal management. However, the District will need to continue to increase revenue opportunities, support and diversify commercial fishing to retain and grow our working waterfront while maintaining federal priority for Harbor dredging.

FISCAL IMPACT:

The overall net effect of the above proposed budget adjustments to FY20-21 is an increase in revenues and an increase in expenditures as compared to approved FY20-21 budget. The proposed FY20-21 mid-year budget proposes that \$1,185,300 be utilized from unrestricted reserves and special funding to fund capital projects rather than the \$1,564,400 as reflected in the original budget. The proposed FY20-21 mid-year budget is consistent with the Board's unrestricted fund balance policy and loan covenants.

ATTACHMENTS:

- Attachment 1 – Resolution No. 3405 - Adopt Mid-Year Budget Adjustments Fiscal Year 2020-2021
- Attachment 2 – Mid-Year Budget Adjustments for Fiscal Year 2020-2021
- Attachment 3 – Mid-Year Tenant Improvements for Fiscal Year 2020-2021
- Attachment 4 – Mid-Year Capital Improvement Projects Adjustments for Fiscal Year 2020-2021
- Attachment 5 – Mid-Year Budget Cash Flow Projection



RESOLUTION NO. 3405

**RESOLUTION OF THE BOARD OF PORT COMMISSIONERS
OF THE VENTURA PORT DISTRICT ADJUSTING THE
2020-2021 FISCAL YEAR BUDGET**

BE IT RESOLVED by the Board of Port Commissioners of the Ventura Port District that the following budget adjustments be made to the 2020 - 2021 Fiscal Year Budget effective for January 1, 2021:

ENTERPRISE FUND

OPERATING REVENUE:

1. Decrease Portside Partners Lease Income by \$188,000
2. Increase Lease Appreciation Income by \$912,000
3. Decrease Misc. Income/Rentals Income by \$90,000
4. Decrease Commercial Fishing Premises by \$10,000
5. Decrease Fish Offloading by \$20,000
6. Decrease Booth/Vendor Income by \$2,750
7. Decrease Harbor Event Permits by \$15,000
8. Increase Harbor Village Marina Slips by \$11,000
9. Decrease Harbor Village CAM Income by \$28,000
10. Decrease Harbor Village Promo Dues by \$14,000
11. Increase Property Taxes and Assessments by \$110,000

OPERATING EXPENDITURES:

General Expenses

1. Decrease Total Wages by \$48,000
2. Decrease Medical & Life Insurance by \$7,200
3. Decrease Optional Benefit Plans by \$5,600
4. Decrease Retirement Contributions by \$5,300
5. Decrease Conference, Meetings & Training by \$25,000
6. Decrease Dock & Fish Pier Maint. & Repairs by \$7,500
7. Increase General Liability Insurance by \$10,700
8. Increase Grounds Maintenance by \$7,500
9. Increase Operating Supplies by \$14,100
10. Increase Professional Services-Shellfish by \$99,500
11. Increase Professional/Outside Services by \$48,750
12. Increase Utilities & Trash by \$33,000
13. Increase Dredging Related Expenses by \$10,500

ATTACHMENT 1

IMPROVEMENTS:

1. Decrease Building Tenant Improvements by \$119,000
2. Increase Capital Improvements by \$375,1000
3. Increase Conservancy Grant Income by \$95,400

PASSED, APPROVED AND ADOPTED by the Board of Port Commissioners, this 3rd day of February 2021.

Chris Stephens, Chairman

ATTEST:

Brian Brennan, Secretary

ATTACHMENT 1

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss.
CITY OF SAN BUENAVENTURA)

I, Brian Brennan, Secretary of the Ventura Port District, a public corporation, do hereby certify that the above and foregoing Resolution No. 3405 was duly passed and adopted by the Board of Port Commissioners of said District at a regular meeting thereof held on the 3rd day of February 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said District this 3rd day of February 2021.

(Seal)

Brian Brennan, Secretary

ATTACHMENT 2

VENTURA PORT DISTRICT MID-YEAR BUDGET ADJUSTMENTS FOR FISCAL YEAR 2020-21 Effective 1/01/2021

	<u>Actual 2018-19</u>	<u>Budget 2018-19</u>	<u>Actual 2019-20</u>	<u>Budget 2019-20</u>	<u>Budget 2020-21</u>	Adjustments	<u>Adjusted Budget 2020-21</u>	<u>Comments</u>
OPERATING REVENUE								
Parcel Lease Income	3,508,795	3,495,000	3,501,105	3,550,000	3,108,000	-	3,108,000	
Portside Partners Lease	300,000	300,000	307,500	300,000	527,000	(188,000)	339,000	Reduced based on COVID impacts
Lease appreciation & signing rents	135,000	-	100,000	-	-	912,000	912,000	Ventura Isle Marine & Derecktor Marine Holdings
Dry Storage Income	1,800	22,000	43,196	40,000	95,000	-	95,000	
Commercial Fishermen's Storage	75,557	76,000	81,563	82,000	82,000	-	82,000	
Parking Income	53,482	55,000	57,992	55,000	50,000	-	50,000	
Misc. Income/Rentals	500,125	494,000	344,871	409,000	237,500	(90,000)	147,500	Lower interest rates resulting in lower investment earnings
Harbor Village Lease Income								
Retail	509,484	540,000	499,333	532,000	450,000	-	450,000	
Restaurant	1,167,513	1,124,000	1,089,779	1,175,000	980,000	-	980,000	
Offices	697,427	700,000	707,951	713,500	722,000	-	722,000	
Charters	398,696	380,000	303,945	328,000	275,000	-	275,000	
Commercial Fishing Premises	166,526	165,000	177,923	185,000	193,000	(10,000)	183,000	Correction of one lease premises & revenue
Fish Offloading	88,809	110,000	37,525	30,000	40,000	(20,000)	20,000	Poor seasons continue
Harbor Village Misc. Income	10,488	5,500	31,053	6,000	3,500	-	3,500	
Booth/Vendor Income	10,072	5,000	6,192	8,000	3,500	(2,750)	750	COVID restrictions
Sponsorships	15,490	14,000	15,385	14,500	1,000	-	1,000	
Harbor Event Permits	27,220	30,000	22,191	35,000	30,000	(15,000)	15,000	COVID restrictions
Harbor Village Marina Slip Rentals	842,388	860,000	693,618	692,000	730,000	11,000	741,000	Improved tracking and billing of marina utilities
Harbor Village CAM Income	352,482	357,000	306,961	361,500	318,000	(28,000)	290,000	COVID rent abatement & deferral program
Harbor Village Merchants Promo Dues	108,476	117,000	85,171	113,500	92,000	(14,000)	78,000	COVID rent abatement & deferral program
TOTAL OPERATING REVENUE	8,969,830	8,849,500	8,413,254	8,630,000	7,937,500	555,250	8,492,750	
% increase / decrease over previous year	5%	7%	-6%	-2%	-8%		-2%	

ATTACHMENT 2

FY20-21 Mid-Year Budget Adjustments Continued, 1/01/2021

	<u>Actual 2018-19</u>	<u>Budget 2018-19</u>	<u>Actual 2019-20</u>	<u>Budget 2019-20</u>	<u>Budget 2020-21</u>	<u>Adjustments</u>	<u>Adjusted Budget 2020-21</u>	<u>Comments</u>
OPERATING EXPENDITURES								
<u>Personnel Expenses</u>								
Total Wages	1,797,078	1,856,500	1,983,698	1,896,500	1,887,500	(48,000)	1,839,500	Reduction in personnel expenses
<u>Other Personnel Expenses</u>								
Payroll Taxes & Unemployment	28,654	33,100	34,128	32,000	31,000	-	31,000	
Workers Comp Insurance	56,159	48,500	63,111	71,500	100,000	-	100,000	
Medical & Life Insurance	235,189	248,000	232,742	258,000	244,500	(7,200)	237,300	Reduction in personnel expenses
Optional Benefit Plans	177,933	200,500	198,293	204,000	202,000	(5,600)	196,400	Reduction in personnel expenses
Retirement Contributions	402,691	394,000	443,888	444,000	365,000	(5,300)	359,700	Reduction in personnel expenses
Totals Other Personnel Expenses	900,626	924,100	972,162	1,009,500	942,500	(18,100)	924,400	
Total Personnel Expenses	2,697,704	2,780,600	2,955,860	2,906,000	2,830,000	(66,100)	2,763,900	
% increase / decrease over previous year	5%	8%	10%	5%	-3%		-5%	
<u>General Expenses</u>								
Advertising (Public notices)	6,266	7,500	5,551	12,500	12,500	-	12,500	
Leasing / Real Estate	24,578	25,000	17,066	31,000	21,000	-	21,000	
Port District Open House	4,319	4,000	3,450	4,500	-	-	-	
Auto Mileage & Allowance	12,600	14,000	9,748	13,000	11,000	-	11,000	
Auto Equipment & Maintenance.	26,423	23,000	20,392	28,500	26,500	-	26,500	
Bad Debt	50,399	10,000	77,863	10,000	10,000	-	10,000	
Bank Fees & Other Miscellaneous	257,833	15,000	9,344	12,000	11,000	-	11,000	
Building Maintenance	537,037	389,000	288,398	409,500	192,500	-	192,500	
Communications	40,217	41,500	33,560	41,500	37,000	-	37,000	
Conferences, Meetings & Training	25,848	32,500	24,888	38,800	33,000	(25,000)	8,000	Reduce conferences-no public gatherings
Dock & Fish Pier Maint. & Repairs	29,447	44,500	9,415	61,500	144,250	(7,500)	136,750	Reduction in anticipated expense
Equipment Rental	18,830	17,500	15,398	18,000	17,500	-	17,500	
General Harbor Maintenance	2,234	4,000	214	4,000	4,000	-	4,000	
General Liability Insurance	240,989	256,000	282,431	272,000	277,000	10,700	287,700	Increased premiums for increased coverage
Grounds Maintenance	176,876	124,000	149,706	175,000	196,500	7,500	204,000	Landscaping service
Grounds Maintenance-Special	-	-	-	-	-	-	-	
Janitorial Supplies	49,225	61,000	61,164	64,000	70,000	-	70,000	
Land/Building Rental Expense	76,394	76,000	80,642	82,000	82,000	-	82,000	
Memberships & Subscriptions	25,657	27,000	22,061	25,500	25,000	-	25,000	
Office Computer Equipment & Related	38,644	49,000	45,303	51,000	25,000	-	25,000	

ATTACHMENT 2

FY20-21 Mid-Year Budget Adjustments Continued, 1/01/2021

	Actual 2018-19	Budget 2018-19	Actual 2019-20	Budget 2019-20	Budget 2020-21	Adjustments	Adjusted Budget 2020-21	Comments
<u>General Expenses Continued</u>								
Office Supplies & Equipment	26,757	30,500	25,642	27,500	26,500	-	26,500	
Operating Supplies	29,924	28,000	27,170	28,500	36,900	14,100	51,000	Maintenance & Marina software & training
Other Equipment & Repairs	45,325	46,000	48,826	53,000	49,500	-	49,500	
Professional Serv. - Auditing	20,500	35,000	23,100	25,000	26,000	-	26,000	
Legal - Professional Services, Judgements, Settlements	367,576	280,000	449,435	450,000	450,000	-	450,000	
Professional Serv. - Shellfish	37,823	90,000	260,295	273,300	175,000	99,500	274,500	Robt Smith-\$115k; Dudek-\$115k; Illuminas Consulting \$11k; Meetings & Misc. expenses \$17,500. Cowi-\$16k to complete the navigational risk assessment. These expenses are not recovered by the grant
Professional/Outside Services	393,863	408,500	450,602	488,600	441,450	48,750	490,200	Additional HR services and Village security
360 Leadership Review	-	-	10,000	11,000	-	-	-	
Board Goal Setting Workshop	-	-	13,100	11,000	-	-	-	
Prof. Serv/Customer Count Study Survey/leased equip	10,446	33,000	10,500	10,500	-	-	-	
Prof. Serv/Downtown Trolley Partnership	12,000	19,500	-	-	-	-	-	
Web Site Hosting/ADA & General Maint.	3,912	13,000	2,970	13,000	13,000	-	13,000	
Uniforms & Tool Allowances	13,873	17,500	17,413	18,600	19,500	-	19,500	
Utilities and Trash	377,030	408,500	407,884	428,000	434,000	33,000	467,000	High restroom usage, additional pressure washing
Dredging Related Expenses	258,281	248,500	188,832	248,500	174,000	10,500	184,500	Additional water quality monitoring offset by reduced dredging related conferences
Total General Expenses	3,241,126	2,878,500	3,092,363	3,440,800	3,041,600	191,550	3,233,150	
% increase / decrease over previous year	10%	-13%	-5%	20%	-12%		-6%	
<u>Marketing & Promotional Expenses</u>								
Advertising & Marketing	142,667	150,000	143,121	160,000	136,900	-	136,900	
Ad Production/Graphic Design	19,741	20,000	26,782	20,000	19,200	-	19,200	
Marketing Conversion Study	-	-	-	-	-	-	-	
Street Event Banners	1,571	2,500	1,500	1,200	1,200	-	1,200	
Village Maps/Promotional Materials	10,865	15,000	10,537	15,800	11,500	-	11,500	
Certified Rack	2,581	2,500	2,697	2,700	2,300	-	2,300	
Tourism Outreach, FAM Tours & Meetings	8,158	9,000	5,596	12,900	9,200	-	9,200	
Entertainment & Music	23,852	27,000	24,845	25,900	22,100	-	22,100	
Brand Build/Promotions/Campaigns/Events	50,409	54,500	27,185	58,000	40,000	-	40,000	
Content/Web/Paid Social Media	15,829	16,500	16,284	19,500	21,300	-	21,300	
Miscellaneous	212	500	36	-	-	-	-	
Total Marketing & Promotional Expenses	275,885	297,500	258,583	316,000	263,700	-	263,700	
% increase / decrease over previous year	2%	3%	-6%	6%	-17%		-17%	
TOTAL OPERATING EXPENDITURES	6,214,715	5,956,600	6,306,806	6,662,800	6,135,300	125,450	6,260,750	
% increase / decrease over previous year	7%	-4%	1%	12%	-8%		-6%	
Operating Cash Flows In (Out)	2,755,115	2,892,900	2,106,448	1,967,200	1,802,200	429,800	2,232,000	
% increase / decrease over previous year	1%	39%	-24%	-32%	-8%		13%	

ATTACHMENT 2

FY20-21 Mid-Year Budget Adjustments Continued, 1/01/2021

	<u>Actual 2018-19</u>	<u>Budget 2018-19</u>	<u>Actual 2019-20</u>	<u>Budget 2019-20</u>	<u>Budget 2020-21</u>	Adjustments	<u>Adjusted Budget 2020-21</u>	<u>Comments</u>
NON-OPERATING and OTHER EXPENDITURES								
Harbor Patrol expenses not funded by property taxes	25,126	249,000	131,082	254,000	132,600	(110,000)	22,600	Remaining Patrol expenditures are funded from Operating Revenues
Conservancy Grant - Fisherman's Storage	-	-	-	-	-	-	-	
COP's Interest Payment	397,690	410,000	369,507	390,000	355,000	-	355,000	
Principle Payments on bonds/loans	854,100	855,000	883,800	890,000	910,000	-	910,000	
2018 Dock Project Financing Cost Issuance	54,166	64,000	-	-	-	-	-	
2018 Dock Project Debt Interest Payment	201,278	120,000	218,593	225,000	215,000	-	215,000	
2018 Dock Project Debt Principle Payment	67,785	67,000	146,064	150,000	160,000	-	160,000	
TOTAL NON-OPER. EXPENDITURES	1,600,145	1,765,000	1,749,046	1,909,000	1,772,600	(110,000)	1,662,600	
% increase / decrease over previous year	28%	21%	9%	8%	-7%		-13%	
Annual Cash Flows In (Out) from normal operations before any Improvements	1,154,970	1,127,900	357,402	58,200	29,600	539,800	569,400	
% increase / decrease over previous year	-22%	84%	-69%	-95%	-49%		878%	
Building Tenant Improvements	23,195	832,500	168,681	363,300	415,000	(119,000)	296,000	See Attached Schedule
Accessibility Improvements	-	190,000	110,161	335,000	110,000	-	110,000	See Attached Schedule
Capital Improvements Projects	1,747,592	3,773,000	5,100,480	6,333,000	1,288,600	375,100	1,663,700	See Attached Schedule
Conservancy Grant Income - Fisherman's Storage & Hoist					(219,600)	(95,400)	(315,000)	See Attached Schedule
Annual Cash Flows In(out) after Improvements	(615,817)	(3,667,600)	(5,021,920)	(6,973,100)	(1,564,400)	379,100	(1,185,300)	
Improvements funded through Unrestricted Improvement Reserve Fund	615,817	3,667,600	5,021,920	6,973,100	1,564,400	(379,100)	1,185,300	
Projected Unrestricted Reserve Balance	\$ 9,130,000	\$ 5,540,400	\$ 8,250,101	\$ 6,588,900	\$ 6,907,497		\$ 7,286,597	
City National Bank funding for Village Marina Dock Rer	\$ 4,445,000	\$ 4,660,000	\$ 221,796	\$ -	\$ -		\$ -	
Dredging Reserve Fund	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	\$ 2,800,000	\$ 2,780,000		\$ 2,775,000	

ATTACHMENT 2

FY20-21 Mid-Year Budget Adjustments Continued, 1/01/2021

Harbor Patrol Department Expenses funded from Property Taxes and Assessments collected by the County of Ventura

	<u>Actual 2018-19</u>	<u>Budget 2018-19</u>	<u>Actual 2019-20</u>	<u>Budget 2019-20</u>	<u>Budget 2020-21</u>	Adjustments	<u>Adjusted Budget 2020-21</u>	<u>Comments</u>
Property Taxes and Assessments from County	1,319,632	1,250,000	1,395,833	1,300,000	1,370,000	110,000	1,480,000	Based on receipt of the December pro-rata share of property taxes
% increase / decrease over previous year	6%	8%	6%	4%	5%		14%	
<u>Harbor Patrol Personnel Expenses</u>								
Total Wages	748,739	830,000	858,619	861,000	855,000	-	855,000	
Payroll Taxes & Unemployment	14,238	18,000	13,491	17,000	13,000	-	13,000	
Workers Comp Insurance	74,019	92,000	59,275	77,500	55,000	-	55,000	
Medical & Life Insurance	64,304	77,000	68,016	82,000	82,000	-	82,000	
Optional Benefit Plans	51,292	61,000	67,967	64,000	70,000	-	70,000	
Retirement Contributions	150,467	132,000	255,201	150,000	166,000	-	166,000	
Total Harbor Patrol Personnel Expenses	1,103,059	1,210,000	1,322,569	1,251,500	1,241,000	-	1,241,000	
% increase / decrease over previous year	10%	15%	20%	3%	-1%		-1%	
<u>Harbor Patrol Other Expenses</u>								
Uniforms	17,813	18,000	15,053	18,000	14,400	-	14,400	
Oil & Fuel Expense	26,372	25,000	28,830	31,500	25,200	-	25,200	
Operating Supplies & Expense	26,657	30,000	28,643	30,000	24,000	-	24,000	
Boat Maintenance	83,979	120,000	68,922	100,000	80,000	-	80,000	
Auto Equip & Maint.	5,968	5,000	6,286	5,000	4,000	-	4,000	
Conferences & Training	9,943	8,000	10,818	15,000	16,000	-	16,000	
Vessel Salvage Expense	-	-	-	10,000	-	-	-	
Summer Lifeguard Services	68,726	80,000	42,228	88,000	93,000	-	93,000	
Professional Services	2,241	3,000	3,566	5,000	5,000	-	5,000	
Total Harbor Patrol Other Expenses	241,699	289,000	204,346	302,500	261,600	-	261,600	
% increase / decrease over previous year	3%	-5%	-15%	5%	-14%		-14%	
Total Harbor Patrol Expenses	1,344,758	1,499,000	1,526,915	1,554,000	1,502,600	-	1,502,600	
% increase / decrease over previous year	9%	11%	14%	4%	-3%		-3%	
Expenditures remaining after Property Tax Revenues were applied are funded from Operating Revenues	(25,126)	(249,000)	(131,082)	(254,000)	(132,600)	110,000	(22,600)	Remaining Patrol expenditures are funded from Operating Revenues

ATTACHMENT 2

FY20-21 Mid-Year Budget Adjustments Continued, 1/01/2021

Expenditures funded by Grants and Special Funding

	<u>Actual 2018-19</u>	<u>Budget 2018-19</u>	<u>Actual 2019-20</u>	<u>Budget 2019-20</u>	<u>Budget 2020-21</u>	<u>Adjustments</u>	<u>Adjusted Budget 2020-21</u>	<u>Comments</u>
<u>Grants and Special Funding</u>								
NOAA Grant-Shellfish Aquaculture-2018	175,942	207,000	96,800	96,800	40,109	-	40,109	
Dredging Reserve Fund	-	-	-	200,000	225,000	-	225,000	City of Ventura will reimburse their pro-rata share of the dredging expense. The dredging fund will be reimbursed in FY21-22
DBAW Grants-abandon vessel & vessel turn-in	4,272	3,000	-	-	-	-	-	
TOTAL GRANTS & SPECIAL FUNDING	180,214	210,000	96,800	296,800	265,109	-	265,109	

Projects, Equipment and Training Expenses

NOAA Grant-Shellfish Aquaculture-2018	175,942	207,000	96,800	96,800	40,109	-	40,109	
Dredging of Inner Harbor at entrance of Keys	-	-	-	200,000	225,000	-	225,000	City of Ventura will reimburse their pro-rata share of the dredging expense. The dredging fund will be reimbursed in FY21-22
Vessel Salvage-Abandoned and Turn-in	4,272	3,000	-	-	-	-	-	
TOTAL PROJECTS & EQUIPMENT	180,214	210,000	96,800	296,800	265,109	-	265,109	

ATTACHMENT 3

FY20-21 Building Tenant Improvements

Budgeted Items		
Scheduled Improvements	Budgeted District Contribution to Building Tenant Improvements	\$ 157,000.00
Unscheduled Improvements	Rennovations due to possible Tenant turnover at lease expiration	\$ 69,000.00
Contingency	Rennovations due to unscheduled Tenant turnover (early termination)	\$ 70,000.00
		\$ 296,000

ATTACHMENT 4

Capital Improvements and ADA Improvements Plan
Summary of Five Year Projection

Line item adjustments shown in Blue

Item #	Project Location/Description	Mid-Yr Rev.	Original	Fiscal Yr	Fiscal Yr	Fiscal Yr	Fiscal Yr	Notes
		Fiscal Yr	Fiscal Yr					
		20-21	20-21	21-22	22-23	23-24	24-25	
1	Harbor Village Paint Project (Funds unexpended in FY19-20 for expenses carried forward)	500,000	-					Carried over from previous FY, work complete
2	Harbor Village Bldgs.-replace/repair roofs/tiles/gutters - Bldg. 1567 (3), 1583, 1575. (1431 and 1591 in FY25-26)	300,000	300,000	250,000	250,000	875,000	650,000	Estimated \$4M total
3	Fisherman Storage at Ventura Harbor Storage premises	200,000	200,000					Must complete this FY
4	Harbor Village Trash Enclosures	180,000	180,000		180,000		180,000	One must be completed this FY.
5	Fish Pier Crane #1 - replace aging crane - 30% deposit on crane paid June 2019	175,000	150,000					CC grant reimbursement
6	Village Signage to complement paint project	100,000	100,000	50,000	50,000			Incl. wayfinding signs & consulting Y1; entry feature & some awnings
7	Harbor Door & Camera Security System Improvement	58,600	58,600					Combined door and camera security system items
8	Village Marina Docks & Pedestals (Remaining work)	56,500	-					Carried over from previous FY, work complete
9	1591 ADA Entrance Ramp and Additional Concrete Pads and Stairs (Reclassified from TI's)	33,300	-					Originally a TI expense, changed to CIP
10	Paid Parking Infrastructure	30,000	300,000	275,000				Infrastructure procurement deferred
11	District Headquarters - emergency generator - plans & specs followed by purchase and installation	15,000	-			85,000		Advanced funding for this FY
12	Entry Feature Fence Completion	10,000	-					New item
13	Harbor Patrol Gangway Replacement	5,300	-					Carried over from previous FY, work complete
14	Harbor Village and Beach Restroom Usage Monitoring System	-						Rolled into Camera security system
15	1567 Spinnaker #100 - Building Improvements			650,000				
16	Vehicle Replacement - Harbor Patrol Dept.			65,000				
17	1449 Building structural improvement			60,000				Structural repairs
18	National Park Service Bldg. - 1691 Bldg. - HVAC systems - Project split into two years based on the lease with NPS			50,000	50,000			
19	Resurface Launch Ramp and Parking Lot			50,000				Moved up one year. Will seek grant funding
20	Harbor Cove Light Pole Replacement			45,000				New item
21	Harbor Patrol Radio Repeater and Communication Upgrades			20,000	8,000			New item
22	District Headquarters - replace HVAC condenser unit system			20,000				
23	National Park Service Bldg. – Elevator/Modifications – 1431 Spinnaker Drive Building			-				Cancelled
24	Seismic evaluation with plans/specs for GSA buildings - 1431 Spinnaker and 1691 Spinnaker			-				Cancelled
25	Harbor Cove & Surfers Knoll - Brick wall replacement - Expense deferred to FY22-23				500,000			Deferred
26	Boat Replacement - Harbor Patrol Dept. Grant funding will be sought				300,000			
27	Harbor Village Bldgs. - refurbish elevator at 1591 Spinnaker (last of the 5 elevators in the Village to be refurbished)				120,000			Deferred
28	Harbor Village Entrance Feature Revitalization & Wayfinding				50,000	125,000		Added engineering to FY19-20
29	Vehicle Replacement - Maintenance Dept.				40,000			Deferred
30	Village Paseo Improvement Project					250,000		
31	Resurface Parking Lots (Harbor Village & Beach Lots)						450,000	
32	Fish Pier - resurface as needed (FY25-26)							
ADA-33	Harbor Village - ADA Restroom Improvements	110,000						
Total Capital Improvement Plan		1,663,700		1,535,000	1,548,000	1,335,000	1,280,000	
Total ADA Improvement Plan		110,000		-	-			
TOTAL CAPITAL IMPROVEMENTS & ADA IMPROVEMENTS		1,773,700		1,535,000	1,548,000	1,335,000	1,280,000	
Special Funding for Fish Pier Crane (#5 above)		190,000						Grant
Special Funding for Fishermens' Storage (#3 above)		125,000						Grant
TOTAL CAPITAL IMPROVEMENTS & ADA IMPROVEMENTS WITH FUNDING		1,458,700		1,535,000	1,548,000	1,335,000	1,280,000	

ATTACHMENT 5

VENTURA PORT DISTRICT HISTORICAL & PROJECTED REVENUE AND EXPENSE CASH FLOWS Minimum Unrestricted Reserves at **40%** of Operating Expenses

	2016-17 Actual	2017-18 Actual	2018-19 Actual	2019-20 Actual	2020-21 forecasted	2021-22 forecasted	2022-23 forecasted	2023-24 forecasted	2024-25 forecasted
Cash Flows In (Out) from normal operations before any Improvements	\$ 2,940,000	\$ 1,480,000	\$ 1,154,970	\$ 357,402	\$ 569,400	\$ 661,000	\$ 1,243,000	\$ 1,307,000	\$ 1,372,000
Significant Assumptions -									
Cash Flow Out - Tenant Improvements	(157,000)	-	(23,195)	(168,681)	(296,000)	(250,000)	(250,000)	(250,000)	(250,000)
Cash Flow Out - Accessibility Enhancements	(1,546,000)	(341,000)	-	(110,161)	(110,000)	-	-	-	-
Cash Flow Out - Capital Improvements as per 5-Year Plan Projection	(508,000)	(995,000)	(1,747,590)	(5,100,480)	(1,663,700)	(1,535,000)	(1,548,000)	(1,335,000)	(1,280,000)
Conservancy Grant Income - Fisherman's Storage & Hoist					315,000				
Improvements that will need to be funded through Unrestricted Improvement Reserves	-	-	(615,815)	(5,021,920)	(1,185,300)	(1,124,000)	(555,000)	(278,000)	(158,000)
Cash Flow In after Improvements are completed	729,000	144,000							
Forecasted Unrestricted Reserve Balances									
Forecasted Reserves at beginning of each fiscal year	8,003,000	9,061,000	9,745,815	13,493,817	8,471,897	7,286,597	6,162,597	5,607,597	5,329,597
Improvements funded from Improvement Reserves	-	-	(615,815)	(5,021,920)	(1,185,300)	(1,124,000)	(555,000)	(278,000)	(158,000)
Cash Flow In after Improvements are completed/Debt funding received	729,000	144,000	4,445,000	-	-	-	-	-	-
Cash Flow In from Grant fund reimbursements	87,000	3,000	-	-	-	-	-	-	-
Forecasted Unrestricted Reserves at end of year	8,819,000	9,208,000	13,575,000	8,471,897	7,286,597	6,162,597	5,607,597	5,329,597	5,171,597
Total All Unrestricted Reserves Forecasted at June 30 each year	8,819,000	9,208,000	13,575,000	8,471,897	7,286,597	6,162,597	5,607,597	5,329,597	5,171,597

As outlined below, with the proposed expenditures the 40% reserve balance is maintained and the unrestricted Improvement balance remains favorable.

	2016-17 Actual	2017-18 Actual	2018-19 Actual	2019-20 Actual	2020-21 forecasted	2021-22 forecasted	2022-23 forecasted	2023-24 forecasted	2024-25 forecasted
TOTAL Unrestricted Reserves Forecasted at June 30 each year	9,136,000	9,208,000	13,575,000	8,471,897	7,286,597	6,162,597	5,607,597	5,329,597	5,171,597
Reserve Policy Minimum Balance 40% of Expenses at June 30 each year	3,030,000	3,310,000	3,660,000	3,850,000	3,880,000	4,040,000	4,050,000	4,190,000	4,320,000
Unrestricted Capital Improvement Reserves at June 30 each year	6,106,000	5,898,000	9,915,000	4,621,897	3,406,597	2,122,597	1,557,597	1,139,597	851,597

ATTACHMENT 5

VENTURA PORT DISTRICT HISTORICAL & PROJECTED CASH FLOWS Minimum Unrestricted Reserves at 40% of Operating Expenses

	2016-17 Actual	2017-18 Actual	2018-19 Actual	2019-20 Actual	2020-21 forecasted	2021-22 forecasted	2022-23 forecasted	2023-24 forecasted	2024-25 forecasted
Revenue									
Operating Revenue	7,754,000	8,214,000	8,534,830	8,004,754	7,241,750	7,531,000	7,832,000	8,145,000	8,471,000
% Increase / -Decrease Forecasted	3.8%	5.9%	3.9%	-6.2%	-9.5%	4.0%	4.0%	4.0%	4.0%
Portside Partners Forecast	240,000	300,000	300,000	307,500	339,000	1,320,000	1,455,000	1,505,000	1,556,000
Parking Revenue Forecast (Village & Beaches)						150,000	300,000	300,000	300,000
Onetime-Tenant Fees-revised FY2020-21 actual income	1,200,000		135,000	101,000	912,000				
Total Operating Revenues	9,194,000	8,514,000	8,969,830	8,413,254	8,492,750	9,001,000	9,587,000	9,950,000	10,327,000
% Increase / -Decrease Forecasted	12.7%	-7.4%	5.4%	-6.2%	0.9%	6.0%	6.5%	3.8%	3.8%
Non-Operating Revenue (Includes prop taxes)	1,165,000	1,235,000	1,319,630	1,395,833	1,480,000	1,510,000	1,540,000	1,571,000	1,602,000
% Increase / -Decrease Forecasted	6.8%	6.0%	6.9%	5.8%	6.0%	2.0%	2.0%	2.0%	2.0%
Total All Revenue	10,359,000	9,749,000	10,289,460	9,809,087	9,972,750	10,511,000	11,127,000	11,521,000	11,929,000
% Increase / -Decrease Forecasted	12.0%	-5.9%	5.5%	-4.7%	1.7%	5.4%	5.9%	3.5%	3.5%
Expenses									
Operating Expenses (excludes Harbor Patrol)	4,700,000	5,572,000	5,956,430	6,117,974	6,076,250	6,274,000	6,494,000	6,754,000	7,024,000
% Increase / -Decrease Forecasted	1.5%	18.6%	6.9%	2.7%	-0.7%	3.3%	3.5%	4.0%	4.0%
Harbor dredging & related expense	219,000	209,000	258,280	188,832	184,500	385,000	145,000	151,000	157,000
% Increase / -Decrease Forecasted	-32.4%	-4.6%	23.6%	-26.9%	-2.3%	108.7%	-62.3%	4.1%	4.0%
Sub-Total Operating Expenses (excludes Harbor Patrol)	4,919,000	5,781,000	6,214,710	6,306,806	6,260,750	6,659,000	6,639,000	6,905,000	7,181,000
% Increase / -Decrease Forecasted	-0.7%	17.5%	7.5%	1.5%	-0.7%	6.4%	-0.3%	4.0%	4.0%
Harbor Patrol Expenses	1,223,000	1,234,000	1,344,760	1,526,915	1,502,600	1,551,000	1,605,000	1,669,000	1,736,000
% Increase / -Decrease Forecasted	3.6%	0.9%	9.0%	13.5%	-1.6%	3.2%	3.5%	4.0%	4.0%
Total Operating Expenses	6,142,000	7,015,000	7,559,470	7,833,721	7,763,350	8,210,000	8,244,000	8,574,000	8,917,000
% Increase / -Decrease Forecasted	0.1%	14.2%	7.8%	3.6%	-0.9%	5.8%	0.4%	4.0%	4.0%
Non-operating and Other Expenses									
Principle/Interest & deferred refunding	1,277,000	1,254,000	1,251,790	1,246,964	1,265,000	1,265,000	1,265,000	1,265,000	1,265,000
Principle/Interest/Fees - 2018 Vlg Marina Dock Renovations			323,230	371,000	375,000	375,000	375,000	375,000	375,000
Total Non-operating expenses	1,277,000	1,254,000	1,575,020	1,617,964	1,640,000	1,640,000	1,640,000	1,640,000	1,640,000
% Increase / -Decrease Forecasted	0.7%	-1.8%	25.6%	2.7%	1.4%	0.0%	0.0%	0.0%	0.0%
Total All Expenses	7,419,000	8,269,000	9,134,490	9,451,685	9,403,350	9,850,000	9,884,000	10,214,000	10,557,000
% Increase / -Decrease Forecasted	0.2%	11.5%	10.5%	3.5%	-0.5%	4.7%	0.3%	3.3%	3.4%
Cash Flows In (Out) from normal operations before any Improvements	\$ 2,940,000	\$ 1,480,000	\$ 1,154,970	\$ 357,402	\$ 569,400	\$ 661,000	\$ 1,243,000	\$ 1,307,000	\$ 1,372,000

Note: Revenues generated from grants are not included in the Revenue category



BOARD OF PORT COMMISSIONERS

FEBRUARY 3, 2021

STANDARD AGENDA ITEM 2

AWARD OF CONTRACT FOR INNER
HARBOR AND VENTURA KEYS
MAINTENANCE DREDGING

VENTURA PORT DISTRICT
BOARD COMMUNICATION

STANDARD AGENDA ITEM 2
Meeting Date: February 3, 2021

TO: Board of Port Commissioners
FROM: Brian D. Pendleton, General Manager
Todd Mitchell, Business Operations Manager
SUBJECT: Award of Contract for Inner Harbor and Ventura Keys Maintenance Dredging

RECOMMENDATION:

That the Board of Port Commissioners take the following actions:

- A) Find, based upon the evidence presented below, that a contract awarded to Manson Construction Company pursuant to Section 20751.2 of the California Public Contract Code is likely to cost less than a contract awarded pursuant to Section 20751.
- B) Award the Inner Harbor and Ventura Keys Maintenance Dredging contract to Manson Construction Company at a rental rate of \$5,500 per hour in accordance with the Agreement.

SUMMARY:

The Ventura Port District and the City of San Buenaventura (City) share responsibility for maintaining access to the Ventura Keys through maintenance dredging of the Ventura Keys Stub Channel. Bathymetric surveys in the northern portion of the Pierpont Basin and the Stub Channel providing vessel access to the Ventura Keys indicate that it would be prudent to perform maintenance dredging in those areas to maintain navigational safety.

LONG-TERM GOALS:

- Goal 1: Safety & Navigation
 - Maintain and enhance a safe and navigable harbor
 - (a) Securing funding for dredging the Harbor entrance through the Army Corps of Engineers in coordination with agencies and our elected officials
 - (b) Dredging the Inner Harbor and preserving infrastructure;
 - (c) Providing superior Harbor Patrol, Maintenance, and related District services;
 - (d) Preserving and enhancing infrastructure, equipment, and facilities for a modernized, efficient and safe working harbor.
- Goal 2: Commercial & Recreational Boating & Fishing
 - Support and promote commercial and recreational boating and fishing

5-YEAR OBJECTIVES:

- Objective D: Harbor Dredging
 - Ensure that annual dredging occurs at the federal Harbor entrance and as needed in the inner Harbor
 - 3: Ventura Port District Dredging
- Objective E: Public and Civic Engagement Plan
 - Strengthen communication and further develop close working relationships with stakeholders, business partners, and civic leaders
 - 2: Collaborate with City, regional, state, and federal agency officials in pursuit of mutually beneficial projects, programs

BACKGROUND:

The U.S. Army Corps of Engineers (USACE) advertised an Invitation for Bids No. W912PL-19-B-001 for the Ventura Harbor Maintenance Dredging in December 2018 (the complete bid solicitation is available for inspection in the Port District office). The bids received by the USACE were opened on January 17, 2019, and the selected low bidder was Manson Construction Co. for three years of maintenance dredging through 2021.

Section 20751.2 of the Public Contract Code includes the following language:

Notwithstanding Section 20751, the board of the Ventura Port District may award a contract for the performance of dredging work within the district's boundaries without competitive bidding, provided that both of the following apply:

- a) The dredging contractor was selected through a federal competitive bidding process for a federal dredging project then underway in the County of Ventura.*
- b) The Board makes written findings, based on substantial evidence in the record, that the contract awarded pursuant to this section is likely to cost less than a contract awarded pursuant to Section 20751.*

Manson's charge for mobilizing the 27-inch hydraulic cutter head suction dredge the *H.R. Morris* (the largest on the west coast) and associated floating equipment as well as over 6,000 ft. of 28-inch discharge pipe is \$1,250,000.00, the cost of which is part of the Corps of Engineers contract. Manson is presently in the process of mobilizing for the Corps of Engineers project and expects to begin dredging the Ventura Harbor federal navigation channel in late February 2021. With the Manson equipment already in the harbor and mobilized at the Corps expense, it is inconceivable that the District could secure a less costly bid for the dredging work by securing its own competitive bids.

For reference, in the past the District has tried other contracting approaches to the inner harbor dredging that involved securing its own competitive bids. In February and March, 1992 the District contracted for a clamshell operation in the Pierpont Basin and Stub Channel. That effort removed a total of 22,874 cubic yards at a cost of \$299,538.00. It is estimated that that effort would cost at least \$450,000 today. Again, in March 2005, the District contracted for a smaller 24 in hydraulic cutterhead dredge to remove shoal material in the stub channel only. That effort proved to be most unsatisfactory. The dredge was unable to move the rock and stone material composing much of the material discharged by the Arundell Barranca. Only 1,847 cubic yards was removed at a cost of \$112,630.00.

Thus, there is substantial evidence to support a finding that contracting in accordance with the provisions of Section 20751.2 will cost less than a competitively bid contract.

This allows the District to enter a contract with the USACE's selected dredging contractor to perform dredging of the Ventura Keys Stub Channel. With the approval of this agreement, the District can cost share the expense with the City of San Buenaventura.

Bathymetric surveys in the northern portion of the Pierpont Basin and the Stub Channel providing vessel access to the Ventura Keys indicate that it would be prudent now to perform maintenance dredging in those areas in tandem with the USACE's dredging program planned later this month.

At the January 20, 2021 Board of Commissioners meeting, the District approved the Cooperative Agreement for Maintenance Dredging of the Ventura Keys Stub Channel between the Ventura Port District and the City. The City approved the agreement on January 25, 2021. The city's pro-rata share of the dredging cost shall be based upon the proportionate volume of material removed from the City's waterway versus the total volume of material removed from both the District and City water areas.

Attachment 1 is an Agreement between the Ventura Port District and Manson Construction Company establishing a \$5,500 per hour rental rate for the hydraulic pipeline dredge *H.R. Morris* to conduct a maintenance dredging operation within Ventura Harbor/Ventura Keys. This contract form has been utilized with Manson in the past and has proven to work satisfactorily. It has been

approved as to form by the District's legal counsel. It is estimated that the total contract cost will be about \$300,000.

FISCAL IMPACT:

The 2021 inner harbor/stub channel dredging contract with Manson Construction is expected to have a cost of \$300,000, with approximately \$225,000 being the District's anticipated portion. The funds for that expenditure are available in the District's Dredging Reserve and was an anticipated expense in FY20-21. The City's pro-rata share is expected to be about \$75,000.

ATTACHMENTS:

None.



BOARD OF PORT COMMISSIONERS

FEBRUARY 3, 2021

STANDARD AGENDA ITEM 3

APPROVAL OF CHANGE ORDER FOR
THE COMMERCIAL FISHING
EQUIPMENT STORAGE IMPROVEMENT
PROJECT

**VENTURA PORT DISTRICT
BOARD COMMUNICATION**

STANDARD AGENDA ITEM 3
Meeting Date: February 3, 2021

TO: Board of Port Commissioners
FROM: Todd Mitchell, Business Operations Manager
Joe Gonzalez, Capital Projects Manager
SUBJECT: Approval of Change Order for the Commercial Fishing Equipment Storage Improvement Project

RECOMMENDATION:

That the Board of Port Commissioners approve a change order for the Commercial Fishing Equipment Storage Improvement Project to Staples Construction Company, Inc. in the amount of up to \$13,885.00.

SUMMARY:

At the January 6, 2021 Board of Commissioners meeting, the contract for asphalt and pavement improvements within the Ventura Harbor Commercial Fishing Equipment Storage Yard was approved. The bids came in consistent with the engineer's estimate at the time of bidding and below the District's anticipated budget.

During the preconstruction meeting with the contractor and the engineer, it was identified that the engineer had not included a part of the scope of work: resurfacing of all drivable areas in the yard. This is an obligation of the District to complete as part of its lease of the storage yard and therefore is essential.

Staples Construction reviewed the required addition to the scope and although the unit pricing is consistent with the base bid and therefore deemed reasonable, it does exceed staff's authority to approve the change order without Board approval.

The project was identified in the current fiscal year Capital Project budget and the addition of this change order is consistent with the District's budget for the work.

LONG-TERM GOALS:

- Goal 1: Safety & Navigation
 - Maintain and enhance a safe and navigable harbor
 - (a) Securing funding for dredging the Harbor entrance through the Army Corps of Engineers in coordination with agencies and our elected officials
 - (b) Dredging the Inner Harbor and preserving infrastructure;
 - (c) Providing superior Harbor Patrol, Maintenance, and related District services;
 - (d) Preserving and enhancing infrastructure, equipment, and facilities for a modernized, efficient and safe working harbor.
- Goal 2: Commercial & Recreational Boating & Fishing
 - Support and promote commercial and recreational boating and fishing

5-YEAR OBJECTIVES:

- Objective F: Commercial Fishing
 - Support current commercial fishing industry central to Ventura's premier working waterfront through: stakeholder engagement, diversification, and infrastructure improvements
 - 2: Continue improvements of Commercial Fishing Industry service offerings by District

BACKGROUND:

In 2016, the California Fish and Game Commission initiated the Coastal Fishing Communities Project in California after a series of stakeholder discussions indicated concerns about impacts to commercial fishing and the sustainability of local fishing communities. These discussions repeatedly highlighted concerns about changing ocean conditions, decreased access to fishing, overall fishery management changes, increased global marketplace competition, changing species diversity and aging infrastructure. The Coastal Fishing Communities Project consisted of a series of in-community meetings from June 2017 to July 2018, including a meeting in Ventura Harbor in October of 2017. Aging infrastructure and access to gear storage were amongst the many concerns highlighted at that community meeting as a priority to address.

The Ventura Harbor commercial fishing infrastructure and facilities require ongoing investment in order to provide superior and safe services to meet the needs of our commercial fishing industry. The cargo containers and storage area that the commercial fishermen use to store their gear and repair their nets have served the industry for decades and reinvestment is now necessary.

The gear storage and net repair facility enhancement component of the proposed project consists of purchase and installation of twenty-six, 20-foot cargo containers, removal of dilapidated containers and derelict vessels, and repairing asphalt and fencing.

This procurement is for the repair of asphalt and concrete work to improve site conditions and drainage. This portion of the project is fully funded by the District. Design and engineering support for this project was previously contracted to Jensen Design & Survey.

The District published the request for bids for the procurement of the Commercial Fishing Equipment Storage Improvement Project on November 22, 2020. A public bid opening was held on December 17, 2020 per District policy. District staff has checked qualifications and references and the lowest bidder from Staples Construction Company, Inc. was determined to be responsive and qualified.

At the January 6, 2021 Board of Commissioners meeting, the original bid was approved. During the January 12, 2021 on-site preconstruction meeting, staff and the contractor determined that the requirement for slurry sealing the entire drivable area was not included in the request for bids (an omission in the bid package). The contractor was asked to provide a quote for the change in scope (Attachment 1). The pricing is consistent with the unit rate pricing of the base bid but exceeds the maximum allowable change order amount (10%) without seeking Board approval.

FISCAL IMPACT:

Project award was for \$74,471.00. The change order is for an additional \$13,885.00. The project total will be \$88,356. The work is to be completed before the end of the FY2020-2021 Fiscal Year and were approved by the Board at its July 1, 2020 meeting in the 5-Year Capital Improvements Budget with an estimated value of \$110,000.00.

ATTACHMENTS:

None.



BOARD OF PORT COMMISSIONERS

FEBRUARY 3, 2021

STANDARD AGENDA ITEM 4

BROWN ACT PRESENTATION

FOLLOW-UP

**VENTURA PORT DISTRICT
BOARD COMMUNICATION**

STANDARD AGENDA ITEM 4
Meeting Date: February 3, 2021

TO: Board of Port Commissioners
FROM: Brian D. Pendleton, General Manager
Andrew D. Turner, Legal Counsel, Lagerlof, LLP
SUBJECT: Brown Act Presentation Follow-up

RECOMMENDATION:

That the Board of Port Commissioners receive an update based on comments made during last meeting's presentation from Lagerlof, LLP on the Ralph M. Brown Act.

SUMMARY:

Counsel and staff felt it would be helpful to clarify issues raised during public comment and Board discussion regarding the Brown Act presentation, primarily relating to the rights of the public to address the Board on items under consideration.

LONG-TERM GOALS:

- Goal 5: Relationships
 - Build respectful, productive, and mutually beneficial business relationships with our tenants, public agencies, elected officials and the community.
- Goal 6: Public Service
 - Provide exceptional public service and transparency at all levels within the organization through effective leadership, training, mentoring, and oversight. This promotes accountability, increased public trust, and a more efficient, effective and public focused organization.

5-YEAR OBJECTIVES:

- Objective E: Public and Civic Engagement Plan
 - Strengthen communication and further develop close working relationships with stakeholders, business partners, and civic leaders.
 - 1 – Collaborate with business partners and stakeholders through increased engagement, communication, and participation.

BACKGROUND:

The Brown Act was introduced as state legislation in 1953 and continues to govern the conduct of state and local public agencies within California. The express purpose of the Brown Act is to assure that local government agencies conduct the public's business openly and publicly. In addition to requiring the public's business to be conducted in open, noticed meetings, the Brown Act also extends to the public the right to participate in meetings.

After the Lagerlof presentation, Sam Sadove commented on several aspects of the presentation, and in part opined that the slide referencing the agenda and public comment was incorrect, in that it stated that the public must be given the opportunity to address the Board "Prior to deliberation on an agenda item." Mr. Sadove cited Gov't. Code Section 54954.3, which provides in subsection (a): "Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, **before or during** the legislative body's consideration of the item," [Emphasis added]. He went on to state that this section has been an issue with him regarding how the District's meetings are run, "and it's very clear in the Brown Act that it states before **and** during." This is not a subtle difference. The word "or" is very different from the word "and" as used in this context.

The intent of the legislature is reasonably clear here. The governing body of a public agency must afford the public an opportunity to address that body either before or during its consideration of an agenda item. One or the other, not both. Subsection (b) of 54954.3 provides that the “legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out,” Thus, it is with the purview of the Board to determine whether public comment shall be received “before” or “during” its consideration of an item.

Mr. Sadove further stated that there were only three situations where a closed session is allowed: personnel, real property, and a threat to government facilities or the provision of essential services [the 9/11 exception]. Actually, the Brown Act has nearly a dozen exceptions, although several do not apply to the District. Labor negotiations, for example, are a separate exception from personnel matters, though they might be commonly thought of as related. Most importantly, and probably the most common exception, is for litigation.

Finally, there was some discussion amongst Board members regarding the term “deliberation.” The Brown Act does not use that term with respect to public participation in meetings. It uses the term “consideration” instead. And the term is not defined in the Act. Merriam Webster defines consideration as “continuous and careful thought.” This is somewhat “fuzzy” in our view. It is, however, our opinion that if the public has an opportunity to address the Board on an agenda item at any time after the item has been announced, the Board has the authority to identify at what point during the process that opportunity will be provided, and if provided, the Brown Act obligation has been met.

FISCAL IMPACT:

None.

ATTACHMENTS:

None.