



Legislation Details (With Text)

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**File created:** 1/25/2021    **In control:** Board of Port Commissioners  
**On agenda:** 9/14/2021    **Final action:** 9/14/2021  
**Title:** ADOPT A RESOLUTION AUTHORIZING AN AGREEMENT IN AN AMOUNT NOT TO EXCEED \$80,000 WITH MUTUAL INDEMNIFICATION BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND PREMISE HEALTH EMPLOYER SOLUTIONS, LLC ON BEHALF OF EHEALTHSCREENING TO PROVIDE ON-SITE COVID-19 TESTING

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 10. 2021-0323 Attachment A, 2. 10. 2021-0323 Draft Resolution

Date	Ver.	Action By	Action	Result
9/14/2021	1	Board of Port Commissioners	adopted	

**DATE:** September 14, 2021

**SUBJECT:**

**ADOPT A RESOLUTION AUTHORIZING AN AGREEMENT IN AN AMOUNT NOT TO EXCEED \$80,000 WITH MUTUAL INDEMNIFICATION BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND PREMISE HEALTH EMPLOYER SOLUTIONS, LLC ON BEHALF OF EHEALTHSCREENING TO PROVIDE ON-SITE COVID-19 TESTING**

**EXECUTIVE SUMMARY:**

A health and safety issue exists by the potential exposure to COVID-19 in the workplace among non-vaccinated San Diego Unified Port District (District) employees and non-vaccinated members of the public. Accordingly, the District is proposing enhanced safety measures by requiring COVID-19 testing on-site for all employees who have not provided evidence of a COVID-19 vaccination.

Staff recommends that the Board of Port Commissioners (Board) authorize an agreement with a COVID-19 testing service provider that includes mutual indemnification.

**RECOMMENDATION:**

Adopt a Resolution Authorizing an Agreement in an Amount Not to Exceed \$80,000 With Mutual Indemnification Between the San Diego Unified Port District and Premise Health Employer Solutions, LLC on Behalf of Ehealthscreening to Provide On-site COVID-19 Testing

**FISCAL IMPACT:**

Funds for this item are budgeted in the FY22 budget.

## **COMPASS STRATEGIC GOALS:**

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

- A Port with an innovative and motivated workforce.
- A financially sustainable Port that drives job creation and regional economic vitality.

## **DISCUSSION:**

According to the federal Center for Disease Control (CDC), the California Department of Public Health, and the San Diego County Office of Public Health, COVID-19 continues to pose a risk, especially to individuals who are not fully vaccinated, and certain safety measures remain necessary to protect against COVID-19 cases and deaths. Vaccination is the most effective way to prevent transmission and limit COVID-19 hospitalizations and deaths.

The District implemented procedures to collect and confidentially maintain evidence of vaccination from employees. Vaccination verification was necessary to assist the District's efforts to enforce CAL/OSHA masking requirements and to promote the health and safety of the District workforce. The next proposed health and safety measure is weekly COVID-19 testing for unvaccinated employees or employees that have not reported their vaccination status. Testing would take place at three locations during working hours. The COVID-19 service provider will administer a COVID-19 rapid test and test results will be available in approximately 25 minutes of collecting a specimen.

The proposed agreement requires Board approval because it includes mutual indemnification, but the amount of the agreement is within the CEO/Executive Director's authority under BPC Policy No. 110. Staff recommends that the Board authorize an agreement with a COVID-19 testing service provider to provide on-site testing.

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

The General Counsel's Office has reviewed the agenda sheet and attachment, as presented to it, and approves the same as to form and legality.

## **Environmental Review:**

The proposed Board action, including without limitation, a resolution authorizing an agreement to provide on-site Covid testing, does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of the proposed Board action that requires the District or the Board's discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a "no project alternative" or adopting a Statement of Overriding Consideration, if required. The proposed Board action in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

The proposed Board action allows for the District to implement its obligations under Sections 35 and 81 of the Port Act, which authorize the Board to do acts necessary and convenient for the exercise of its power; and the use funds for necessary expenses of conducting the District. 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 (CDP) Regulations because it will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District’s CDP Regulations. Future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District’s certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The proposed Board action in no way limits the exercise of the District’s discretion under the District’s CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

**Diversity, Equity, and Inclusion:**

This agenda item has no direct DEI impact.

**PREPARED BY:**

Michelle Corbin  
Director, Human Resources

**Attachment(s):**

Attachment A: Agreement between the San Diego Unified Port District and Premise Health Employer Solutions, LLC on Behalf of Ehealthscreening