



Legislation Details (With Text)

File #: 2019-0283 **Version:** 1 **Name:**

Type: Action Item **Status:** Passed

File created: 7/11/2019 **In control:** Board of Port Commissioners

On agenda: 8/13/2019 **Final action:** 8/13/2019

Title: ORDINANCE: (A) AUTHORIZING THE EXECUTIVE DIRECTOR OR HER AUTHORIZED DESIGNEE TO ENTER INTO AN IMPLEMENTATION AGREEMENT WITH THE FEDERAL BUREAU OF INVESTIGATIONS ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE TO SUPPORT THE SAN DIEGO REGION STRIKE FORCE, INCLUDING FULL REIMBURSEMENT OF DISTRICT EXPENSES PLUS AN ADMINISTRATIVE FEE FOR A TERM NOT TO EXCEED SEVEN YEARS; (B) APPROVING A LEASE OF OFF-TIDELANDS PROPERTY WITH COLLINS BUSINESS PARK TIC FOR FIVE YEARS PLUS A TWO-YEAR OPTION; AND (C) AMENDING THE FY 2019-2020 BUDGET BY ADDING \$400,000 TO THE NON-PERSONNEL EXPENSE APPROPRIATION FROM PRIOR YEARS UNRESTRICTED RESOURCES TO BE REIMBURSED BY THE UNITED STATES UNDER THE IMPLEMENTATION AGREEMENT; ALL ACTIONS CONDITIONED ON APPROVAL BY THE CALIFORNIA STATE LANDS COMMISSION OF THE OFF-TIDELANDS EXPENDITURE UNDER THE PROPOSED LEASE

Sponsors:

Indexes:

Code sections:

Attachments: 1. 6. 2019-0283 Attachment A, 2. 6. 2019-0283 Draft Ordinance

Date	Ver.	Action By	Action	Result
8/13/2019	1	Board of Port Commissioners	adopted	

DATE: August 13, 2019

SUBJECT:

ORDINANCE: (A) AUTHORIZING THE EXECUTIVE DIRECTOR OR HER AUTHORIZED DESIGNEE TO ENTER INTO AN IMPLEMENTATION AGREEMENT WITH THE FEDERAL BUREAU OF INVESTIGATIONS ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE TO SUPPORT THE SAN DIEGO REGION STRIKE FORCE, INCLUDING FULL REIMBURSEMENT OF DISTRICT EXPENSES PLUS AN ADMINISTRATIVE FEE FOR A TERM NOT TO EXCEED SEVEN YEARS; (B) APPROVING A LEASE OF OFF-TIDELANDS PROPERTY WITH COLLINS BUSINESS PARK TIC FOR FIVE YEARS PLUS A TWO-YEAR OPTION; AND (C) AMENDING THE FY 2019-2020 BUDGET BY ADDING \$400,000 TO THE NON-PERSONNEL EXPENSE APPROPRIATION FROM PRIOR YEARS UNRESTRICTED RESOURCES TO BE REIMBURSED BY THE UNITED STATES UNDER THE IMPLEMENTATION AGREEMENT; ALL ACTIONS CONDITIONED ON APPROVAL BY THE CALIFORNIA STATE LANDS COMMISSION OF THE OFF-TIDELANDS EXPENDITURE UNDER THE PROPOSED LEASE

EXECUTIVE SUMMARY:

The Federal Bureau of Investigations (FBI) Organized Crime Drug Enforcement Task Force (OCDETF) Program was established in 1982 to mount a comprehensive attack against organized

crime drug traffickers. As part of its law enforcement role, the District's Harbor Police Department participates in the OCDETF. Since 2010, a covert OCDETF facility has been leased through the City of Chula Vista. The FBI has asked the District to take over leasing of the facility effective October 1, 2019, for an initial period of five years plus an option for an additional two years at rent of approximately \$500,000 per year plus other expenses for a total expenditure of approximately \$5-6 million. All of the District's payments under the lease will be reimbursed 100% by the FBI, and the District will receive an additional administrative fee of 5% to cover its staff time and related expenses.

Staff recommends the Board of Port Commissioners (Board) authorize the Executive Director or her authorized designee to enter into an implementation agreement with the FBI OCDETF for full reimbursement plus a 5% administrative fee, enter into the proposed lease (Attachment A), and amend the FY 2019-2020 Budget to add \$400,000 to the Non-Personnel appropriation, which will be fully reimbursed by the FBI. Because the lease is located off-tidelands, and under new Government Accounting Standards Board (GASB) regulations, the leased property will be required to be considered a capital expense during the term of the proposed lease, and as such, affirmative approval of the California State Lands Commission (CSLC) is required under Port Act Section 30.5. Therefore, Board approval is recommended to be conditioned on the CSLC approval of the off-tidelands expenditure, which is expected to occur at its August 23, 2019, meeting.

RECOMMENDATION:

Adopt an Ordinance: (a) authorizing the Executive Director or her authorized designee to enter into an implementation agreement with the FBI Organized Crime Drug Enforcement Task Force to support the San Diego Region Strike Force including full reimbursement of District expenses plus an administrative fee for a term not to exceed seven years; (b) approving a lease of off-tidelands property with Collins Business Park TIC for five years plus a two-year option; and (c) amending the FY 2019-2020 budget by adding \$400,000 to the Non-Personnel Expense appropriation from prior years unrestricted resources to be reimbursed by the United States under the implementation agreement; all actions conditioned on approval by the California State Lands Commission of the off-tidelands expenditure under the proposed lease.

FISCAL IMPACT:

The annual cost to the District under the lease and related expenses is approximately \$530,000. These costs will be fully reimbursed by OCDETF funds, and the District will receive a 5% administrative fee. The net fiscal impact to the District will be revenue of approximately \$26,000 - \$30,000 annually.

COMPASS STRATEGIC GOALS:

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

- A Port that is a safe place to visit, work and play.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

The FBI OCDETF Program was established in 1982 to mount a comprehensive attack against organized crime drug traffickers. The Program is the centerpiece of the U.S. Attorney General's drug

strategy to reduce the availability of drugs by disrupting and dismantling major drug trafficking organizations, money laundering organizations and related criminal enterprises. Similar to other regional task forces, the purpose of the OCDETF is to combine the efforts of federal, state, and local law enforcement agencies to collaborate in high profile investigations. As part of its law enforcement role, the District's Harbor Police participate in the OCDETF.

Since 2010, a covert OCDETF facility has been leased through the City of Chula Vista. The FBI has asked the District to take over leasing of the facility effective October 1, 2019, for an initial period of five years plus an option for an additional two years at rent of approximately \$500,000 per year plus other expenses for a total expenditure of approximately \$5-6 million. All of the District's payments under the lease will be reimbursed 100% by the FBI, and the District will receive an additional administrative fee of 5% to cover its staff time and related expenses.

Staff recommends the Board authorize the Executive Director to enter into an implementation agreement with the FBI for reimbursement, enter into the proposed lease (Attachment A) and amend the FY 2019-2020 Budget to add \$400,000 to the Non-Personnel appropriation, which will be fully reimbursed by the FBI. As set forth above, because the lease is located off-tidelands, and per new GASB regulations, leased property will be required to be considered a capital expense during the term of the proposed lease, and affirmative approval of the CSLC is required under Port Act Section 30.5. Therefore, Board approval is recommended to be conditioned on the CSLC approval of the off-tidelands expenditure, which is expected to occur at its August 23, 2019 meeting.

General Counsel's Comments:

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

Environmental Review:

The proposed Board actions, including without limitation, a resolution approving the implementation plan with the FBI OCDETF and an ordinance approving a five (5) year lease with Collins Business Park TIC is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities) and Section 3.a. (4) of the District's Guidelines for Compliance with CEQA because the project would consist of a short term tenancy agreement that would involve no expansion of use beyond that previously existing or a significant cumulative impact due to the continuation of the existing use. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2). No further action under CEQA is required.

In addition, the proposed Board actions allow for the District to implement its obligations under Sections 21, 35, and 81 of the Port Act, which allow for the Board to pass ordinances and resolutions, to do all acts necessary and convenient for the exercise of its powers, and to use District funds for 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 actions are consistent with the Public Trust Doctrine.

The proposed Board actions relate to a site that is located in an area that has not been incorporated into the Port Master Plan and is therefore not within the District's coastal development permitting jurisdiction. As a result, additional approvals may be required from other agencies.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

Ellen F. Gross
Assistant General Counsel

Mark Stainbrook
Vice President, Public Safety, Chief of Harbor Police

Taylor Stack
Asset Manager, Real Estate

Attachment(s):

Attachment A: Lease