



Legislation Details (With Text)

File #: 2021-0107 **Version:** 1 **Name:**

Type: Action Item **Status:** Passed

File created: 2/16/2021 **In control:** Board of Port Commissioners

On agenda: 10/12/2021 **Final action:** 10/12/2021

Title: RESOLUTION AUTHORIZING THE DISTRICT TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF SAN DIEGO TO RECEIVE LAW ENFORCEMENT HOMELAND SECURITY GRANT OPERATION STONEGARDEN FUNDS FOR FY2020 AND GRANT INDEMNITY TO THE COUNTY OF SAN DIEGO

Sponsors:

Indexes:

Code sections:

Attachments: 1. 1. 2021-0107 Attachment A, 2. 1. 2021-0107 Attachment B, 3. 1. 2021-0107 Attachment C, 4. 1. 2021-0107 Draft Resolution

Date	Ver.	Action By	Action	Result
10/12/2021	1	Board of Port Commissioners	adopted	

DATE: October 12, 2021

SUBJECT:

RESOLUTION AUTHORIZING THE DISTRICT TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF SAN DIEGO TO RECEIVE LAW ENFORCEMENT HOMELAND SECURITY GRANT OPERATION STONEGARDEN FUNDS FOR FY2020 AND GRANT INDEMNITY TO THE COUNTY OF SAN DIEGO

EXECUTIVE SUMMARY:

In Federal Fiscal Year (FY)20, the Department of Homeland Security (DHS) awarded the County of San Diego Sheriff’s Department funds from the Operation Stonegarden Grant Program. These funds are used to coordinate the efforts of federal, state, and local law enforcement agencies conducting border security operations.

The District’s Harbor Police Department is a sub-recipient of DHS Operation Stonegarden funds. The Harbor Police Department uses these funds for officer overtime, fringe benefits, fuel costs, vehicle mileage, and vehicle and vessel maintenance as a result of participating in maritime and land-based border enforcement activities. The Harbor Police Department plans to use \$352,200.00 in FY20 Operation Stonegarden funds to repower one vessel.

The County of San Diego (County) requires an Agreement with the District to authorize the Harbor Police to request reimbursement for expenditures under the Operation Stonegarden grant program. The attached Memorandum of Agreement establishes the District’s status as a sub-recipient under this program and allows for reimbursement requests to be submitted to the County within 90 days of incurring the qualifying costs. The Agreement also requires that the District indemnify the County for

claims under this program.

RECOMMENDATION:

Adopt a Resolution authorizing an agreement with the County of San Diego to receive law enforcement/homeland security grant “Operation Stonegarden” funds for FY 20 and grant indemnity to the County of San Diego.

FISCAL IMPACT:

The District is a sub-recipient of the County’s Operation Stonegarden funds. The District will receive reimbursement from the County for eligible Harbor Police and law enforcement and homeland security expenses, projected to be \$352,200 over the life of the agreement.

COMPASS STRATEGIC GOALS:

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

- A Port that the public understands and trusts.
- A vibrant waterfront destination where residents and visitors converge.
- 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 Operation Stonegarden Grant program was created in 2008 by DHS in order to facilitate partnerships between regional law enforcement agencies. Facilitating partnerships between federal, state, and local law enforcement agencies leads to enhanced intelligence gathering capabilities, information sharing, and increased law enforcement presence in border areas. The County of San Diego is the primary recipient of Operation Stonegarden grant funds; the District is a subrecipient to the County.

Law enforcement funding and coordination enabled by Operation Stonegarden funds is used by the Harbor Police to support the US Customs and Border Protection (CBP) efforts to control illegal maritime smuggling operations in the vicinity of San Diego Bay. Harbor Police officers conduct regular harbor and coastal patrols, in partnership with the United States Coast Guard, CBP, and the Sheriff’s Department Border Suppression Team to maintain situational awareness and operational control in the border region. Grant funds are used to reimburse the Harbor Police department for expenditures of overtime, fuel, vehicle mileage, and vehicle and vessel maintenance when those activities are in support of the Operation Stonegarden mission.

The Harbor Police Department will be able to request reimbursement for up to \$352,200.00 in expenditures for vessel repower. The Harbor Police will be eligible to receive reimbursement from the County under this Agreement through May, 2023.

The Agreement also requires that the District indemnify the County for any claims or suits resulting from the District’s performance of the Agreement and includes a duty to defend for same. Further,

the Agreement requires that the District indemnify and hold harmless the County for any worker compensation claims made by the District's Harbor Police Department employees. Staff recommends that the Board approve granting indemnity to the County to continue the District's participation in Operation Stonegarden and to receive reimbursement for its expenditures in this regard.

General Counsel's Comments:

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

Environmental Review:

The proposed Board action, including without limitation, a resolution authorizing an agreement to receive law enforcement and homeland security funding and granting indemnity to the County of San Diego, 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, 55, and 81 of the Port Act, which authorize: the Board to do acts necessary and convenient for the exercise of its power; maintenance of a system of harbor police; 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 Program:

No direct DEI impact.

PREPARED BY:

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Program Director, Grants and Government Relations

Attachment(s):

Attachment A: 2020 OPSG Memorandum of Agreement

Attachment B: 2020 OPSG Budget Worksheet

Attachment C: 2020 OPSG Standard Assurances