



Legislation Text

File #: 2018-0139, **Version:** 1

DATE: May 08, 2018

SUBJECT:

RESOLUTION WAIVING BOARD OF PORT COMMISSIONERS POLICY NO. 110 II(A) AND AUTHORIZING A SINGLE SOURCE AGREEMENT FROM JUNE 1, 2018 UNTIL MAY 31, 2021, WITH JGC GOVERNMENT RELATIONS, INC. FOR STATE LEGISLATIVE CONSULTING SERVICES FOR AN AMOUNT NOT TO EXCEED \$360,000. ALL FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETTED IN THE APPROPRIATE FISCAL YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET

EXECUTIVE SUMMARY:

The San Diego Unified Port District (District) utilizes legislative consulting professionals to represent the District's interests and assure that there is two-way communication with state and federal legislative branches and regulatory agencies. This agenda item requests that the District's Board of Port Commissioners (Board or BPC) waive BPC Policy No. 110 II(A) and authorize a single source agreement with JGC Government Relations, Inc. (JGC) for state legislative professional services.

Areas of specific interest to the District include but are not limited to:

- Assisting with securing approval by the California State Lands Commission as related to state tidelands issues;
- Acting as a liaison with several industry groups and state agencies on District matters;
- Facilitating responses to requests for information from members of the legislature concerning matters of interest to the District; and
- Reviewing and commenting on state project submissions, such as grant proposals.

The nature of legislative consulting is unlike other types of professional services. Clients generally contract with legislative consulting firms for long periods of time, as the firm and organization forge a unique relationship. Unless representation is careless, retaining an organization's legislative firm is fundamentally beneficial to the agency in that changes in representation require a considerable amount of time and resources to in order to become knowledgeable in a client's distinct needs.

JGC is the firm of record and is a full service firm that has represented the District for more than fifteen years. During its tenure, JGC has provided support or advocacy for passage of legislation, monitoring potential legislation and executive actions, and coordinating communication on the District's behalf across the various channels of California state government. JCG proposes \$10,000 per month to represent the District.

RECOMMENDATION:

Adopt a Resolution waiving BPC Policy No. 110 II(A) and authorizing an agreement from June 1, 2018 until May 31, 2021, with JGC Government Relations, Inc. for state legislative consulting services for an amount not to exceed \$360,000. All funds required for future fiscal years will be budgeted in the appropriate fiscal year, subject to Board approval upon adoption of each fiscal year's budget.

FISCAL IMPACT:

Funds for the first year of this expenditure are budgeted in the FY 2018/2019 Professional Services account for the District's Government and Civic Relations Department, which are subject to Board approval upon adoption of the budget. Funds required for future fiscal years will be budgeted for in the appropriate fiscal year and cost account subject to Board approval upon adoption of each fiscal year's budget.

COMPASS STRATEGIC GOALS:

Utilizing the services of state government affairs professionals assists the District in moving efforts that support the needs and legislative positions of the District. Their services also augment District staff by attending and representing the District's interests in important matters and providing counsel on legislative actions.

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

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.

DISCUSSION:

The District utilizes the services of state legislative consulting professionals to represent its interests and ensure two-way communication exists between the District and legislative and executive branches of the state government. State legislative consulting representation assists with communicating the positions of the District on state legislation and proposed rulemaking. Facilitating responses to requests for information concerning District matters from members of the California legislature and state administrative and regulatory agencies is a crucial role. These representatives also assist with meetings of District staff and/or Commissioners with the offices of state elected officials and regulatory agencies.

State legislative consulting representatives are able to assist by providing or recommending the necessary actions to secure passage of legislation and rule making promoting Board policy positions. More specifically, a legislative consulting firm provides resources for policies and legislation on important District issues, such as and public access, infrastructure needs, and environmental regulatory policy actions to ensure that the District's interests are advanced or protected. They are able to inform the offices of elected officials and relevant committees of the District's position on state legislation, as well as testify in legislative committees as appropriate.

The proposed agreement (Attachment A) is a single source agreement with JGC Government Relations. This proposal includes services in the following areas:

- Ensure that the District and its interests are represented in all legislative, executive and other matters occurring in the state's legislative and administrative processes;
- Assist in securing approval by the California State Lands Commission on matters brought before it on behalf of the District as related to state tidelands issues;
- Act as a liaison with the California Association of Port Authorities, Cruise Line International Association, and Pacific Merchant Shipping Association and other industry groups related to District matters;
- Communicate the District's interests to relevant organizations and state agencies;
- Facilitate responses to requests for information from members of the legislature concerning matters of interest to the District; and
- Review and comment on state project submissions, such as grant proposals.

In February 2015, the District released a Request for Qualifications (RFQ) to solicit potential respondents for state legislative consulting services. At the end of the open period, only one firm had responded; however, 891 firms were alerted and 32 downloaded the RFQ. Staff reached out to several firms that downloaded the RFQ to determine why they did not submit a proposal. Of those who responded, some suggested that the RFQ was outside their scope but they did not realize their limitations until they reviewed the RFQ's full scope of services. Another firm stated it believed it would be a conflict of interest for their firm. One firm stated that they were not interested in competing with incumbent or "poaching" clients. As a general rule, the relationship between a legislative advocate and client is fashioned over time and as such, enjoys high respect by industry peers - so much so that solicitations for new lobbying bids are typically seen as signs that there is a problem with the existing representation. Absent those issues, re-soliciting for a legislative consulting contact is not usually cost-effective.

The California State Assembly and California State Senate conduct legislative sessions that convene the first week of December and adjourn between the end of August and the middle of September of the following year. All bills passed by the legislature must be signed by the Governor no later than one month following the Interim/Final recess of the Legislature in order to become state law. During the legislative session, a state legislative consulting representative provides the District with on-the-ground representation in Sacramento to meet with elected officials and staff, provide strategic counsel on relevant legislative actions, advocate District positions as directed by the Board, and keep staff informed on hearings and other legislative activities.

JGC Government Relations, Inc. is a full service, bi-partisan firm located in Sacramento. They have represented the District with distinction for the past fifteen years. Some of their past successes for the District include:

- Amendment to Assembly Bill 805 (Gonzalez Fletcher) to grant the District a voting seat on the SANDAG Transportation Committee;
- Allocate revenue from the proceeds of Cap-and-Trade auctions to a \$140 million provision for the Freight Equipment Advanced Demonstration and Commercial Deployment Pilot Project;
- Passage of Senate Bill 667 (Atkins) to direct the California Department of Water Resources to

- create a program for stewardship of riverine and riparian watershed resources;
- Passage of Senate Bill 785 (Wolk), relating to design/build authority;
- Passage of Assembly Bill 425 (Atkins), a key measure for the District in achieving compliance with environmental stewardship obligations;
- Defeat of Senate Bill 1039 (Ducheny) with assistance in negotiating a compromise deal that benefits the District and its five member cities;
- Passage of Senate Bill 1007 (Ducheny) to give the District flexibility in the management of the District Employee's retirement system in order to protect retirement assets.

Passed and defeated bills are one level of success; less visible but equally significant would be the strategic counsel given to understanding potential legislation that may be introduced and inform future decisions of the District. Other forms of legislative advocacy typically coordination of Board meetings with legislative members and staff, and issue monitoring and management among various state-level regulatory agencies, spanning a range of relevant and timely topics from ocean planning and the state tidelands trust to emerging regulatory shifts and rule-making processes, particularly those with a potential impact on district interests. Legislative advocacy for the District has included reading and referring newly introduced and amended legislation that could be of potential interest to the District, which has been done throughout the legislative sessions past. Broadly, it provides the District with strategic engagement and representation of District priorities at the state government level, maintaining with the District constant communication in the ever-changing political world of Sacramento. District staff recommends that the Board waive BPC Policy No. 110 II(A) and award a professional services agreement to JGC Government Relations, Inc. for a total not to exceed \$360,000 for a period of three years.

General Counsel's Comments:

The Office of the General Counsel has reviewed the agreement with JGC Government Relations, Inc. and approves as to form and legality.

Environmental Review:

The proposed Board action, including without limitation, a resolution selecting and authorizing an agreement for state legislative consulting services does not constitute an "approval" or a "project" under the definitions 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 Board's action or direction 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 current Board action in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

In addition, the proposed Board action allows for the District to implement its obligations under Sections 30 and 35 of the Port Act, which authorize the use funds for the promotion of the District's

interests and to do all acts necessary and convenient for the exercise of the Board's powers. 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.

Finally, 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 CDP 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 Board's 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.

Equal Opportunity Program:

There was no SBE goal established for this agreement.

PREPARED BY:

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Legislative Administrator, Government & Civic Relations

Attachment:

Attachment A: Agreement No. 87-2018ND with JGC Government Relations, Inc.