



Legislation Text

File #: 2018-0512, Version: 1

DATE: December 11, 2018

SUBJECT:

RESOLUTION AUTHORIZING AMENDMENT NO. 1 TO AGREEMENT TO JOINTLY DELIVER THE ENERGY EFFICIENCY PARTNERSHIP PROGRAM BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND SAN DIEGO GAS & ELECTRIC COMPANY, AMENDING NONDISCLOSURE PROVISIONS

EXECUTIVE SUMMARY:

The San Diego Unified Port District Code ("Port Code"), Article 12, adopted in December 2015¹, which requires all Utility Account Holders on District tidelands to report utility usage, was established to measure progress towards our Climate Action Plan (CAP) Greenhouse Gas (GHG) goals and encourage reductions through utility benchmarking. As most recently presented to the Board in July 2018, given the technical difficulties and resource intensity from implementing Port Code Article 12 over the past three years, and progress with the implementation of state requirements, staff is pursuing a streamlined approach to obtain energy data for CAP management and energy planning directly from San Diego Gas & Electric Company (SDG&E).

The attached Amendment No. 1 (Attachment A) to the Local Government Partnership Agreement with SDG&E adjusts provisions related to the non-disclosure and retention safeguards of tenant data and, based on discussions with SDG&E, should allow staff to obtain sector level utility usage data directly from SDG&E. This will improve data reliability and will save the District money and time through reporting efficiency.

RECOMMENDATION:

Adopt a Resolution Authorizing Amendment No. 1 to Agreement to Jointly Deliver the Energy Efficiency Partnership Program between the San Diego Unified Port District and San Diego Gas & Electric Company, Amending Nondisclosure Provisions.

FISCAL IMPACT:

This agenda item has no fiscal impact.

COMPASS STRATEGIC GOALS:

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

- A Port that the public understands and trusts.

- A Port with a healthy and sustainable bay and its environment.
- A Port with an innovative and motivated workforce.

DISCUSSION:

Local Government Partnership Program

The District and San Diego Gas and Electric (SDG&E) have maintained a partnership through SDG&E's Local Government Partnership Program (Partnership) since 2010. The Partnership program provides funding for local governments to promote and create energy efficiency, energy conservation, and demand response opportunities that will reduce energy use and save money. The source of funds is California ratepayer surcharges that are regulated by the California Public Utilities Commission and administered in cycles by the local utility by calendar year. The first program cycle the District participated in was 2010-2012, in which the District was awarded \$1,850,000 in reimbursable funds. During the next cycle, 2013-2014, the District was awarded \$1,385,680, which was then amended to include an additional year of funding for 2014-2015 in the amount of \$692,840. For the current program cycle, 2016-2020, the District was awarded \$692,840 in reimbursable funds per year and up to \$3,464,200 for the program cycle. The scope of work includes efforts in six categories: Education and Outreach, District Operations Energy Management, Climate Planning, Green Business Network, Administration and Program Implementation, the San Diego Regional Energy Partnership. See Attachment B for the current *Agreement to Jointly deliver the Energy Efficiency Partnership Program between the San Diego Unified Port District and San Diego Gas & Electric Company*².

Port Code Article 12

As an overview, Port Code Article 12 is a requirement that all Utility Account Holders³ on District tidelands report utility usage through the U.S. Environmental Protection Agency's ENERGY STAR® Portfolio Manager (Portfolio Manager) and share that information with the District's selected third-party Data Aggregator - Edison Energy (Document No. 65277, filed on July 18, 2016).

Throughout the continued evaluation and implementation of Port Code Article 12, it is important to note the goals driving the ordinance:

- **To obtain accurate and timely utility usage data to measure progress towards our CAP GHG goals.** Analysis on aggregated usage by sector, geography, utility type, and trends over time can help inform policy measures and focus areas for implementation under the CAP.
- **To encourage reductions in utility usage through utility monitoring and benchmarking among Utility Account Holders.**⁴

On July 17, 2018 Staff presented an update on the implementation of the San Diego Unified Port District Code Article 12, Required Reporting of Utility Use on Tidelands (Port Code Article 12)⁵.

Provided the technical difficulties, resource intensity, and progress with the implementation of state requirements, staff is currently considering potential options to increase the efficiency and reliability of obtaining energy data for CAP management and energy planning. Staff was directed to return to the

Board with an amended “Agreement to Jointly Deliver the Energy Efficiency Partnership Program between the San Diego Unified Port District and San Diego Gas & Electric Company” (Local Government Partnership) by including provisions for the non-disclosure and retention safeguards of tenant data.

In follow-up to the Board Presentation and Direction to staff on July 17, 2018 on *Article 12 of the San Diego Unified Port District Code - Required Reporting of Utility Usage on Tidelands and Options to Increase the Efficiency and Reliability of Energy Usage Data for Climate Action Plan Management Item 23. File No. 2018-0271*, under the authority of the Executive Director, the District temporarily suspended 2017 reporting requirements.⁶

Local Government Partnership Program Amendment

The attached Amendment No. 1 (Attachment A) to the Local Government Partnership Agreement is intended to allow staff to obtain data directly from SDG&E, improving data reliability, and would save the District money and time through reporting efficiency. Provided that the data from SDG&E serves a *primary purpose* of the District’s CAP reporting and energy management needs, obtaining regular energy data from the utility has been determined by SDG&E to fulfill expressed needs in the District’s Local Government Partnership Agreement.

Next Steps

If the proposed amendment is approved, Staff will return to the Board in early 2019 with a report that represents total energy consumption for 2017 and 2018 on District tidelands aggregated to the maximum extent allowed by the California Public Utilities Commission. Depending on the data received and reported, it may substantiate the repeal of Port Code Article 12 and instead establish a BPC Policy that requires annual reporting and analysis of District-wide utility usage, or Staff will present suggestions to amend Port Code Article 12.

General Counsel’s Comments:

The Office of the General Counsel has reviewed and approved the proposed amendment as to form and legality.

Environmental Review:

The proposed Board action to authorize an amendment to the SDG&E Partnership Agreement’s nondisclosure provisions, 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 direction in no way limits the exercise of this discretion. Therefore, no further CEQA review is

required.

In addition, this Board item complies with Section 87 of the Port Act, which allows for the construction, reconstruction, repair, maintenance, and operations of buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. 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 they 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 Board’s direction or 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:

Not applicable.

PREPARED BY:

Rachel Stern
Senior Environmental Specialist, Energy

Attachment(s):

- Attachment A: Amendment No. 1 to Agreement to Jointly Deliver the Energy Efficiency Partnership Program
- Attachment B: Agreement to Jointly deliver the Energy Efficiency Partnership Program between the San Diego Unified Port District and San Diego Gas & Electric Company

¹ <https://pantheonstorage.blob.core.windows.net/administration/Ordinance-2844.pdf>

² Authorized on February 9th, 2016, File No. 2015-1693.

³ "Utility Account Holder" means an entity or person, as defined by California Public Resources Code Section 25116 or any successor legislation, who has an account with any provider of Utilities that is separately metered.

⁴ According to a 2012 EPA analysis, average savings from energy benchmarking is 2.4% per year and 7% over 3 years https://www.energystar.gov/sites/default/files/buildings/tools/DataTrends_Savings_20121002.pdf

⁵ Staff report and request for direction on July 17, 2018, File No. 2017-0383.

⁶ <https://pantheonstorage.blob.core.windows.net/waterfront-development/Letter-Port-Utility-Account-Holders-8-29-2018.pdf>