



## Legislation Text

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**File #:** 2019-0044, **Version:** 1

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**DATE:** March 12, 2019

**SUBJECT:**

**RESOLUTION WAIVING BPC POLICY NO. 110 AND AUTHORIZING SINGLE SOURCE AGREEMENT BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND EY (ERNST & YOUNG) FOR LONG TERM RECOVERY PLANNING CONSULTING SERVICES BEGINNING ON MARCH 18, 2019 AND TERMINATING ON AUGUST 31, 2021 FOR AN AMOUNT NOT TO EXCEED \$262,641.00, THE FULL AMOUNT OF WHICH IS REIMBURSEABLE THROUGH PORT SECURITY GRANTS 2017 AND 2018**

### **EXECUTIVE SUMMARY:**

Justification to expand single source authorization for work with Ernst & Young (EY Consulting) in developing a Long-Term Recovery Plan and Financial Disaster Recovery Guide within the District's Emergency Management Program.

The ability to recover quickly, restore commerce and confidence, and continue to serve as the economic engine for the region, is regarded as the hallmark of a resilient port.

In 2016, the Area Maritime Security Committee, inclusive of the United States Coast Guard Captain of the Port as the Committee's Chair and the Chief of the San Diego Harbor Police Department as the Committee's Vice-Chair, identified the need for Long-Term Recovery Planning (LTRP) for the port region, prioritized it for development, and designated the San Diego Unified Port District to lead the planning effort in order to ensure "whole port" engagement.

In late 2016 Ernst & Young Consulting (EY) provided pro bono services in reviewing drafts and providing insights and recommendations for the Port's Emergency Management Policy (BPC No. 777, approved by the BPC on April 11, 2017) and Emergency Operations Plan (adopted by the BPC on August 8, 2017). EY assisted in facilitation of the Port District's (Port) March 2017 Recovery and Trade Resumption tabletop exercise (TTX) and assisted in preparation of the exercise's After-Action Report. EY also assisted with the Port's August 14-15, 2017 Emergency Operations Center Workshop and has provided recommendations to the Port's Emergency Manager for insurance-versus-FEMA- reimbursement processes and processes for the Port's smaller businesses to engage in Small Business Administration loan acquisition following a major disaster.

EY has an intimate knowledge of port structure and has worked on some of the largest and most complex claims in recent history resulting from natural disasters to include Katrina, Rita, Ike, Sandy, Irma and Harvey, as well as floods, fires and explosions. EY's Insurance & Federal Claims Service practice is a group of professionals dedicated to assisting governmental, nonprofit and corporate entities expedite financial recovery and mitigation following catastrophic loss through Federal

Emergency Management Administration (FEMA), other Federal disaster grant programs and insurance claims. EY's experience in long term disaster recovery management includes Department of Homeland Security (DHS), FEMA and DHS Office of Inspector General senior executives, forensic accountants, construction managers, engineers and former insurance adjusters.

In 2017 the Port was awarded \$126,702.00 (inclusive of services and estimated reimbursable expenses) as part of a DHS FEMA Port Security Grant to engage in the initial phase of LTRP. On December 11, 2017 the CEO authorized Single Source Justification to utilize EY Consulting for the Port's Long-Term Recovery Planning. In February 2018 the Port initiated the Resilience Working Group (RWG) as a forum and tool for Port stakeholders to develop "whole port" processes to ensure resiliency for the Port, i.e., working groups were developed to address six (6) specific objectives to assist the Port in 'bouncing back' from any type of disaster as efficiently as possible. EY representatives participated and continue to date to participate pro bono in the Port RWG Port-wide Long-Term Recovery and Business/Trade Resumption Plan working group.

Throughout calendar year 2018 EY representatives were consumed with nationwide response to disasters to provide financial disaster recovery guidance and assistance. Because of EY's unavailability, a services agreement between the Port and EY was never executed, and hence, beyond pro bono participation in the RWG, official EY LTRP consulting services from EY for the Port have not begun. The Port was still tasked with developing a LTRP, most importantly to include development of a Financial Disaster Recovery Manual for the Port. In anticipation of the amount of work development of such a Manual would entail, to include multiple meetings and interviews with Port District personnel, to be followed by a Workshop and training, a second DHS FEMA Port Security Grant (PSGP 2018) was sought, awarded in the amount of an additional \$135,939.00 and accepted by the BPC in October 2018.

The single source authorization for work with EY, \$126,702.00 and the 2018 grant award of \$135,939.00 totals \$262,641.00. EY is now positioned to begin official LTRP with the Port, to include formation of an internal Port working team, interviews, development of a financial disaster recovery manual, facilitation of a workshop, and associated training. This will provide the Port guidance on the disaster recovery process with an emphasis on funding and reimbursement from key external sources and ensuring the Port follows Federal and State guidance. It will identify the roles of key department including Risk & Safety (Insurance), Payroll and Procurement during a disaster; and identify Port responsibilities for documentation requirements funds, including timely reporting and meeting deadlines, to avoid de-obligation and/or 'claw-back' of Federally appropriated funding. The Financial Disaster Recovery Plan will also assist the Port in coordinating with external stakeholders during and after a disaster event.

### **RECOMMENDATION:**

Adopt a Resolution authorizing single source agreement between the San Diego Unified Port District and EY Consulting (Ernst & Young) for Long-Term Recovery Planning consulting services beginning on March 18, 2019 and terminating on August 31, 2021 for an amount not to exceed \$262,641.00 and waive BPC Policy 110 in order to increase the "not to exceed" amount.

### **FISCAL IMPACT:**

The BPC approved Acceptance of the Fiscal Year 2017 PSGP Awards and Budget Amendments in a

Resolution and Adoption of an Ordinance in the October 10, 2017 BPC Meeting. The BPC approved Acceptance of the Fiscal Year 2018 PSGP Awards and Budget Amendments in a Resolution and Adoption of an Ordinance in the November 6, 2018.

Funds for the FY 2019 expenditures are included in the Harbor Police Department's non-personnel expense budget. Funds required for future fiscal years will be budgeted in the appropriate fiscal year and cost account subject to board approval upon adoption of each fiscal year's budget.

The full amount of the anticipated expenditures will be reimbursed to the District from the awarded 2017 and 2018 PSGP through the DHS FEMA, Investment Justification No's. 1 and 3 respectively.

### **COMPASS STRATEGIC GOALS:**

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

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.
- A Port that is a safe place to visit, work and play.
- A Port with an innovative and motivated workforce.
- A financially sustainable Port that drives job creation and regional economic vitality.

### **DISCUSSION:**

In December of 2017, the Port authorized Single Source Justification to utilize EY Consulting for guidance on the Port's Long-Term Recovery Planning. EY provides strategic and technical consulting services within the field of disaster management, specifically to financial disaster recovery to assist governmental, nonprofit and corporate entities expedite financial recovery and mitigation following catastrophic loss.

EY has been engaged with the Port since late 2016 in reviewing draft emergency management policies and plans and has assisted in facilitation of emergency management exercises and training. As such EY has gained in-depth knowledge of the Port's structure and interagency working relationships with state, local and federal government agencies and external stakeholders such as master tenants and the Port Tenants Association.

The Port's geographic makeup, its proximity to a busy international land-border crossing, its significant financial role for the region's economy and the presence of substantial critical infrastructure and key resources necessitate the need for it to have a long-term recovery plan, to include financial disaster recovery.

Contracting with EY will ensure the Port is appropriately positioned with FEMA, other Federal disaster grant programs and its own insurance programs if met with disaster, be it man-made or natural. Additionally, work with EY will ensure the Port's tenants/businesses, small, medium or large are best positioned to acquire the financial assistance they need to recover from disaster and/or catastrophic loss.

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

The Office of the General Counsel has reviewed the issues set forth in this agenda and found no legal concerns as presented, and has reviewed and approved the agreement as to form and legality.

### **Environmental Review:**

The proposed Board direction or action, including without limitation, a resolution waiving BPC Policy No. 110 and authorizing a single source agreement for Long Term Recovery Planning consulting services is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), and 15304 (Minor Alterations to Land) because the project in question would involve a negligible expansion of use beyond that previously existing, would have no permanent effects on the environment, and would not involve the removal of mature, scenic trees. 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). A CEQA Exemption was previously issued for this project on November 8, 2018. The proposed project is consistent with the project analyzed in the Categorical Determination. The proposed Board action is not a separate “project” for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.) Accordingly, the proposed Board action is merely a step-in furtherance of the original project for which environmental review was performed, and no further environmental review is required.

In addition, the proposed Board direction or action complies with sections 21, 35, and 81 of the Port Act, which allow for the Board to pass 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 action is consistent with the Public Trust Doctrine.

Finally, the proposed Board direction or action is considered “excluded development” pursuant to Sections Section 8.a (Existing Facilities), Section 8.c (New Construction or Conversion of Small Structures), and Section 8.d (Minor Alternations to Land) of the District’s Coastal Development Permit Regulations because the project would involve negligible or no expansion of use beyond that previously existing, would be located essentially on the same site as the structure replaced, and would have substantially the same purpose and capacity as the structure replaced. A “Coastal Act Categorical Determination of Exclusion” was previously issued for this project on November 8, 2018; therefore, issuance of a Coastal Development Permit or subsequent Exclusion is not required for the proposed Board action.

### **Equal Opportunity Program:**

Not applicable.

### **PREPARED BY:**

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Attachment(s):

Attachment A: Ernst & Young Sole Source Justification

Attachment B: Ernst & Young Service Agreement