



## Legislation Text

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**File #:** 2019-0126, **Version:** 1

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**DATE:** May 14, 2019

**SUBJECT:**

**RESOLUTION AUTHORIZING EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SAN DIEGO AND THE SAN DIEGO UNIFIED PORT DISTRICT IN ORDER TO PARTICIPATE IN THE URBAN AREA SECURITY INITIATIVE FY 18 GRANT PROGRAM, AND GRANTING INDEMNITY.**

### **EXECUTIVE SUMMARY:**

As a first responder agency, the San Diego Unified Port District (District) is entitled to participate in the Urban Area Security Initiative (UASI) grant program that was awarded to the City of San Diego (City). The City received funding this year in order to meet the Homeland Security (HLS)-related missions as a first responder agency. In order for the District's Harbor Police to participate in this program, the City requires that the District enter into a Memorandum of Understanding (MOU) with the City that indemnifies the City against all liability for acts or omissions under the MOU.

This MOU is required to be reissued with each grant funding year. This will cover the Fiscal Year (FY) 18 grant award from the City.

### **RECOMMENDATION:**

Adopt a Resolution authorizing a Memorandum of Understanding with the City of San Diego, in order for the District to participate in the Urban Area Security Initiative Grant, and granting indemnity.

### **FISCAL IMPACT:**

This item has no direct fiscal impact. The District recognizes the grant funds as non-operating revenue when reimbursement is received from the City of San Diego.

### **COMPASS STRATEGIC GOALS:**

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

- A Port that is a safe place to visit, work and play.

### **DISCUSSION:**

The Urban Area Security Initiative (UASI) Grant Program has been funded by the U.S. Department of Homeland Security since 2003, and is allocated on a competitive basis to the thirty largest

metropolitan areas in the United States. The City of San Diego, in partnership with the Unified Disaster Council, administers this grant and has divided the funding into four categories: equipment, training, exercises, and planning. The City's grant award supports the regional "all hazards" mission of local first responder agencies.

In its law enforcement and firefighting roles, the Harbor Police Department (HPD) is entitled to participate in this program. The Urban Area Working Group (UWAG), which determines the funding allocations for all regional entities, recommended that the City of San Diego allocate funding to HPD for tactical robots, mesh data communications, and regional training participation in an approximate amount of \$386,000 during the course of the fiscal year.

The City of San Diego has requested that the District enter into an MOU for the most current year (FY18), and to agree to indemnify the City. The term of the MOU runs concurrently with the UASI grant, which is an on-going Department of Homeland Security program. Furthermore, the MOU specifies that the District, as a sub-recipient to the UASI grant, will be required to comply with all the same grant requirements, including both the U.S. General Accounting Office and Office of Management and Budget auditing standards, as the City.

The signed notification of subrecipient award approval and grant assurances are attached as Attachments A and B, respectively.

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

The Office of the General Counsel has reviewed this agenda and approved the proposed Memorandum of Understanding as to form and legality.

### **Environmental Review:**

The proposed Board action to authorize execution of a Memorandum of Understanding between the City of San Diego and the District to provide mutual indemnity to participate in the Urban Area Security Initiative FY 18 Grant Program 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 the proposed Board action that requires the District or the Board's approval, including without limitation District proposed legislation or a request for funding, 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 complies with sections 21 and 35 of the Port Act, which allow for the Board to pass resolutions and to do all acts necessary and convenient for the exercise of its 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 Coastal Development Permit or exclusion is not required. However, the District’s projects require processing under the District’s CDP Regulations. If a project is formulated as a result of the proposed Board action, the Board will consider approval of the project and any improvements associated after the appropriate documentation under District’s CDP Regulations has been completed and authorized by the Board, if necessary. The proposed Board action in no way limits the exercise of the District’s discretion under the District’s CDP Regulations.

**Equal Opportunity Program:**

Not applicable.

**PREPARED BY:**

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**Attachment(s):**

Attachment A: FY18 UASI Subrecipient Approved Award  
Attachment B: FY18 UASI MOU - Grant Assurances