



Legislation Text

File #: 2022-0277, **Version:** 1

DATE: September 13, 2022

SUBJECT:

PARTICIPATION IN THE STATE'S LOW CARBON FUEL STANDARD PROGRAM:

- A. RESOLUTION AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO EXECUTE A LOCAL GOVERNMENT SERVICE AGREEMENT BETWEEN THE DISTRICT AND THE DEPARTMENT OF THE NAVY; AND**
- B. RESOLUTION AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO EXECUTE AMENDMENT NO. 1 TO AGREEMENT WITH BLUE SOURCE, LLC, FOR MARKETING CONSULTANT FOR LCFS CREDITS REDUCING THE FEE, EXTENDING TERM FROM DECEMBER, 31 2024 TO DECEMBER, 31 2030, AND CONSENTING TO THE ASSIGNMENT FROM BLUE SOURCE, LLC, TO ANEW EV, LLC.**

EXECUTIVE SUMMARY:

The District was the first port in California to join the Low Carbon Fuel Standard (LCFS) program in April 2019. Since that time, in addition to successfully monetizing the District's own credits, the District has partnered with multiple tenants to utilize the District's existing contract with Anew at a relatively low cost. The tenants provide the electricity use for qualified functions, Anew determines the number of credits and monetizes them for the District, and the District provides each tenant with its share of the proceeds.

The proposed agreement with the Navy is considered a pilot program because it is new to the Department of the Navy, and it differs from the contract with the tenants. Instead of providing the Navy a direct payment the District will be responsible for developing and managing LCFS-qualified projects at Navy Base San Diego. The District will pay for the projects directly from the Navy's share of the LCFS funds. The District will also pay from its own share of Navy generated LCFS revenues for District personnel who will manage the project construction.

The differing nature and large LCFS qualified electrical volume of the proposed Navy agreement compared to the existing tenant LCFS agreements allowed District to negotiate changes to the agreement with Anew which will result in substantial cost savings for the District and its partners. These new benefits and the proposed term of the Navy agreement requires extending Anew's agreement to be in parallel to the Navy's.

RECOMMENDATION:

- A. Adopt a resolution authorizing the Chief Executive Officer to execute a Local Government Service Agreement between the District and the Department of the Navy, and;
- B. Adopt a resolution authorizing the Chief Executive Officer to execute Amendment No. 1 to agreement with Blue Source, LLC, for marketing consultant for LCFS credits reducing the fee, extending term from December, 31 2024 to December, 31 2030, and consenting to the assignment from Blue Source, LLC, to Anew EV, LLC.

FISCAL IMPACT:

The agreement with the US Navy will significantly increase the District's revenue from the Low Carbon Fuel Standard program. Precise income projections are not available given the fluctuating price of the credits but the overall number of credits the District will generate for sale will increase roughly by a factor of six, potentially more. Per guidance from the California Air Resources Board the funds will be spent on further electrification projects, which will benefit the communities near the working waterfront.

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 with a healthy and sustainable bay and its environment.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

California established the Low Carbon Fuel Standard (LCFS) in 2012 and placed it under the direction of the California Air Resources Board (CARB). The LCFS is a cap-and-trade-like program where the producers of fossil fuels must either increase the use of plant-based carbon (e.g. ethanol and soy bean oil) or buy credits to meet the requirement.

Credits are created when vehicles use electricity instead of fossil fuels. The credit represents the difference between the carbon intensity of the electricity versus the carbon intensity of the fossil fuel. Algorithms developed by CARB determine the number of credits created based on the alternative energy and equipment used. CARB included shore power as an eligible resource starting January 1, 2019, and the program expires in 2030. Shore power from previous years is not eligible.

In order to benefit from the LCFS program the District requires the services of a qualified and experienced marketing consultant. The Board of Port Commissioners approved the initial agreement between the District and Blue Source, LLC (Clerk Document No. 69872) effective April 22, 2019. San Diego was the first port in California to enter into the LCFS program under this short-term agreement. The District followed up with a competitive RFP issued in June 2019. Blue Source was awarded the new contract (Clerk Document No. 70710) effective January 1, 2020 and continuing through December 31, 2024. Given that a) the LCFS program currently is expected to continue through December 31, 2030, and b) the LGSA with the Navy also continues through December 31, 2030,

then the District and Anew needed to extend their agreement through December 31, 2030 as well. The new agreement also decreases the fee that Anew charges the District from 5% to 4.25%.

The District currently has collaborative LCFS partnerships with tenants that have qualifying resources. For example, as part of their lease Dole Fresh Fruit uses shore power for its ships each week and pays for the electricity. Dole used funds to purchase five all-electric yard tractors from Orange EV. The District also has agreements with NASSCO, BAE and Austal.

The partnership with the Navy is significantly different than the District's other LCFS partnerships because Navy Base San Diego (NBSD) cannot utilize a direct payment from the District. However, both parties agree that the District can provide in-kind goods and services to the Navy at NBSD specifically. For the Navy's part this agreement was approved by Top Dog and Title, as a pilot program. If the parties can show that this pathway develops projects and reduces emissions then the Navy may expand it to other local Navy bases.

General Counsel's Comments:

The Office of the General counsel has reviewed and approved this agenda and proposed resolutions, as presented, as to form and legality.

Environmental Review:

The proposed Board actions, including without limitation, participation in the state's low carbon fuel standard program and request for a resolution authorizing the chief executive officer to execute a local government service agreement between the District and the Department of the Navy and a resolution authorizing the chief executive officer to execute an amended agreement with Anew, LLC, (formerly DBA Blue Source), do not constitute a project under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because there is not a potential to result in a direct or indirect physical change in the environment. Therefore, the proposed Board actions are not subject to CEQA and no further action under CEQA is required.

The proposed Board actions comply with Sections 21 and 35 of the Port Act, which allows 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 actions is consistent with the Public Trust Doctrine.

The proposed Board actions do 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 Regulations. Therefore, issuance of a Coastal Development Permit or an exclusion finding is not required.

Diversity, Equity, and Inclusion Program:

This agenda sheet has no direct impact on District workforce or contract reporting at this time.

PREPARED BY:

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