



Legislation Text

File #: 2022-0272, **Version:** 1

DATE: October 11, 2022

SUBJECT:

RESOLUTION SELECTING AND AUTHORIZING AN AGREEMENT BETWEEN SAN DIEGO UNIFIED PORT DISTRICT AND AFTZ LLC (SERVICE PROVIDER) FOR CUSTOMS BORDER PROTECTION REPORTING & FOREIGN TRADE ZONE ACTIVATION AND OPERATOR SERVICES AT TENTH AVENUE MARINE TERMINAL FOR AN AMOUNT NOT-TO-EXCEED \$367,000 AND A DURATION OF FIVE YEARS. FISCAL YEAR (FY) 2023 FUNDS ARE BUDGETED. FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETED IN THE APPROPRIATE YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET.

EXECUTIVE SUMMARY:

Staff recommends that the San Diego Unified Port District (District) Board of Port Commissioners (Board) authorize an Agreement for Customs Border Protection Reporting & Foreign Trade Zone (FTZ) Activation and Operator Services at the Tenth Avenue Marine Terminal (TAMT).

The FTZ is an important tool for business development and retention, offering value-added services to existing and potential customers at TAMT. The purpose of an FTZ is to provide shippers with reduced or eliminated duties on imported/exported cargo in the form of Duty Deferral. The Duty Deferral allows for cash flow savings until the cargo is imported and exported to and from the FTZ. U.S. Customs and Border Protection (CBP) protects the revenue on behalf of the U.S. Department of Treasury, and serves as the primary approval entity granting FTZ Activation. Currently, the FTZ Program Grantee in San Diego is the City of San Diego, creating a two-(2) track FTZ process. The continued operations of the FTZ at the District's TAMT provides a new revenue stream for the District and serves as a tool for prospective ocean carrier recruitment.

The FTZ has been under a Pilot Program since August 11, 2021. AFTZ LLC (Service Provider) currently serves as the District's FTZ documentation clearinghouse CBP's AES system, without which District could not perform such services on its own as a requirement for the FTZ Program.

The Request for Qualifications (RFQ) No. 22-14RH for FTZ Services was issued by District's Procurement Unit on June 13, 2022 with final bid due to District on July 13, 2022 and a projected delivery/service date of January 1, 2023.

The RFQ notification was sent out via E-Bids to 256 potential firms to assess interest. On June 23, 2022, only two (2) firms participated in the Virtual Information Exchange Meeting related to this RFQ. A shortlist meeting for this RFQ was scheduled for July 27, 2022. The District received only one (1) responsive bid from the current Service Provider (AFTZ LLC). Staff deemed the bid responsive and determined that AFTZ LLC has the qualifications necessary for the services required.

The proposed Agreement with Service Provider is for a five (5) year term commencing January 1, 2023, through December 31, 2027, with a minimum Services Fee of \$72,000 per year for the duration of the term, actual Service Fee to be based on FTZ transactions; and Base Transaction Fees at \$20 that are negotiable based upon FTZ User volume. See FISCAL IMPACT for an overview of revenues and expenses of the District's FTZ Program.

RECOMMENDATION:

Adopt Resolution Selecting and Authorizing an Agreement Between San Diego Unified Port District And Service Provider For Customs Border Protection & Foreign Trade Zone Activation at Tenth Avenue Marine Terminal for An Amount Not-to-Exceed \$367,000 And A Duration of Five Years. FY 2023 Funds Are Budgeted. Funds Required for Future Fiscal Years Will Be Budgeted in The Appropriate Year, Subject to Board Approval Upon Adoption of Each Fiscal Year's Budget.

FISCAL IMPACT:

This action will allow District's FTZ business continuity, providing value-added services to existing and potential shippers at TAMT. Funds needed for the current Fiscal Year have been budgeted in the FY 23 budget, and funds required for future Fiscal Years will be budgeted in the appropriate year, subject to Board approval upon adoption of each Fiscal Year's budget. This Service Agreement shall not exceed \$367,000 for the proposed five (5) year term.

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 financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

Staff recommends that the District Board authorize an Agreement for CBP & FTZ at TAMT.

The FTZ is an essential tool for business development and retention, offering value-added services to existing and potential customers at TAMT. The purpose of an FTZ is to provide shippers with reduced or eliminated duties on imported/exported cargo in the form of Duty Deferral. The Duty Deferral allows for cash flow savings until the cargo is imported and exported to and from the FTZ. CBP protects the revenue on behalf of the U.S. Department of Treasury, and serves as the primary approval entity granting FTZ Activation. Currently, the FTZ Program Grantee in San Diego is the City of San Diego, creating a two (2) track FTZ process. The continued operations of the FTZ at the District's TAMT provides a new revenue stream for the District and serves as a tool for prospective ocean carrier recruitment.

The FTZ has been under a Pilot Program with active with operations since August 11, 2021. Currently, Service Provider currently serves as the District's FTZ documentation clearinghouse for CBP's AES system, without which District could not perform such services on its own as a requirement for the FTZ Program.

The proposed Agreement with Service Provider is for a five (5) year term commencing January 1, 2023, through December 31, 2027.

It should be noted that the ports of Hueneme, Long Beach, Los Angeles, Sacramento, San Francisco, and Stockton currently operate their respective FTZs. Eleven other California cities and/or counties operate their FTZ Programs: Eureka, Kern, Imperial, Merced, Oakland, Palmdale, Palm Springs, Riverside, Victorville, San Jose, and San Diego.

CHRONOLOGICAL SUMMARY:

At the April 14, 2020, Board meeting, the Board approved a resolution authorizing the Executive Director to grant indemnity to selected bond companies in connection with a bond requirement for the establishment of the FTZ at TAMT. Although the cost of the bond was well below the contract authority of the Executive Director, granting indemnity to the bond companies required Board approval.

On July 23, 2021, the U.S. Department of Commerce, Foreign Trade Zones Board approved the establishment of the District's Subzone 153I site designation. Concurrently, on July 28, 2021, The City of San Diego provided its Letter of Concurrence for establishing the FTZ; on August 11, 2021, CBP provided its Notice of Activation for the District's FTZ.

On July 29, 2021, under a pilot program, the District and San Diego Refrigerated Service (SDRS) entered into an FTZ User Letter of Agreement (LoA) for use of portions of Warehouse B for FTZ purposes. This FTZ LoA was later amended on March 21, 2022, to extend the term through June 30,

2022, and amended on June 15, 2022, to extend the term through December 31, 2022. These amendments ensured no lapse in FTZ warehouse coverage for the District's FTZ Program.

Staff's next steps include onboarding the Service Provider and developing an FTZ Marketing Plan to identify additional FTZ users and prospective vessel diversions to TAMT. Continuous availability of the FTZ at TAMT will facilitate enhanced revenue potential once the two all-electric mobile harbor cranes are operational.

Procurement Details:

The Request for Qualifications (RFQ) No. 22-14RH for FTZ Services was issued by District's Procurement Unit on June 13, 2022 with final bid due to District on July 13, 2022 and a projected delivery/service date of January 1, 2023.

The RFQ notification was sent out via E-Bids to 256 potential firms to assess interest. On June 23, 2022, only two (2) firms participated in the Virtual Information Exchange Meeting related to this RFQ. A shortlist meeting for this RFQ was scheduled for July 27, 2022; however, District received only one (1) responsive bid from the current Service Provider (AFTZ LLC) and negated the meeting. Staff deems the bid from AFTZ LLC responsive and determined that AFTZ LLC has the qualifications necessary for the services required.

To briefly summarize, the proposed RFQ was issued using Categories 91849 Finance/Economics Consulting and 96128 Economic Development, Domestic and Foreign. RFQ Respondents' bids were to be valid for 120 calendar days. Respondent's proposal was evaluated based upon five (5) key evaluation criteria: 1) Experience of Proposed Staff, 2) Approach to the Project, 3) Capability to Perform, 4) Firm's Relevant Experience, and 5) Fair and Reasonable Cost.

General Counsel's Comments:

The Office of the General Counsel has reviewed and approved this agenda, proposed agreement, and resolution, as presented, as to form and legality.

Environmental Review:

The proposed Board action, including without limitation, a resolution selecting and authorizing an agreement between San Diego Unified Port District and AFTZ LLC for CBP and FTZ activation at TAMT, does not constitute a project under the definition outlined 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 action is not subject to CEQA and no further action under CEQA is required.

The proposed Board action complies with Sections 21 and 35 of the Port Act, which allow 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.

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 Regulations. Therefore, issuance of a Coastal Development Permit or an exclusion finding is not required.

Diversity, Equity, and Inclusion Program:

Due to limited known sub opportunities, no SBE goal was established for this agreement.

Respondent	SBE Cert	Subs	Subs SBE Cert	DEI Bonus Category			DEI Policy	Total Workforce			Executives		
				SBE	DVBE or Disabled Staff	Veteran Status or Staff		Total	Women	BIPOC	Total	Women	BIPOC
AFTZ LLC	No	AM-MEX International	No	No	No	No	Yes	2	1	2	2	1	2

PREPARED BY:

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Attachment(s):
Attachment A: Service Agreement