

**STAFF REPORT**

**74**

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08/23/19

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R. Boggiano

**CONSIDER APPROVAL OF A PROPOSED EXPENDITURE OF PUBLIC TRUST FUNDS BY THE SAN DIEGO UNIFIED PORT DISTRICT NOT TO EXCEED \$6 MILLION TO LEASE OFF-TIDELANDS OFFICE SPACE IN THE CITY OF SAN DIEGO, SAN DIEGO COUNTY**

**TRUSTEE:**

San Diego Unified Port District

**INTRODUCTION:**

The San Diego Unified Port District (Port) is trustee of sovereign tide and submerged lands granted by the Legislature under Chapter 67, Statutes of 1962, First Extraordinary Session as amended (the Port Act). The District requests approval to use Public Trust funds to lease approximately 24,000 square feet of office space located fewer than 10 miles away from the Port's granted lands. Due to the nature of the proposed use (see below), the specific location is not being disclosed.

**PROPOSED EXPENDITURE:**

The proposed expenditure is for covert facilities for the Federal Bureau of Investigation (FBI) to operate its Organized Crime Drug Enforcement Task Force program in partnership with the Port's harbor police. The Task Force Program was established in 1982 to fight organized crime drug traffickers. The Program leverages federal, state, and local law enforcement agencies to collaborate in high-profile investigations. The Port's harbor police participate in the Program as part of their law enforcement duties.

Since 2010, the Organized Crime Drug Enforcement Task Force Program facility has operated under a lease from the City of Chula Vista under a reimbursement agreement similar to that contemplated between the FBI and the Port. The FBI has asked the Port to be the facility lessor, rather than the City of Chula Vista. The lease would be for an initial 5-year period, with an option for an additional 2-year term. The Port would expend \$500,000 in Public Trust revenues annually for the lease and estimates that the total expenditure would be \$5 to \$6 million. The FBI would reimburse the Port for the expenditures and provide an additional administrative fee of 5 percent to reimburse the Port for staff time and related expenses associated with the lease. While Port funds will initially be spent off of

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the granted lands, the FBI will reimburse the Port and the reimbursement revenue will go back into the Trust.

**ANALYSIS AND RECOMMENDATION:**

Sections 30.5 (d) of Chapter 67, Statutes of 1962, as added by Chapter 399, Statutes of 1996, requires State Lands Commission approval for all off-tidelands expenditures in excess of \$250,000. To approve the proposed expenditure, the Commission must make all the following findings pursuant to Public Resources Code section 6702, subdivision (b):

- 1) That such lease, contract, or other instrument is in accordance with the terms of the grant or grants under which title to the tide or submerged lands in question is held.
- 2) That the proceeds of such lease, contract, or other instrument shall be deposited in an appropriate fund expendable only for statewide purposes authorized by the legislative grant.
- 3) That such lease, contract, or other instrument is in the best interests of the State.

The lease premises are less than 10 miles from the Port's granted lands. The Port's participation in the Organized Crime Drug Enforcement Task Force, including the leasing and reimbursement by the FBI to use the covert facility, will enhance public safety and security at the Port by intercepting narcotics smuggled through the region's transit centers, including Port facilities. The activity is necessary or incidental to carrying out the purposes described in Port Act Section 87, subdivision (a)(1), including the establishment and operation of a commercial port. The Port will place the reimbursed expenditures into the appropriate trust fund and expend those funds in accordance with the Port Act. The lease will support the Port's cooperation in a task force that enhances public safety and supports lawful maritime commerce at no net cost to the Port or the public and is therefore in the State's best interests.

Staff has reviewed the information from the Port supporting the proposed expenditure of tideland funds to lease off-tidelands office space in the city of San Diego and recommends approval.

**OTHER PERTINENT INFORMATION:**

1. The proposed action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign lands and resources and granted lands, including through strategic partnerships with trustee ports and harbor districts, are consistent with evolving Public Trust principles and values, particularly

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amid challenges relating to climate change, sea-level rise, public access, and complex land use planning and marine freight transportation systems.

2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

**EXHIBIT:**

- A. Request from the San Diego Unified Port District

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

**AUTHORIZATION:**

1. Find that the proposed off-tidelands expenditure by the San Diego Unified Port District for a lease for facilities to the FBI is in accordance with the terms of the statutory trust grant pursuant to Chapter 67, Statutes of 1962, First Extraordinary Session, as amended.
2. Find that the proceeds from the lease shall be deposited in an appropriate fund expendable only for statewide purposes authorized by the legislative grant.
3. Find that the proposed off-tidelands expenditure by the San Diego Unified Port District as set forth in the documents on file in the Commission's Sacramento office is in the best interests of the State.
4. Approve the expenditure of up to \$6 million by the San Diego Unified Port District for the proposed off-tidelands leased facility.



July 18, 2019

Ms. Jennifer Lucchesi  
Executive Director  
California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

**Subject: Request for California State Lands Commission Approval of Off-Tidelands Capital Expenditure for District Leasing of Off-Tidelands Office Space for FBI Task Force**

Dear Ms. Lucchesi:

In compliance with Section 30.5 of the San Diego Unified Port District Act (Port Act), the San Diego Unified Port District (District) is requesting the California State Lands Commission (Commission) approve an off-Tidelands capital expenditure for the District to lease approximately 24,000 square feet of office space located in San Diego, California, less than 10 miles from District Tidelands. The lease is for covert facilities for the Federal Bureau of Investigations (FBI) Organized Crime Drug Enforcement Task Force (OCDETF) in which the District's Harbor Police participate. The FBI will reimburse the District for all lease expenses, an insurance policy for the premises, and pay the District an administrative fee of 5%. Therefore, while District funds will initially be spent off-Tidelands related to the lease, such funds will be repaid to the District by the FBI.

While lease of real property is not currently considered a capital expenditure for District accounting purposes, due to new Government Accounting Standards Board rules, the proposed lease may be required to be capitalized in a future year. Therefore, approval under Port Act, Section 30.5 is being requested.

The OCDETF Program was established in 1982 to mount a comprehensive attack against organized crime drug traffickers. The Program is the centerpiece of the U.S. Attorney General's drug strategy to reduce the availability of drugs by disrupting and dismantling major drug trafficking organizations, money laundering organizations and related criminal enterprises. Similar to other regional task forces, the purpose of the OCDETF is to combine the efforts of federal, state, and local law enforcement agencies to collaborate in high profile investigations. As part of its law enforcement role, the District's Harbor Police participate in the OCDETF.

Ms. Jennifer Lucchesi, Executive Director

California State Lands Commission

Subject: Request for California State Lands Commission Approval of  
Off-Tidelands Capital Expenditure for District Leasing of Off-Tidelands  
Office Space for FBI Task Force

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Since 2010, the covert OCDETF facility has been leased through the City of Chula Vista under a reimbursement agreement similar to that contemplated between the FBI and the District. The FBI has asked the District to take over leasing of the facility effective October 1, 2019 for an initial period of five years plus options for another 5 years at a rent of approximately \$500,000 per year plus other expenses for a total expenditure of approximately \$5-6 million. All of the District's payments under the lease will be reimbursed 100% by the FBI, and the District will receive an additional administrative fee of 5% to cover its staff time and related expenses.

The lease premises are less than 10 miles from District Tidelands. Because of the FBI's previous investment in improvements and equipment in the facility, relocation to a Tidelands location is not feasible. The District's participation in the OCDETF, including leasing this facility for the FBI and receiving reimbursement by the FBI, is necessary or incidental to carrying out the purposes described in Port Act Section 87, including the law enforcement role played by Harbor Police and the desire to reduce the interference organized crime causes in the use and enjoyment of District Tidelands.

In order to allow the District to enter into the proposed lease (all expenses of which will be 100% reimbursed plus an administrative fee) and further the purposes of the OCDETF which align with those of the District and its Harbor Police, the District requests the Commission approve this off-Tidelands expenditure in accordance with Port Act, Section 30.5

We would appreciate this request being heard by the Commission at its August 23, 2019 meeting to allow the proposed lease to begin October 1, 2019 as the FBI desires. District representatives will be available at that meeting to answer questions or to present to the State Lands Commission.

If you need more information, please do not hesitate to contact me via telephone at (619) 686-619-6588 or via email at [mstainbrook@portofsandiego.org](mailto:mstainbrook@portofsandiego.org).

Sincerely,



Mark G. Stainbrook

Vice President, Public Safety/Harbor Police Chief

San Diego Unified Port District