

RESOLUTION 2013-186

**RESOLUTION ADOPTING AN AMENDMENT TO
THE FY 2009-2013 CAPITAL IMPROVEMENT
PROGRAM TO INCREASE THE TENTH AVENUE
MARINE TERMINAL COLD IRONING (SHORE
POWER) PROJECT BUDGET IN THE AMOUNT OF
\$90,002 IN ORDER TO CREDIT THE PROJECT
FOR A CHANGE ORDER REQUESTED BY DOLE
FRESH FRUIT COMPANY**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, in December, 2007 the California Air Resources Board (CARB) adopted the Shore Side Power Rule to reduce emissions from refrigerated container ships while at berth which requires that shore power be utilized by at least 50% of refrigerated container ship calls by January 1, 2014 with the percentage incrementally increasing through 2020 until 80% of refrigerated container ships are connected to a shore power system while at berth; and

WHEREAS, District's tenant Dole Fresh Fruit Company (Dole) uses refrigerated container ships and is directly affected by the Shore Side Power Rule and currently is the only shipping line at the TAMT affected by the regulation; and

WHEREAS, Board of Port Commissioners (BPC) Policy No. 120 was adopted on April 12, 2011 to establish a policy for the orderly development or improvement of the capital assets of the District through a Capital Improvement Program (CIP); and

WHEREAS, on April 4, 2012 the BPC adopted Resolution 2012-40 to amend the FY 2009-2013 CIP wherein funding for the TAMT Cold Ironing (Shore Power) Project in the amount of \$7,000,000 was approved; and

WHEREAS, on April 9, 2013 the BPC adopted Resolution 2013-58 awarding the TAMT Shore Power Project (Contract No. 2011-49) to NEWest Construction Company, Inc. for installation of a new 7.5 Mega Volt Amps (MVA) substation, duct bank system, and two shore-to-ship fixed power receptacles in vaults at TAMT Berths 10-2 and 10-3 to provide shore power to refrigerated container ships one ship at a time and also extend underground conduit to Berth 10-4 to accommodate future needs in the amount of \$2,943,460; and

WHEREAS, approximately half of the contract work had been completed when on July 5, 2013, Dole requested the outlet at Berth 10-3 be relocated approximately 500 feet to the south of the original location because of changes to its new ship design which would require change order No. 3 to the TAMT Shore Power Project in the amount of \$90,002; and

WHEREAS, pursuant to BPC Policy No. 110, the Executive Director is authorized to execute change orders up to six percent (6%) of the contract amount for a total of \$176,607.60; and

WHEREAS, the costs of the current executed change orders No. 1 through 4 is \$147,010, which includes change order No. 3 in the amount of \$90,002 for the additional work initiated by Dole; and

WHEREAS, although change orders 1 through 4 have been authorized by staff in accordance with BPC Policy No. 110, the Dole initiated change order has reduced the remaining change order contingency amount within the Executive Director's authority to \$29,597.60; and

WHEREAS, with the contract work half way complete, this amount may not be sufficient to fund future additional work due to unforeseen conditions; and

WHEREAS, staff recommends a credit of \$90,002 to the Executive Director's change order authority to replenish the project change order contingency with Dole reimbursement fund, for future unforeseen conditions; and

WHEREAS, Dole has agreed to reimburse the District for change order No. 3 in installment payments completed by January 20, 2014; and

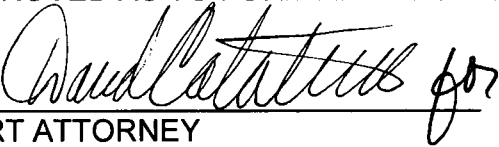
WHEREAS, in order to process the reimbursement by Dole and administratively credit the Project budget by \$90,002, the TAMT Shore Power Project budget must be increased and the FY 2009-2013 CIP budget must be amended by the same amount by the BPC.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Amendment to the Capital Improvement Program FY 2009-2013 to increase the Tenth Avenue Marine Terminal Cold Ironing Shore Power Project in the amount of \$90,002 is hereby adopted.

2013-186

APPROVED AS TO FORM AND LEGALITY:



PORT ATTORNEY

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 19th day of November, 2013, by the following vote:

AYES: Castellanos, Merrifield, Moore, Nelson, Smith,

NAYS: None.

EXCUSED: Malcolm, Valderrama

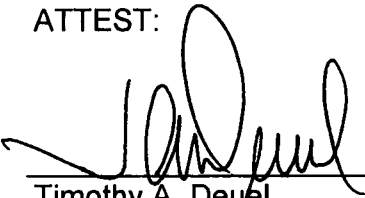
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)