

RESOLUTION 2014-155

RESOLUTION AUTHORIZING SUBMISSION OF APPLICATION TO AND ENTRY INTO A FINANCING LOAN AGREEMENT WITH SAN DIEGO GAS AND ELECTRIC (SDG&E) AS PART OF THE "ON-BILL FINANCING PROGRAM" TO FUND ALL OR A PORTION OF THE COST FOR THE TIDELANDS VARIOUS LOCATIONS ENERGY EFFICIENCY RETROFITS PROJECT AT ZERO INTEREST PAID OVER APPROXIMATELY TEN YEARS, AND GRANTING INDEMNITY TO SDG&E

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 1, (Port Act); and

WHEREAS, Section 5(b)(4) of the Port Act grants authority of the District to exercise its land management authority and powers over any other lands of interests in lands acquired by the District in furtherance of the District's powers and purposes as provided in Section 87; and

WHEREAS, this action will authorize the use of San Diego Gas and Electric's (SDG&E) On-Bill Financing (OBF) Program to finance the implementation of the Retrofit Project at zero percent interest; and

WHEREAS, the OBF Program provides financing for energy efficiency and demand response projects, such as the Retrofit Project, which is paid back through monthly SDG&E bills using the savings generated from the energy efficiency upgrades; and

WHEREAS, participation in the OBF Program requires subsequent participation in SDG&E's energy efficiency incentive program, which will require the District to indemnify SDG&E as follows:

SDG&E shall have no liability in connection with, and makes no warranties, expressed or implied, regarding the Work. Customer and Contractor agree that the Customer and Contractor shall jointly and severally indemnify and hold harmless SDG&E, its affiliates, and their respective owners, officers, directors, employees and agents thereof, from and against all claims, demands, liabilities, damages, fines, settlements or judgments which directly arise from or are caused by (a) any breach of the Agreement (subject to the provision regarding Contractor at the end of this sentence regarding obligations to repay the Loan Balance) or (b) the wrongful or

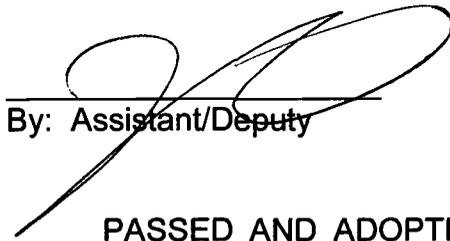
negligent acts of omissions of any party in the conduct or performance of the Work or Contractor's or Customer's duties under the terms of this Agreement; provided, however, that in no event shall Contractor be deemed a co-obligor, surety or guarantor of Customer's obligations to repay the Loan Balance under this Agreement.

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

That the submission of application to and entry into a financing loan agreement with SDG&E as part of the "On-Bill Financing Program" to fund all or a portion of the cost for the Tidelands Various Locations Energy Efficiency Retrofits Project at zero interest paid over approximately ten years is hereby authorized, and indemnity is granted to SDG&E, as follows:

SDG&E shall have no liability in connection with, and makes no warranties, expressed or implied, regarding the Work. Customer and Contractor agree that the Customer and Contractor shall jointly and severally indemnify and hold harmless SDG&E, its affiliates, and their respective owners, officers, directors, employees and agents thereof, from and against all claims, demands, liabilities, damages, fines, settlements or judgments which directly arise from or are caused by (a) any breach of the Agreement (subject to the provision regarding Contractor at the end of this sentence regarding obligations to repay the Loan Balance) or (b) the wrongful or negligent acts of omissions of any party in the conduct or performance of the Work or Contractor's or Customer's duties under the terms of this Agreement; provided, however, that in no event shall Contractor be deemed a co-obligor, surety or guarantor of Customer's obligations to repay the Loan Balance under this Agreement.

GENERAL COUNSEL


By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 12th day of August 2014, by the following vote:

AYES: Bonelli, Castellanos, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: Malcolm, Merrifield.

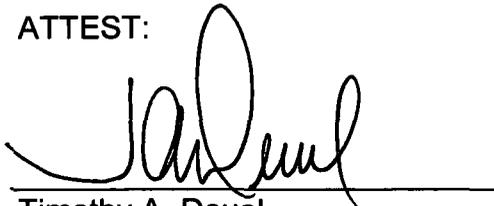
ABSENT: None.

ABSTAIN: None.



Robert E. Nelson, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)