

RESOLUTION 2014-85

RESOLUTION INCREASING THE EXECUTIVE DIRECTOR'S CHANGE ORDER EXECUTION AUTHORITY FOR CONSTRUCTION CONTRACT NUMBER 2009-13 WITH USS CAL BUILDERS FROM 20% TO 30% OF THE ORIGINAL CONTRACT AMOUNT TO ADDRESS FINAL PHASE DESIGN MODIFICATIONS TO GLASS STRUCTURES AND OTHER VARIOUS PROJECT ELEMENTS

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 37 of the Port Act requires that the California Public Contract Code (CPC) apply to public projects of the District; and

WHEREAS, the District adopted the Uniform Public Construction Cost Accounting Act (Accounting Act) procedures of the CPC to apply to public projects of the District; and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy 110 incorporating the provisions of the Accounting Act to govern the processing and administration of public projects; and

WHEREAS, pursuant to Resolution 2011-157 adopted by the BPC on November 8, 2011 the District entered into Contract No. 2009-13 with USS Cal Builders, Inc., a California corporation in the amount of \$18,611,920 for the construction of North Embarcadero Visionary Plan (NEVP) Phase 1; and

WHEREAS, the NEVP Phase 1 contract was awarded for \$18,611,920 resulting in a 4% authority limit in the of amount of \$744,476.80 for change orders; and

WHEREAS, pursuant to Resolution 2012-89 adopted by the BPC on July 10, 2012 the BPC authorized the Executive Director to execute change orders up to 7% of the contract award, or \$1,302,834; and

WHEREAS, pursuant to Resolution 2012-139 adopted by the BPC on October 9, 2012 the BPC authorized the Executive Director to execute change orders up to 9.7% of the contract award, or \$1,805,356 and at that time, staff

indicated that additional contingency funding would be required and staff would come back to the Board in November; and

WHEREAS, pursuant to Resolution 2012-167 adopted by the BPC on November 13, 2012 the BPC authorized the Executive Director to execute change orders up to 20% of the contract award, or \$3,722,384; and

WHEREAS, the NEVP project contractor, USS Cal Builders, is approximately 80% complete with the contract work on the project and significant progress has been made along the N. Harbor Drive and W. Broadway roadways and within the North and South Promenade area along the waterfront; and

WHEREAS, with this progress, significant challenges have been encountered resulting in necessary changes to the project scope of work and wherein these challenges began early in the construction of the project, some challenges continue to this date; and

WHEREAS, some of the challenges were addressed in May 2013 with BPC action that authorized an increase in contract time in the amount of 243 calendar days and compensation in the amount of \$571,050; and

WHEREAS, that increase addressed all project challenges encountered up to January 31, 2014; and

WHEREAS, since then additional challenges have been encountered, all due to the need to address constructability and functionality issues; and

WHEREAS, because the project is approaching completion and to avoid the risk of increased delay due to the time required to seek BPC authorization for each change order, staff proposes an increase in the Executive Director's change order execution authority from the current 20% of the original contract amount to 30% of the original contract amount; and

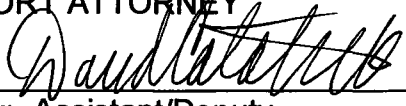
WHEREAS, the additional 10% change order execution authority will result in an increase of \$1,861,192 from the current not to exceed contract amount of \$22,333,284 to a new not to exceed contract amount of \$24,195,476; and

WHEREAS, the new baseline schedule proposed to be implemented into the USS Cal Builders contract will increase contract time by 140 calendar days, an amount less than the staff recommended change order execution authority; and

WHEREAS, this will result in a contract completion date change from the current completion date of May 14, 2014 to a revised completion date of September 30, 2014.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District hereby authorizes the increase to the Executive Director's change order execution authority from 20% to 30% of the original contract amount of \$18,611,920 for Contract No. 2009-13.

APPROVED AS TO FORM AND LEGALITY:
PORT ATTORNEY


By: ~~Assistant~~ Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 6th day of May 2014, by the following vote:


AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama

NAYS: None.


EXCUSED: None.

ABSENT: None.

ABSTAIN: None.


Robert E. Nelson, Chairman
Board of Port Commissioners

ATTEST:


Laura Nicholson
Deputy District Clerk

(Seal)