

**RESOLUTION 2014-87**

**RESOLUTION AUTHORIZING THE EXECUTIVE  
DIRECTOR'S CHANGE ORDER EXECUTION  
AUTHORITY FOR CONSTRUCTION CONTRACT  
NUMBER 2009-13 WITH USS CAL BUILDERS TO  
ALLOW A DEFERRAL OF LIQUIDATED DAMAGES  
TO A DURATION OF 30 CALENDAR DAYS AFTER  
PROJECT COMPLETION**

**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 (CPCC) apply to public projects of the District; and

**WHEREAS**, the District adopted the Uniform Public Construction Cost Accounting Act (Accounting Act) procedures of the CPCC 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**, pursuant to Resolution 2014-86 adopted by the BPC on May 6, 2014 the BPC authorized an increase to the contract time for Contract No. 2009-13 with USS Cal Builders, Inc. for a completion date not to go beyond October 15, 2014; and

**WHEREAS**, liquidated damages equal \$5,000 per calendar day for each day beyond the contract completion date that it takes for the contractor to complete the contract work; and

**WHEREAS**, typically the contractor would demand more time or compensation to cover this liquidated damages risk; and

**WHEREAS**, staff proposes a deferral of the start of liquidated damages for a 30 calendar day duration after contract completion to achieve an earlier completion date and reduced compensation costs; and

**WHEREAS**, if the start of liquidated damages is deferred, the contractor will remain motivated to complete the project by contract completion to avoid non-compensable extended overhead costs for work beyond the completion date.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Port Commissioners of the San Diego Unified Port District hereby authorizes the Executive Director's change order execution authority for Construction Contract Number 2009-13 with USS Cal Builders to allow a deferral of liquidated damages to a duration of 30 calendar days after project completion.

APPROVED AS TO FORM AND LEGALITY:

PORT ATTORNEY



By: ~~Assistant~~ Deputy

2014-87

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 6<sup>th</sup> 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.



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Robert E. Nelson, Chairman  
Board of Port Commissioners

ATTEST:



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Laura Nicholson  
Deputy District Clerk

(Seal)