

RESOLUTION 2016-111

**RESOLUTION AUTHORIZING STAFF TO ENTER
INTO A CONDITIONAL AGREEMENT WITH THE
DEPARTMENT OF TRANSPORTATION FOR A
\$10,000,000 TIGER GRANT (GRANT NO.
DTMA91G1600003)**

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, the Board of Port Commissioners (BPC) adopted BPC Policy No. 110 to establish a policy governing the processing and administration of public projects, consulting and service agreements, the purchasing of supplies, materials, and equipment, and grants; and

WHEREAS, on June 2, 2015, the District submitted an application for a Transportation Infrastructure Generating Economic Recovery (TIGER) grant (Grant) for the "Tenth Avenue Marine Terminal Transit Shed Demolition and Initial Rail Component Project" (Project); and

WHEREAS, on October 30, 2015, the District was notified that the application had been selected for a \$10,000,000 award for the Project; and

WHEREAS, the Project consists of the following components: (1) demolition of two obsolete and underutilized transit sheds (Transit Sheds #1 and #2), located adjacent to the terminal's primary vessel berths; (2) relocation of staff and replacement of restrooms; (3) grading and paving of the newly-created open area; (4) new and reconfigured site utilities and lighting at the newly-created open area; (5) installation of infrastructure to support future electrification on the terminal; and (6) installation of rail airbrake testing and maintenance equipment; and

WHEREAS, the total estimated cost of the Project is \$24,000,000, with \$10,000,000 to be funded by the United States Department of Transportation (DOT) in the form of the TIGER Grant, and the remainder to be funded by the District; and

WHEREAS, the District and DOT have negotiated a draft conditional agreement (Conditional Agreement) to dictate the distribution of the grant funds; and

WHEREAS, the Conditional Agreement provides an anticipated schedule as follows:

- July 27, 2016: Conditional Grant Agreement Acceptance and Capital Improvement Program Amendment
- July 28, 2016: Begin design for demolition of Transit Shed #1
- November 8, 2016: BPC consideration of the an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) and potential certification of the EIR, approval of the Project and associated entitlements/permits
- February, 2017: Complete final design for demolition of Transit Shed #1
- June, 2017: Grant Deadline to obligate funds and commence demolition of Transit Shed #1
- September 2017: Begin design for demolition of Transit Shed #2 and rail improvements
- March 2018: Complete design for demolition of Transit Shed #2 and rail improvements
- September, 2018: Commence demolition of Transit Shed #2, followed by construction of rail improvements
- March, 2020: Anticipated Project Completion
- September 2022: Grant deadline for Project completion and close-out; and

WHEREAS, among the conditions precedent to receive the TIGER Grant funds in the consideration and approval of environmental review, and it is the District's interpretation of the draft Conditional Agreement that no grant funding can or will occur until after certification of the EIR, which is the intent of the parties; and

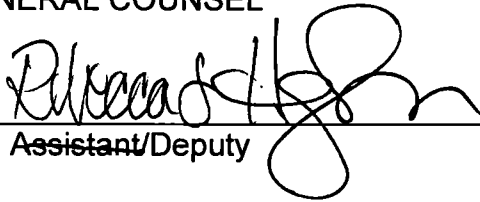
WHEREAS, pursuant to the draft Conditional Agreement, the District and BPC retains sole and absolute discretion to, among other things (i) prepare, adopt, or disapprove the CEQA analysis; (ii) adopt any and all feasible mitigation measures to lessen potentially significant environmental effects; (iii) modify the project, adopt any alternatives to the project, including the "no project" alternative, and adopt or refuse to adopt a Statement of Overriding Considerations, if applicable, in connection with the CEQA process; and

WHEREAS, pursuant to the Conditional Agreement, DOT agrees that the agreement does not commit the BPC or any other entity to take, or to not take, any action in connection with CEQA or guarantee approval of the CEQA analysis or other entitlements/permits necessary to implement the Project; therefore, the BPC maintains the ability to reject the Project and the grant money would not be distributed if that is the case; and

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

That the Executive Director or her designated representative is hereby authorized and directed on behalf of the San Diego Unified Port District to enter into the conditional agreement, entitled "Grant Agreement Under The Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235 December 16, 2014) for the National Infrastructure Investments Discretionary Grant Program (FY 2015 TIGER Discretionary Grants) San Diego Unified Port District the Tenth Avenue Marine Terminal Modernization Project MARAD FY 2015 TIGER Grant No. DTMA91G1600003 – \$10,000,000.00" as approved by the Board of Port Commissioners of the San Diego Unified Port District or in substantial form thereto; provided, however, as a condition of this approval, disbursement of TIGER Grant funds shall not occur until after certification of an Environmental Impact Report (EIR) and entering into said agreement shall not limit the District's ability to objectively consider the EIR, adopt all feasible mitigation measures, alternatives, including the "no project alternative," and Statement of Overriding Considerations, if applicable.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL



By: ~~Assistant~~ Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 27th day of July, 2016, by the following vote:

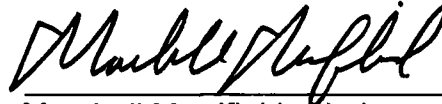
AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

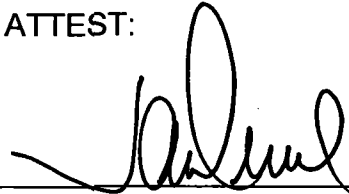
ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)