

RESOLUTION NUMBER R- 288452

ADOPTED ON MAR 17 1997

WHEREAS, on June 21, 1994, the City of San Diego ("City") and the San Diego Unified Port District ("Port") entered into a Memorandum of Understanding (a copy of which is on file in the Office of the City Clerk as Document No. RR-284126) by which the City and the Port agreed to finance and construct an expansion to the San Diego Convention Center (the "Project"); and

WHEREAS, on April 11, 1995, by Ordinance No. O-18170, the Project was first added to the Capital Improvements Program ("C.I.P.") in the City's annual budget; and

WHEREAS, on February 20, 1996, the City Council ("Council"), by Resolution No. R-286956, approved and authorized the City Manager to enter into a contract, the form of which is on file in the Office of the City Clerk as Document No. RR-286956-2, to establish the design and construction of the Project with Golden Turner (the "Design Build Contract"), for a Guaranteed Maximum Price ("GMP") not to exceed \$168 million; and

WHEREAS, on March 5, 1996, by Ordinance No. O-18270, the Council approved the financing leases and other documentation which fixed the method for financing the Project by the issuance of Lease Revenue Bonds ("Bonds"), including the formation of the Convention Center Expansion Financing Authority ("CCEFA"), a joint powers authority created and existing pursuant to state law and empowered to issue the Bonds; and

WHEREAS, also on March 5, 1996, by Ordinance No. O-18271, the Council approved a First Restated and Amended Management Agreement which provided for the means by which the City and the Port would manage and operate the expanded Convention Center for the life of the Bonds; and

WHEREAS, on March 5, 1996, the Board of Commissioners of the Port thereafter

approved all of the agreements and documents necessary to formalize the expansion financing and construction; and

WHEREAS, pursuant to the above referenced authorizations the CCEFA was formed, and in May of 1996 approved all of the agreements and documents necessary to carry out the financing of the Project, and adopted a budget of \$194.8 million for the Project; and

WHEREAS, the City's FY 1997 Capital Improvements Program, adopted as part of the FY 1997 Budget by Ordinance No. O-18328, included a budget for the Project of \$196.2 million; and

WHEREAS, the time within which to file a referendum petition on any of the Council actions related to the Project has now passed; and

WHEREAS, on May 5, 1996, Richard Rider and other individuals (collectively, "Rider") filed a lawsuit (the "litigation") challenging the validity of the financing for the Project; and

WHEREAS, the validity of the financing has been upheld in the litigation by the San Diego Superior Court and the Fourth District Court of Appeal, and is now before the California Supreme Court on Rider's petition for review; and

WHEREAS, the litigation has delayed performance under the agreements and documents already authorized, and set forth above, thus increasing the costs of fulfilling the agreements and completing the Project as approved by millions of dollars, including but not limited to, the cost of structural steel; and

WHEREAS, a decision from the California Supreme Court that will deny Rider's petition for review and allow the Project to proceed is anticipated; and

WHEREAS, certain additional administrative acts are necessary to carry out the Council's previously approved plan for expansion of the Convention Center; and

WHEREAS, it is the express intention of the City Council that any documents attached as Exhibits hereto, incorporated herein by reference or on file in the Office of the City Clerk

comprise, together with the text of this Resolution, the full action of the Council and are necessary for a full understanding of the Council's actions; and

WHEREAS, in the course of constructing major capital improvements the City routinely retains a special inspection consultant to confirm compliance with project specifications and Code requirements; and

WHEREAS, in connection with the Project the City has identified the firm of Law/Crandall & Associates, Inc. to act as special inspection consultant; and

WHEREAS, the project budget of \$196.2 million included \$850,000 for the purposes of special inspection and the \$500,000 increase is included in the amendment to the Appropriation Ordinance; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager be and he is hereby authorized to enter into a final agreement with Law/Crandall & Associates, Inc., special inspection consultant, the form of which is on file in the office of the City Clerk as Document No RR-288452-1, in an amount not to exceed \$1,350,000, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that funds necessary for such expenditure are or will be on deposit in the City Treasury.

APPROVED: CASEY GWINN, City Attorney

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