

RESOLUTION NUMBER R- 313490

DATE OF FINAL PASSAGE APR 14 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING FINAL CONTRACT CHANGE
ORDER NO. 5 WITH WEST COAST GENERAL CORPORATION
IN CONNECTION WITH THE 101 ASH STREET
IMPROVEMENT PROJECT.

WHEREAS, the Council of the City of San Diego (City Council) approved a lease-to-own agreement in October 2016 for the 101 Ash Street Building; and

WHEREAS, the lease-to-own agreement was to provide the City with a long-term solution for employee office space occupancy in non-City owned facilities; and

WHEREAS, the City needed to do some tenant improvements in the building to accommodate as many City employees as possible; and

WHEREAS, staff presented a report to the City Council on June 18, 2018, that included four tenant improvement options for how the 101 Ash Street Building could be occupied: Option 1 – to do no tenant improvements, Option 2 – to do only the first floor, Option 3 – to do five floors of the building, and Option 4 – to do all 19 floors; and

WHEREAS, the City Council authorized staff to go out to bid with Option 3 (five floors of tenant improvements) as the base bid, and to include an additive alternate to do tenant improvements to all 19 floors of the building (Option 4); and

WHEREAS, on August 7, 2018, the bids were brought back to City Council, and at that meeting it was decided to move forward with awarding the base bid plus the additive alternate, to do tenant improvements to all 19 floors; and

WHEREAS, following the City Council's direction, the City entered into construction contract K-18-1586-DBB-3-A with West Coast General Contractors (WCGC) for tenant improvements on all 19 floors at 101 Ash Street (Project) in the amount of \$17,080,261.00; and

WHEREAS, construction on the Project began September 25, 2018; and

WHEREAS, WCGC made claims under their contract to the City for additional compensation due to differing site condition and extra work; and

WHEREAS, the City has compensated WCGC for portions of the extra work added to the Project with Change Orders 1 – 4, which total \$1,348,242.63; and

WHEREAS, for the claim of differing site conditions, the City knew there was asbestos in the 101 Ash Street building, and that information was included in the contract with WCGC, but the contract documents did not convey the condition of the asbestos prior to starting the Project; and

WHEREAS, due to the condition of the asbestos in the 101 Ash Street building, WCGC had to do significantly more work and expend more time than had been agreed to in their contract; and

WHEREAS, the Parties participated in non-binding mediation under the terms of the WCGC contract to try and reach a resolution of the claims brought by WCGC on the Project; and

WHEREAS, as a result of that mediation, WCGC has agreed to settle all issues, claims, and disputes filed by them against the City on this Project in exchange for payment by the City to WCGC in the amount of \$1,395,000.00; and

WHEREAS, in Closed Session on February 9, 2021, the City Council by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, and 9; Nays, District 8; Absent, None, approved the settlement of WCGC's claims against City on this Project consistent with the amount set forth below; and

WHEREAS, by agreeing to pay Final Contract Change Order No. 5, the City is not waiving any potential claims or regulatory fines against WCGC; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the Mayor, or his designee, is authorized to execute, for and on behalf of the City, Final Contract Change Order No. 5 with West Coast General Contractors for an amount not to exceed \$1,395,000.00, on file with the Office of the City Clerk as Document No.

RR- 313490, contingent upon the Chief Financial Officer furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

2. That the Chief Financial Officer is authorized to increase the Capital Improvements Program Budget in CIP S-17009, 101 Ash Improvements, and to appropriate and expend \$1,415,405.13 from Fund 400868, Tobacco Revenue Settlement Bond Funding, for the purpose of funding Final Contract Change Order No. 5 and related Project costs.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Christina L. Rae
Christina L. Rae
Deputy City Attorney

CLR:cw
03/12/21
04/09/21 COR. COPY
Or.Dept: Engineering & Capital Projects
CC No.: JE 102509800
Doc. No.: 2630465

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego,
at its meeting of 04/13/2021.

ELIZABETH S. MALAND
City Clerk

By /s/ Connie Patterson
Deputy City Clerk

Approved: 4/14/21
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING DEPT. NO. CC JE 102509800

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \$1,415,405.13

Purpose: To reserve current funding availability from Tobacco Bond Fund for S-17009 101 Ash Street Improvements Project Final Contract Change Order #5. Individual Comptrollers Certificates will be issued at the time that contracts are executed.

Date: March 16, 2021 By: *Na Reys*
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	Original Amount
1	S-17009	400868		330081	OTHR-00000000-GG	1613	1613000012		\$1,415,405.13
TOTAL AMOUNT									\$1,415,405.13

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: _____

Vendor: _____

Purpose: _____

Date: _____ By: _____
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	Original Amount
See Attachment for Accounting Data									
TOTAL AMOUNT									

Passed by the Council of The City of San Diego on APR 13 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 14 2021

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

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