

RESOLUTION NUMBER R- 313491

DATE OF FINAL PASSAGE APR 14 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO AUTHORIZING FINAL CONTRACT CHANGE  
ORDER NO. 1 WITH ARGUS CONTRACTING LP IN  
CONNECTION WITH WORK DONE AT THE 101 ASH  
STREET BUILDING.

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 (101 Ash); and

WHEREAS, the City of San Diego (City) took possession of 101 Ash in January 2017;  
and

WHEREAS, the City hired West Coast General Corporation to begin Tenant Improvements at 101 Ash in September 2018 (Tenant Improvement Project); and

WHEREAS, during construction of the Tenant Improvement Project it became evident that other operation and maintenance (O&M) work, outside the scope of the Tenant Improvement Project, needed to occur on site simultaneously; and

WHEREAS, Argus Contracting LP (Argus) was hired by the City to provide asbestos abatement support to the O&M contractors doing work on the building; and

WHEREAS, originally Argus was hired under a Purchase Order (PO) for an amount not to exceed \$23,955.00; and

WHEREAS, it became apparent by October 2019, that the City would need additional O&M work in the building and would require Argus to perform more abatement services, so the City executed contract M-20-0013 with Argus in an amount not to exceed \$184,450.00 (Argus Agreement); and

WHEREAS, the City then requested that Argus do even more work beyond the scope of the Argus Agreement, and the City agreed to pay for that extra work on a time and material (T&M) basis; and

WHEREAS, Argus has claims against the City for unpaid T&M tickets and the cost of scaffolding that was installed in the building, so the parties engaged in non-binding mediation under the terms of the Argus Agreement to try and resolve their disputes; and

WHEREAS, Argus was able to provide all the T&M tickets and invoices for the work and the scaffolding that totaled \$408,673.98, in compensation they claim is due to them; and

WHEREAS, the City reviewed and verified all the T&M tickets and invoices to ensure they were accurate; and

WHEREAS, as a result of the mediation, Argus has agreed to settle all issues, claims, and disputes filed by them against the City on the Argus Agreement, in exchange for payment by the City to Argus in the amount of \$408,643.98; 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; and Absent, None, approved the settlement of Argus' claims against the City consistent with the amount set forth below; and

WHEREAS, by agreeing to pay Final Contract Change Order No. 1, the City is not waiving any potential claims or regulatory fines against Argus; 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. 1 with Argus Contracting LP for an amount not to exceed \$408,643.98, on file with the Office of the City Clerk as Document No. RR-313491 ,

contingent upon the Chief Financial Officer first furnishing one or more certificates 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 expend \$408,643.98 from Internal Order No. 21004751, Fund 100000, General Fund, to fund this Final Change Order No. 1.

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.: 3000013906  
Doc. No.: 2630435

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.: 300013906  
 0912

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: \_\_\_\_\_ Fund: \_\_\_\_\_

Purpose: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_

COMPTROLLER'S DEPARTMENT

| ACCOUNTING DATA |      |                |                |                 |             |               |             |     |                 |
|-----------------|------|----------------|----------------|-----------------|-------------|---------------|-------------|-----|-----------------|
| Doc. Item       | Fund | Funded Program | Internal Order | Functional Area | G/L Account | Business Area | Cost Center | WBS | Original Amount |
|                 |      |                |                |                 |             |               |             |     |                 |
|                 |      |                |                |                 |             |               |             |     |                 |
|                 |      |                |                |                 |             |               |             |     |                 |
|                 |      |                |                |                 |             |               |             |     |                 |
| TOTAL AMOUNT    |      |                |                |                 |             |               |             |     |                 |

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: \$408,643.98

Vendor: Argus Contracting

Purpose: To award a maintenance contract Final Contract Change Order #1 for Argus Contracting.

Date: March 19, 2021 By: Jennifer Sandoval 

COMPTROLLER'S DEPARTMENT

| ACCOUNTING DATA |        |                |                |                  |             |               |             |     |                 |
|-----------------|--------|----------------|----------------|------------------|-------------|---------------|-------------|-----|-----------------|
| Doc. Item       | Fund   | Funded Program | Internal Order | Functional Area  | G/L Account | Business Area | Cost Center | WBS | Original Amount |
| 1               | 100000 | NON-PROGRAM    | 21004751       | OTHR-00000000-GG | 512025      | 9912          | 9912001112  |     | \$408,643.98    |
|                 |        |                |                |                  |             |               |             |     |                 |
|                 |        |                |                |                  |             |               |             |     |                 |
|                 |        |                |                |                  |             |               |             |     |                 |
| TOTAL AMOUNT    |        |                |                |                  |             |               |             |     | \$408,643.98    |

FUND OVERRIDE

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  
Resolution Number R- 313491