RESOLUTION NUMBER R- 313491 DATE OF FINAL PASSAGE APR 1 4 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-toown 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.

That the Chief Financial Officer is authorized to expend \$408,643.98 from 2. 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 TODD GLORIA, Mayor

The City of San Diego COMPTROLLER'S CERTIFICATE

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted. Amount: Fund:	HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted. Fund:					CERTIFICATE	or ottoacco.	TED DALA	-102	ORIGINATING DE	300001390 97. 92: 9912
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THENTICATED BY:		May	TODD GL	
THENTICATED BY.		May	or of the city of Sa	an Diego, California.
			ELIZABETH S.	. MALAND
(Seal)		City Cl	erk of The City of	San Diego, California
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