

Re Authorization to Enter Into]
]
 Purchase Agreement with]
]
 Cochran, Inc.]
 _____]

RESOLUTION 2009-129

WHEREAS, pursuant to Resolution 2008-215, adopted 7 October 2008, the Board of Port Commissioners (Board) of the San Diego Unified Port District (District) authorized and directed the Executive Director of the District or his authorized representative to execute, on behalf of the District, an Agreement and any related documents necessary to accept grant funds under the 2008 Carl Moyer Grant Program from the County of San Diego Air Pollution Control District (APCD), in the amount of Two Million Four Hundred Thousand Dollars (\$2,400,000.00), with respect to the emission reduction project known as the Cruise Ship Terminal Shore Power Installation, said Agreement is on file in the office of the District Clerk as Document No. 54985; and

WHEREAS, pursuant to Resolution 2008-216, adopted 7 October 2008, the Board authorized District staff to negotiate with Cochran Electric for purposes of developing terms, covenants, conditions and costs necessary for providing the installation of the electrical equipment and public works infrastructure in connection with shore power infrastructure for the B Street and Broadway Piers in the City of San Diego, and that results of said negotiations would be reported to the Board and a decision made at a later date regarding authorization of an Agreement; and

WHEREAS, pursuant to said Resolution 2008-216, the Board waived the provisions of BPC Policy 110 relating to selection of a firm from a recommended list as provided in said Policy; and

WHEREAS, in the event the District receives a written commitment from said APCD to extend its Agreement for grant funds, it is recommended that the District enter into a Purchase Agreement with Cochran, Inc., a Seattle corporation, (listed above as Cochran Electric) for Complete Shore Power System Equipment in the amount of Two Million Six Hundred Fifty Eight Thousand Three Hundred Ninety Five Dollars and Ninety Three Cents (\$2,658,395.93); and

WHEREAS, the Board hereby finds that the authorization of an Agreement with Cochran, Inc. is considered a sole source Agreement and authorizes the Executive Director or his authorized representative to enter into a Purchase Agreement with Cochran, Inc. for Complete Shore Power System Equipment, 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 his authorized representative is hereby authorized to enter into a Purchase Agreement, on behalf of the District, with Cochran, Inc., a Seattle corporation, for Complete Shore Power System Equipment for Cruise Ships at the B Street and Broadway Piers in the City of San Diego, for a maximum expenditure not to exceed Two Million Six Hundred Fifty Eight Thousand Three Hundred Ninety Five Dollars and Ninety Three Cents (\$2,658,395.93), said funds to be disbursed in accordance with the terms, covenants and conditions contained in said Purchase Agreement, on file in the office of the District Clerk; provided, however, said authorization is conditioned upon the District receiving a written commitment from said APCD extending its Agreement for grant funds and that said extension is acceptable to both the Port Attorney and Executive Director of the District. In the event said extension is not received or is not acceptable to both the Port Attorney and Executive Director of the District, the authorization to enter into a Purchase Agreement with Cochran, Inc. is hereby null and void and of no further force or effect.

BE IT FURTHER RESOLVED that the Board hereby acknowledges that in accordance with the Software Escrow Agreement, attached to said Purchase Agreement

as Exhibit B, and Addendum thereto, attached to said Purchase Agreement as Exhibit C, the District shall indemnify and hold harmless Escrow Associates, LLC (Escrow Agent) from any and all liability, damages, costs, or expenses including reasonable attorney's fees, which may be sustained or incurred by the Escrow Agent as a result of the taking action, in accordance with the terms, conditions and covenants of said Software Escrow Agreement, and in particular Paragraph 12, Indemnification and Limitation of Liability of Escrow Agent.

ADOPTED this 7th day of July, 2009.

sw
7/7/09

San Diego Unified Port District

Office of the Clerk

CERTIFICATION OF VOTE

Passed and adopted by the Board of Port Commissioners of the San Diego Unified Port District on July 7, 2009, by the following vote:

<u>Commissioners</u>	<u>Yeas</u>	<u>Nays</u>	<u>Excused</u>	<u>Absent</u>	<u>Abstained</u>
Michael Bixler	X				
Lee Burdick	X				
Stephen P. Cushman	X				
William A. Hall	X				
Scott H. Peters	X				
Robert J. Spane	X				
Robert Valderrama	X				

AUTHENTICATED BY:


 Chairman of the Board of Port Commissioners

MARY ANN LINER
 Clerk of the San Diego Unified Port District

By: 
 Deputy District Clerk

(Seal)

Resolution Number: 2009-129

OR

Ordinance Number: _____

Adopted: July 7, 2009