

DRAFT**RESOLUTION 20xx-xxx**

RESOLUTION REJECTING ALL BIDS RECEIVED ON DECEMBER 19, 2019, FOR CONTRACT NO. 2019-34 FOR THE SAN DIEGO-CORONADO BAY BRIDGE ARTISTIC LIGHTING MOCK-UP TEST AND AUTHORIZING AGREEMENT NO. 10-2020MA WITH SOUTHERN CONTRACTING COMPANY IN THE AMOUNT OF \$744,692 FOR THE SAN DIEGO-CORONADO BAY BRIDGE ARTISTIC LIGHTING MOCK-UP TEST IN ACCORDANCE WITH BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 110, SECTIONS II AND III. FY20 EXPENDITURES ARE BUDGETED, AND WILL BE FUNDED FROM THE PUBLIC ART FUND AS NEEDED, WHICH WILL BE REIMBURSED/REPLENISHED FROM DONATIONS AND IN-LIEU PERCENT FOR ART CONTRIBUTIONS AS THEY ARE RECEIVED PURSUANT TO BPC POLICY NO. 608

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I, (Port Act); and

WHEREAS, overwater mock-up field testing (Lighting Mock-Up) is necessary to create a project description for the San Diego-Coronado Bay Bridge Lighting Project (Bridge Lighting Project) and to commence environmental review in accordance with the California Environmental Quality Act (CEQA) for the permanent Bridge Lighting Project; and

WHEREAS, the Lighting Mock-Up has been developed to test and demonstrate the lighting design on three concrete bridge piers near the center of the span in mid-2020; and

WHEREAS, a summary of the contractor's principal responsibilities under this contract include, but are not limited to: (1) procurement, installation, and removal of LED luminaires, wires, connections, lighting control systems, and wireless transmitters/receivers on bridge piers 16 through 18; (2) pre- and on-site field support to ensure all equipment is fully commissioned, tested, and programmed; (3) supply of temporary power to the luminaires; (4) operation and control of luminaires for seven consecutive nights; and (5) continuous comprehensive support throughout the duration of the testing and demonstration period; and

WHEREAS, after the Lighting Mock-Up, staff will create a project description

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for CEQA review based on the results of the test, which may include altering what was used in the testing; and

WHEREAS, upon BPC authorization of this agreement, procurement of long-lead-time materials for the Lighting Mock-up is expected to commence in March 2020; and

WHEREAS, the duration of the Lighting Mock-up is being planned for a period of seven consecutive nights during the hours between dusk and midnight from Monday, June 29, to Saturday, July 4, 2020; and

WHEREAS, all luminaires and equipment installed for the Lighting Mock-up will be removed from the Bridge within seven days after the testing is completed; and

WHEREAS, a public work bid for the San Diego-Coronado Bay Bridge Mock-up Test, Specification No. 2019-34, was advertised on November 20, 2019; and

WHEREAS, on December 19, 2019, three (3) bids were received ranging from \$755,755.00 to \$1,189,774.00.00; and

WHEREAS, the apparent low bid and the highest bid were determined to be non-responsive with respect to the requirements of the Specification; and the middle bid, as well as the highest bid, exceeded the allotted budget for the Lighting Mock-up; and

WHEREAS, bids received from HMS Construction, Inc. (low bidder) and Power Pro Plus, Inc. (high bidder) were deemed to be non-responsive because the bidders did not submit documentation as set forth in the Specification related to experience with artistic luminaries; and

WHEREAS, bids from Southern Contracting Co. and Power Pro Plus exceeded the amount budgeted for the Lighting Mock-up; and

WHEREAS, based on review of the bids, the lowest responsive and responsible bidder was determined to be submitted by Southern Contracting Co. at \$1,066,500.00; and

WHEREAS, the engineer's construction cost estimate was \$700,000; and

WHEREAS, after issuing the initial public works bid, staff has determined that the temporary mock-up using non-permanent attachments which will be removed as part of this project at the conclusion of the mock-up does not require public works bidding processes for the project; and

WHEREAS, while the strict formalities and low-bid award generally required

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for public works projects does not apply to the project, BPC Policy No. 110 still provides requirements for competitive bidding of service agreements and purchase of goods; and

WHEREAS, the process used in the public works bidding on this project satisfies the requirements of Board Policy No. 110, sections II and III, in this case; and

WHEREAS, funds for the Lighting Mock-Up are available in the Waterfront Arts & Activation Department FY20 NPE budget and, on a reimbursable basis, from the District's Public Art Fund; and

WHEREAS, funding of Bridge Lighting Project, including testing, CEQA review and other entitlements, is intended to be from charitable contributions from businesses, organizations and individuals; tenant percent-for-art contributions received pursuant to BPC Policy 608, and grants; and

WHEREAS, the proposed BPC action for a resolution authorizing a directly negotiated agreement for the San Diego-Coronado Bay Bridge Artistic Lighting Mock-up test is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities) and 15306 (Information Collection) and Section 3.a. of the District's Guidelines for Compliance with CEQA because the project in question would involve no expansion of use beyond that previously existing and would not result in a serious or major disturbance to an environmental resource; and

WHEREAS, a CEQA Exemption was previously issued for this project on June 4, 2019 (2019-090) and the proposed project is consistent with the project analyzed in the Categorical Determination; and

WHEREAS, the proposed BPC action is not a separate "project" for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist. (2012) 206 Cal.App.4th 1036.); and

WHEREAS, the Lighting Mock-up does not commit the District to Bridge Lighting Project and does not constitute an approval of the same;

WHEREAS, the BPC reserves all its discretion to conduct CEQA review for the Bridge Lighting Project and adopt all mitigation measures, CEQA alternatives, including the no project alternative, a statement of overriding considerations, if required and/or disapprove the Bridge Lighting Project or condition the Bridge Lighting Project; and

WHEREAS, the project site is within the CDP jurisdiction of the CCC and on October 16, 2019 the California Coastal Commission (CCC) authorized issuance of

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a Coastal Development Permit (CDP) for the temporary installation of artistic programmable light-emitting diode lights ranging from 2,400 to 3,000 Kelvin on three center piers and lighting testing for a period of seven consecutive nights (CDP 6-19-0438); and

WHEREAS, the proposed BPC direction or action complies with sections 21, 35, and 81 of the Port Act, which allow for the BPC to pass resolutions, to do all acts necessary and convenient for the exercise of its powers, and to use District funds for expenses of conducting the District; and

WHEREAS, staff recommends adopting a resolution to reject all bids in order to close out the public works bidding process; and

WHEREAS, staff has negotiated an agreement with Southern Contracting Company, the one responsive and qualified bidder with a reduced scope which allows the District to achieve a Lighting Mock-up within the project budget; and

NOW THEREFORE, BE IT RESOLVED by the Board of Port Commissioners (BPC) of the San Diego Unified Port District that all bids received on December 19, 2019 for Contract No. 2019-34 for the San Diego-Coronado Bay Bridge Artistic Lighting Mock-Up Test are hereby rejected.

FURTHER BE IT RESOLVED that the BPC finds that the Lighting Mock-Up is within the scope of the CEQA exemption previously issued and, hereby authorizes the Executive Director or her designee to enter into an agreement with Southern Contracting Company, in the amount of \$744,692 for the San Diego-Coronado Bay Bridge artistic lighting mock-up test.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11th day of February 2020, by the following vote: