

ORIGINAL

San Diego Unified Port District

Document No. **55457**Filed **SEP 02 2009**
Office of the District Clerk**SAN DIEGO UNIFIED PORT DISTRICT
SERVICE AGREEMENT FOR****B Street and Broadway Piers Shore Power System Maintenance and Support**

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and Cochran, Inc., a Seattle corporation (Service Provider).

Recitals:

The District desires to enter into an Agreement with Service Provider for B Street and Broadway Piers Shore Power System Maintenance and Support per terms of this agreement and Scope of Work in Section B.

The Parties Agree:

1. **TERM OF AGREEMENT:** This Agreement shall commence **August 7, 2010** and shall terminate on May 31, 2013 subject to earlier termination as provided below.
2. **SCOPE OF SERVICES:**
 - (a) Service Provider agrees to provide the services to the District by the commencement date specified in strict conformity with the specifications therefore, for the prices quoted and in accordance with conditions herein.
 - (b) The Service Agreement includes Section B (Scope of Work), Attachment 1 (Exemplar Certificate of Insurance), and Attachment 2 (Compensation and Invoicing) attached herein and by reference made part of this Agreement.
3. **FEE:** For performance of services rendered pursuant to this Agreement, District will pay Service Provider a fee based on the following, subject to the limitation of the maximum expenditure provided herein:
 - (a) **Payment Amount.** For performance of all services, District will pay Service Provider a fee not to exceed the following amounts: Year One not to exceed amount is Two Hundred Ten Thousand Two Hundred Ninety Nine Dollars (\$210,299); Year Two not to exceed amount is Two Hundred Sixty Seven Thousand One Hundred Eighty Six Dollars (\$267,186); Year Three not to exceed amount is Two Hundred Eighty Thousand Four Hundred sixty Dollars (\$280,460); for a TOTAL not to exceed amount of Seven Hundred Fifty Seven Thousand Nine Hundred Forty Five Dollars (\$757,945). See Section B for breakdown of these amounts. Payments for services rendered in accordance with this paragraph will be based on the services actually completed.
 - (b) **Payment Documentation.** Each month, as a prerequisite to payment for services, Service Provider shall invoice District for services performed and authorized by this Agreement and incurred in the prior month, accompanied by such records and receipts as required.
 - (c) Said not to exceed amount shall include without limitation all sums, charges, reimbursements, costs and expenses provided or herein.
4. **SERVICE PROVIDER'S RECORDS:** In accordance with generally accepted accounting principles, Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of the District at all reasonable times in the City of San Diego and such records shall be kept for at least three years after the termination of this Agreement.
Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been

resolved, whichever is later. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any payments due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S COMPLIANCE:** In performance of this Agreement, Service Provider shall comply with the California Fair Employment and Housing Act and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of race, color, national origin, sexual orientation, religion, age, gender, or disability. Service Provider shall comply with provisions of Labor Code Section 1720 as applicable. Service Provider shall comply with all Federal and State laws and District statutes, ordinances and regulations applicable to the performance of the services under this Agreement, as it now exist or may be added or amended.
6. **INDEPENDENT ANALYSIS:** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of the District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.
7. **SERVICE PROVIDER'S SUB-CONTRACTORS:** It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's sub-contractors shall be subject to prior written approval by District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's sub-contractors. Service Provider shall compensate each Service Provider's sub-contractors in the time periods required by law. Any Service Provider's sub-contractors employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's sub-contractors satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.
8. **ASSIGNMENT:** This is a personal services Agreement between the parties. Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of Executive Director of District in each instance.
9. **INDEMNIFICATION:** To the fullest extent provided by law with respect to all liability, the Service Provider agrees to defend, indemnify, protect, and hold harmless the District, its agents, officers, and employees, from and against any claim, demand, action, proceeding, suit or liability for damages, cost (including reasonable attorney fees) or expenses for damages to property or the loss of use thereof or injuries or death to any person (including Service Providers employees), caused by, arising out of, or related to the performance of Service Provider as provided in the Scope of Services, or failure to act by the Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend indemnify, protect, and hold harmless shall not include any claims or liabilities arising from the active negligence, sole negligence, or willful misconduct of the District, its agents, officers, or employees. The Service Provider further agrees that the indemnification, including the duty to defend the District, requires the Service Provider to

pay reasonable attorney fees and costs the District incurs that are associated with enforcing the indemnification provision, and defending any claims, demands, or liabilities arising from the services of the Service Provider performed pursuant to this agreement. The District may, at its own election, conduct its defense, or participate in the defense of any claim demand related in any way to the agreement. If the District chooses as its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any claim, demand or liability related to Service Provider's Scope of Services, the Service Provider agrees to pay the reasonable value of attorneys fees and all of the Districts cost.

10. **INSURANCE REQUIREMENTS:** Service Provider and each sub-contractor shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

- (a) Commercial General Liability (including, without limitation, Contractual Liability, Personal and Advertising Injury, and Products/Completed Operations) coverage, with the coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage.
 - (1) The deductible or self-insured retention on this Commercial General Liability shall not exceed \$5,000 unless District has approved of a higher deductible or self-insured retention in writing.
 - (2) The commercial general liability policy shall be endorsed to include the District, its agents, officers and employees as additional insured's in the form as required by the District. An exemplar endorsement is attached.
 - (3) The coverage provided to the District, as an additional insured shall be primary.
- (b) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than two million dollars (\$2,000,000) per accident for bodily injury and property damage.
- (c) Worker's Compensation in statutory required limits and Employer's Liability in an amount of not less than one million dollars (\$1,000,000) per accident for bodily injury or disease. This policy shall be endorsed to include a waiver of subrogation endorsement.

Service Provider shall furnish District with certificates of insurance coverage for all the policies described above the execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in the form acceptable to the District, an exemplar Certificate of Insurance is attached as Attachment 1 and made part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be in 10 days, all such certificates shall indicate that the insurer must notify District in writing at least 30 days in advance of any change of, or any change in, the stated coverages of insurance.

The Certificate of Insurance must delineate the name of the insurance company affording coverage and policy number(s) specifically referenced to each type of insurance, either on the fact of the certificate or an attachment hereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

Furnishing insurance specified herein by the District will in no way relive or limit of any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement and will contain standard industry terms, conditions and exclusions.

Special Instructions:

A Certificate of Insurance in a form acceptable to the District, an exemplar of which is attached, evidencing the existence of the required insurance policies and original endorsements effecting coverage required shall be kept on file with the District.

Mail the Certificate and Endorsements to:

Procurement Services Department
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488

11. **INDEPENDENT CONTRACTOR:** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.
12. **ADVICE OF COUNSEL:** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules.
13. **INDEPENDENT REVIEW:** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.
14. **INTEGRATION AND MODIFICATION:** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.
15. **TERMINATION:** In addition to any other rights and remedies allowed by law, the Executive Director of District may terminate this Agreement at any time with or without cause by giving 30 days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall, at the option of District, be delivered by Service Provider to District at the District administration office

building. Termination of this Agreement by Executive Director as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

16. **DISPUTE RESOLUTION:** If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, sub-contractors and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

17. **PAYMENT BY DISTRICT:** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the work performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the

express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

18. **CAPTIONS:** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.
19. **SIGNATURE OF PARTIES:** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director or authorized designee on behalf of the District and by the Service Provider.

APPROVED AS TO FORM AND LEGALITY:

W.S. Mont

Port Attorney

DEPUTY PORT ATTORNEY

SERVICE PROVIDER:

Cochran, Inc

Service Provider's Legal Entity Listing (DBA, etc)

LeeAnn Cochran

Service Provider's Signature

LeeAnn Cochran 8/14/09

Signatory's Printed Name

Date

SAN DIEGO UNIFIED PORT DISTRICT:

Garnet D. Thompson Director, Procurement Services
Printed Name Title

Garnet D. Thompson 9/1/09
Signature Date



SAN DIEGO UNIFIED PORT DISTRICT PROCUREMENT SERVICES DEPARTMENT

SCOPE OF SERVICES:

1. Cost of Work to the District.

- a. Cochran will furnish all services set forth in the below Scope of Work on an hourly basis with a not-to-exceed amount (unless noted otherwise) for each year of this three-year agreement for the amount as set forth in Section A. The breakdown of these amounts is as follows:

1) Year One (2010 – 2011) Annual Support

- A) Initial Technical Support, Commissioning and Testing: Technical Support work includes the following:

- Provide consultation for the coordination and seamless integration of all electrical related project components for proper, complete and operational shore power system during the construction phase.
- Provide on-site support including field observations to verify the site installation conforms to the requirements for a complete and operational shore power system (maximum of 10 each 1-day trips to the site).
- Provide technical support for the installing contractor as required to assure a complete and operational shore power system.
- Provide consultation for assurance of complete closeout and turnover documentation.
- Provide testing and certification documents.
- Provide orientation for the use of the shore power system.

Total for Item A): (Lump sum amount*): \$41,607*

B) Annual Connection Support based in Seattle (not-to-exceed amount): \$44,359

C) Annual Connection Support based in San Diego (not-to-exceed amount): \$124,333

Total Year One: \$210,299

2) Year Two (2011 – 2012) Annual Support

A) Re-Commissioning and Testing (Lump sum amount*): \$43,042*

B) Annual Connection Support based in Seattle (not-to-exceed amount): \$65,969

C) Annual Connection Support based in San Diego (not-to-exceed amount): \$158,175

Total Year Two: \$267,186

3) Year Three (2012 – 2013) Annual Support

A) Re-Commissioning and Testing (Lump sum amount*): \$43,664*

B) Annual Connection Support based in Seattle (not-to-exceed amount): \$70,763

C) Annual Connection Support based in San Diego (not-to-exceed amount): \$166,033

Total Year Three: \$280,460

The total not-to-exceed amount for this Three-Year Service Agreement is \$757,945.

* Lump sum amount applies only to installation phase Technical Support and Year One, Year Two, and Year Three Commissioning, Re-Commissioning and Testing services. Commissioning,

Re-Commissioning and Testing lump sum price includes all costs associated with the commissioning, re-commissioning and testing services including but not limited to subcontractor(s), Cochran personnel, travel and transportation, tools and equipment, computer and telecommunications, photography, printing copying, reproductions, and overhead and fee.

Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the not-to-exceed Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

- b. There is no requirement for performance and payment bonds.
- c. The District may, at it's option, perform any or all portions of the Annual Connection Support work based in San Diego (physical connection and disconnection of shore power system to cruise ships).
- d. If required or requested, additional System repairs, upgrades, or maintenance will be furnished upon the District's approval, and at additional cost as incurred.
- e. The above not-to-exceed prices are based on the hourly rates as listed below. At the District's option, additional services may also be provided on a time and materials basis, with the applicable rates for such services as listed below.

(i) Cost of labor employed in the work: Such cost shall include wages on a straight time or overtime basis, payroll taxes, employee benefits, insurances, vehicle expenses (other than car rental expenses), tolls, local transportation, normal tools and equipment, film, postage, facsimiles, computer usage, printing, normal copying and document reproduction, telecommunications, photography, computer usage, and overhead and fee.

Personnel employed in the work will be invoiced and paid at the rates shown for the term of the work in which employed. These hourly rates shall remain the same regardless of the actual quantity of ship calls utilizing shore power each year.

Personnel Category	2010-2011 Price per Hour	2011-2012 Price per Hour	2012-2013 Price per Hour
Professional Engineer	\$200.00	\$212.00	\$224.72
Division Manager	\$183.00	\$193.98	\$205.62

Project Manager	\$144.00	\$152.64	\$161.80
Project Assistant	\$71.00	\$75.26	\$79.78
Electrician – Straight Time (non-USL&H)	\$104.16	\$110.41	\$117.03
Electrician – Straight Time (USL&H)	\$137.38	\$145.63	\$154.36
Electrician – Time and 1/2 (USL&H)	\$172.83	\$183.20	\$194.19
Electrician – Double Time (USL&H)	\$208.28	\$220.78	\$234.03

2. Scope of Work.

Annual Ship Call Support Based on 119 Ship Calls utilizing shore power per Year:

- Ship call support planning based on current and future planned ship call schedules
- Automation system monitoring of installed shore power equipment
- Support of scheduled ship calls as noted above (physical connection and disconnection of shore power system to cruise ships)
- Service availability via a site-assigned local 24-hour telephone number, for emergencies; critical equipment repair or servicing; non-critical service scheduling; utility notification of power disconnection or supply reduction; ship call for emergency disconnection; and ship call for connection rescheduling
- 24-hour on-call maintenance and repair service available on request and at additional cost as incurred
- Automatic generation of reports regarding ship connection, disconnection, power consumption and other parameters of interest (per original template set-up)

- Development and submission of a list of required and/or recommended additional maintenance, repairs, and/or upgrades
- Performance of additional maintenance, repairs or upgrades upon the District's approval and at additional cost as incurred
- Performance of other basic recommended system maintenance

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Annual Management Support:

- Home office administrative and management support
- Preparation of a System-specific Annual Commissioning Plan
- Preparation of the Seasonal Support Plan, including ship scheduling and requirements
- Preparation of the System-specific Annual Decommissioning Plan
- Provision and management of local 24-hour service availability
- Automation system software maintenance and upgrades

Annual Re-Commissioning and Testing**:

- Performance of an annual relay coordination study
- Inspection of removable cable-positioning device(s) and portable ship cables
- Annual inspection and cleaning of the Shore Power System equipment
- Comprehensive annual System testing, including required third-party testing
- Documentation of performance and verification of annual System re-commissioning

** Service Provider shall coordinate and obtain District authorization prior to start of each re-commissioning and testing service.

Confidential and Proprietary Information. Information supplied by Cochran under this Agreement, such as testing and commissioning plans, operation and maintenance manuals, etc. shall be considered confidential and proprietary, and shall not be disclosed to third-parties.

Limitation on Scope of Work. The scope of work for this Agreement is limited to the Shore Power System as described herein and does not include other equipment or facilities of the District.

Annual Re- Commissioning and Testing Plan. The Annual Re-Commissioning and Testing Plan will be based on the original project Testing and Commissioning Plan, with any necessary updates and revisions at the discretion of Cochran Marine.

Regulatory Permits/Inspection Fees. No cost has been included for regulatory permits or associated inspection fees. If such permits or fees are required, Cochran will be reimbursed for all costs incurred in securing such permits and such costs will not be subject to the not-to-exceed price.

Permanent Power. The District will make permanent power available, at no additional cost, for annual testing and commissioning. This Agreement does not include any charges by the local utility for power connection or consumption.

40-Hour Work Week. Performance of all testing and commissioning work is based on a forty (40) hour workweek, Monday through Friday. Equipment maintenance and repair services will be available, if requested, on a 24-hour, 7-day per week schedule, and at additional cost as noted above.

Idle Time. Idle time incurred by Cochran or its service contractor(s) during work on site and attributable to the District, such as absence of required escorts; inability to enter workspaces;

interfering port operations without adequate notice; and security lockdowns shall be reimbursable by the District at cost.

Records: Cochran shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection and made available to the District at all reasonable times in San Diego, California, and such records shall be kept for at least three (3) years after the termination of this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

Annual Testing. Cochran will specify and supervise the performance of annual testing in order to ensure that all equipment installed or connected under the original Purchase Agreement is operational within the specified tolerances and in accordance with the System specifications.

Test Reports. Following the completion of annual testing, Cochran will provide complete results to the District. In conjunction with these test reports Cochran may make recommendations to the District for system equipment repairs, modifications, upgrades, or replacements. Critical work essential for system safety and performance will be so noted. At the District's request, Cochran will provide price quotations to perform such work on an additional cost basis.

Cochran's Subcontractors. It may be necessary for Cochran to subcontract for the performance of certain services under this Agreement. Cochran shall remain responsible to the District for any and all services and obligations required under this Agreement, whether performed by Cochran or its subcontractors. Cochran shall compensate each subcontractor in the time periods required by law. Any of Cochran's subcontractors shall be independent contractors and not agents of the District. Cochran shall insure that its subcontractors satisfy all substantive requirements for the work set forth by this Agreement.

Listed below are the firms that the District has approved as Cochran's subcontractors to provide services under this Agreement:

<u>NAME OF FIRM</u>	<u>TYPE OF SERVICES PROVIDED</u>
Power Studies.com	Relay Protection Coordination
Power Testing	3rd Party Equipment Testing
NovaTech	Automation Integrators

SIGNED _____

PRINT NAME _____

PHONE _____

Lee Ann Cochran
Lee Ann Cochran
606-367-1905

GARNET D. THOMPSON
 DIRECTOR, PROCUREMENT SERVICES

FORM UPD - 109 (REV. 10-08)

NOTE - THE SAN DIEGO UNIFIED PORT DISTRICT IS SUBJECT TO PROVISIONS OF THE COMBINED STATE AND CITY SALES AND USE TAX, BUT IS EXEMPT FROM FEDERAL EXCISE TAX AND WILL FURNISH EXEMPTION CERTIFICATES UPON REQUEST. DO NOT INCLUDE FEDERAL EXCISE TAX IN YOUR BID.

ATTACHMENT 1

CERTIFICATE OF INSURANCE

San Diego Unified Port District

ONLY THIS CERTIFICATE OF INSURANCE WILL BE ACCEPTED UNLESS SERVICE PROVIDER CAN DEMONSTRATE THAT ALTERNATE CERTIFICATE SATISFIES SPECIFIED INSURANCE REQUIREMENTS

By signing this form, the authorized agent or broker **certifies** the following:

- (1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.
- (2) As required in the Insured's Agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage noted on page 2 of this certificate.
- (3) Signed copies of **all** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: San Diego Unified Port District

Attn: Linda Wikstrom, Audit, Risk Management & Safety

P. O. Box 120488, San Diego, CA 92112-0488

FAX: 866-875-1993

Name and Address of Insured (Contractor or Vendor)			SDUPD Agreement Number _____ This certificate applies to all operations of named insureds property in connection with all Agreements between the District and Insured.	
CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability Occurrence Form Claims-made Form Retro Date _____ Liquor Liability Deductible/SIR: \$ _____		Commencement Date: _____ Expiration Date: _____	Each Occurrence: \$ _____ General Aggregate: \$ _____
	Commercial Automobile Liability <input type="checkbox"/> All Autos <input type="checkbox"/> Owned Autos <input type="checkbox"/> Non-Owned & Hired Autos		Commencement Date: _____ Expiration Date: _____	Each Occurrence: \$ _____
	Workers Compensation – Statutory Employer's Liability		Commencement Date: _____ Expiration Date: _____	E.L. Each Accident \$ _____ E.L. Disease Each Employee \$ _____ E.L. Disease Policy Limit \$ _____
	Professional Liability - <input type="checkbox"/> Claims Made Retro-Active Date _____		Commencement Date: _____ Expiration Date: _____	Each Claim \$ _____
	Excess/Umbrella Liability		Commencement Date: _____ Expiration Date: _____	Each Occurrence: \$ _____ General Aggregate: \$ _____
CO LTR	COMPANIES AFFORDING COVERAGE			BEST'S RATING
A				
B				
C				
D				
A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or Better unless Approved in Writing by the District.				
Name and Address of Authorized Agent(s) or Broker(s)			E-Mail Address: _____	
			Phone: _____ Fax Number: _____	
			Signature of Authorized Agent(s) or Broker(s) _____ Date: _____	

**SAN DIEGO UNIFIED PORT DISTRICT
REQUIRED INSURANCE ENDORSEMENT**

<u>ENDORSEMENT NO.</u>	<u>EFFECTIVE DATE</u>	<u>POLICY NO.</u>
NAMED INSURED:		
GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES): All written Agreements, contracts and leases with the San Diego Unified Port District and/or any and all activities or work performed on District owned premises.		

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.
2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.
3. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.
4. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation, change in coverage, reduction of limits or non-renewal. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, Agreements or exclusions of the policy(ies) to which this endorsement applies.

(NAME OF INSURANCE COMPANY)

(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

**MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION,
LIMIT REDUCTIONS, AND CHANGES IN COVERAGE TO:**

San Diego Unified Port District
Audit, Risk Management & Safety
P.O. Box 120488
San Diego, CA 92112-0488

**ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District**

I. COMPENSATION:

For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

- A. Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Each invoice shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification;
Other Direct Costs.

- B. Service Provider services shall be invoiced in accordance with the rates as identified in Section B – Scope of Services

C. **Reimbursable Expenses**

Sub-Contractor Costs 2% mark-up
Reimbursable Travel Related Costs At Cost (zero mark-up)

The following shall be considered part of the fully burdened hourly rates stated in this Agreement: vehicle expenses (other than car rental expenses), tolls, film, postage, facsimiles, computer usage, printing, normal copying and document reproduction, telecommunications, photography, computer usage and all other costs and expenses incurred in completing such services.

Reimbursement for other direct costs in excess of \$50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

II. INVOICING:

- A. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records and receipts as required.

Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

- 1) Agreement No. XX-2009
- 2) If applicable, the Task Authorization(s) (TA) number being charged.

- 3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. 55457, and that payment has not been received."

- 4) Dates of service provided
5) Date of invoice
6) A unique invoice number

District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

- B. Invoices shall be mailed to the attention of: Richard Ybarra, Contract Administrator, Procurement Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.
- C. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.
- D. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.
- E. Service Provider shall indicate on last invoice submitted for payment: FINAL INVOICE.

(2)

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

**REFERENCE
COPY**

55457

RESOLUTION 2009-136

WHEREAS, pursuant to Resolution 2009-129, adopted 7 July 2009, the Executive Director of the San Diego Unified Port District (District) or his authorized representative was 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); and

WHEREAS, said authorization to enter into a Purchase Agreement was conditioned upon the District receiving a written commitment from said APCD to extend its Agreement for grant funds and that said extension was 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 said Purchase Agreement with Cochran, Inc. is null and void and of no further force or effect; and

WHEREAS, in the event the District receives a written commitment from said APCD extending its Agreement for grant funds, the District further desires to enter into a Service Agreement with said Cochran, Inc. to provide B Street and Broadway Piers Shore Power System Maintenance and Support for a period of Three (3) Years, 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 Service Agreement to provide B Street and Broadway Piers shore Power System Maintenance and Support, on behalf of the District, with Cochran, Inc., a Seattle corporation, for a period of Three (3) Years, commencing June 1, 2010, and ending May 31, 2013, subject to earlier termination, for a fee not to exceed Two Hundred Ten Thousand Two Hundred Ninety Nine Dollars (\$210,299.00) for the first year of said Agreement, a fee not to exceed Two Hundred Sixty Seven Thousand One Hundred Eighty Six Dollars (\$267,186.00) for the second year of said Agreement, and a fee not to exceed Two Hundred Eighty Thousand Four Hundred Sixty Dollars (\$280,460.00) for the third year of said Agreement, for a total maximum expenditure not to exceed Seven Hundred Fifty Seven Thousand Nine Hundred Forty Five Dollars (\$757,945.00), said services to be performed in accordance with the terms, covenants and conditions contained in said Agreement, on file in the office of 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 Service Agreement with Cochran, Inc. is hereby null and void and of no further force or effect.

ADOPTED this 7th day of July, 2009.

sw
7/7/09

(8)

AGENDA ITEM 29ABCD

SAN DIEGO UNIFIED PORT DISTRICT

**REFERENCE
COPY**

DATE: July 7, 2009

55457

SUBJECT: CRUISE SHIP TERMINALS SHORE POWER PROJECT:

- A) RESOLUTION AUTHORIZING ALLOCATION OF FUNDS IN THE AMOUNT OF \$3,600,000 TO FULLY FUND THE IMPLEMENTATION OF THE PROJECT FROM THE FY 09-13 CAPITAL DEVELOPMENT PROGRAM CONTINGENCY FUND AND ENVIRONMENTAL FUND; AND**
- B) RESOLUTION AUTHORIZING AN EQUIPMENT PURCHASE AGREEMENT WITH COCHRAN, INC. IN THE NOT TO EXCEED AMOUNT OF \$2,658,395.93, AND GRANTING INDEMNITY TO ESCROW AGENT; AND**
- C) RESOLUTION AUTHORIZING A CONSTRUCTION PHASE CONSULTING SERVICES AGREEMENT WITH COCHRAN, INC. IN THE NOT TO EXCEED AMOUNT OF \$203,028; AND**
- D) RESOLUTION AUTHORIZING A THREE-YEAR MAINTENANCE SERVICES AGREEMENT WITH COCHRAN, INC. IN THE NOT TO EXCEED AMOUNT OF \$757,945**

EXECUTIVE SUMMARY:

In December 2007, the California Air Resources Board (CARB) adopted a regulation to reduce diesel particulate emissions from ships while docked at berth by January 1, 2014. To conform with CARB requirements and continue the cruise ship business beyond 2013, the Port of San Diego must provide shore power at the cruise terminals (located at B Street and Broadway Piers) in accordance with the regulations.

The District allocated \$1,000,000 in the FY 09-13 Capital Development Program (CDP) for the shore power project and began looking for funds to fully cover the project cost, estimated at \$7,000,000. The District was awarded \$2,400,000 in Carl Moyer grant funds contingent upon the shore power system being operational by May 31, 2010. With this grant, the project funding shortfall is \$3,600,000. Staff is requesting that the Board allocate funding to cover this shortfall, and suggesting that the funding come from the CDP 5-Year Contingency and the uncommitted Environmental Funds.

In an attempt to assure proven expertise in cruise ship shore power design and installation, staff identified six (6) major agreements required to implement the project in a timely manner. The Board has authorized two (2) of these agreements to provide design for the project. Staff is requesting award of another two (2) of the six (6) major agreements by this Board Action. These two (2) agreements include equipment purchase and construction coordination.

In addition, staff thinks it appropriate to ensure that the ongoing operational costs of the shore power system are known and funded. For this reason staff is requesting that the

**ACTION TAKEN: 07-07-2009 - A- No vote. B Resolution 2009-129. C- Failed.
D 2009-136**

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Board approve the necessary operation and maintenance contract. The term of the operation and maintenance contract is three (3) years.

RECOMMENDATION:

A) Resolution authorizing allocation of funds in the amount of \$3,600,000 to fully fund the implementation of the project from the FY 09-13 Capital Development Program Contingency fund and Environmental fund; and

B) Resolution authorizing an equipment purchase agreement with Cochran, Inc. in the not-to-exceed amount of \$2,658,395.93, and granting indemnity to the escrow agent; and

C) Resolution authorizing a construction phase consulting services agreement in the not-to-exceed amount of \$203,028; and

D) Resolution authorizing a three (3) -year maintenance services agreement with Cochran, Inc. in the not-to-exceed amount of \$757,945.

FISCAL IMPACT:

The total funding necessary for the Cruise Ship Terminal Shore Power Project is estimated below:

Total Shore Power Project	\$7,000,000
Current CDP Budget	\$1,000,000
Carl Moyer Grant	\$2,400,000
Shortfall	<\$3,600,000>

This shortfall is based on successfully extending the Carl Moyer grant deadline for an additional 7 months, from May 31, 2010, to December 31, 2010, which is still three (3) years before the State regulation compliance deadline of January 1, 2014.

Staff is suggesting that this funding shortfall be allocated to the project from two sources:

1. \$2,000,000 from the available \$3,205,000 in the 5-Year CDP Contingency; and
2. \$1,600,000 from the \$2,047,793 available as uncommitted Environmental Funds.

Environmental Services staff have indicated that this allocation of funding will allow all on-going projects to continue, and also allow the award of projects in the coming fiscal year associated with the recent Request for Proposals being considered by the Environmental Advisory Committee.

Staff is also pursuing alternative funding sources including Federal grants, SDG&E/Sempra funding, and possibly other State grants for this project. If successful, these funds will be allocated to specifically fund this project.

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Furthermore, according to SDG&E the District will be eligible for reimbursement of the \$2,000,000 they are charging to provide the required electric service for the project within five (5) to six (6) years of operation. This reimbursement is provided through the annual refund program in accordance with SDG&E's electrical tariff and California Public Utility Commission rules. The SDG&E reimbursement could be used to partially restore one or both of these funds over the five (5) to six (6) year period.

Operation and maintenance of the system is estimated to cost \$252,000 annually. Staff will work with the cruise lines to implement a program or tariff that will recover approximately \$150,000 of the maintenance and operational cost annually. The necessary funds will be budgeted in the annual operating budget.

COMPASS STRATEGIC GOALS:

This project allows cruise ships to reduce emissions while docked at berth enhancing and sustaining a dynamic waterfront, improving district and regional environmental conditions, developing a high level of public understanding regarding the emissions reduction which builds trust in the Port, and ensuring a safer environment for people, property and cargo.

This agenda item supports the following Strategic Goal(s).

- ☐ Promote the Port's maritime industries to stimulate regional economic vitality.
- ☒ Enhance and sustain a dynamic and diverse waterfront.
- ☒ Protect and improve the environmental conditions of San Diego Bay and the Tidelands.
- ☒ Ensure a safe and secure environment for people, property and cargo.
- ☒ Develop and maintain a high level of public understanding that builds confidence and trust in the Port.
- ☐ Develop a high-performing organization through alignment of people, process and systems.
- ☐ Strengthen the Port's financial performance.
- ☐ Not applicable.

DISCUSSION:

Background

In December 2007, the California Air Resources Board (CARB) adopted a regulation to reduce diesel particulate emissions from cruise ships while at berth. Providing shore side power will allow the vessels at berth to shut-down their diesel-powered electricity generators, thus reducing emissions. Under the State regulation, shore power infrastructure must be operational by January 1, 2014 to accommodate at least 50% of cruise calls, and escalates to 80% of cruise calls by 2020.

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In February of 2008, the District allocated \$1,000,000 in the FY 09-13 Capital Development Program for the Cruise Ship Terminal shore power system, and began looking for funds to fully cover the project costs, estimated at \$7,000,000 in total. On August 6, 2008 the Port was awarded a Carl Moyer Grant from the San Diego Air Pollution Control District in the amount of \$2,400,000 for the project. However, the grant required that the shore power system be in place and operational by May 31, 2010.

After the grant was awarded, staff began studying options to implement the project. It was determined that:

- Cruise ships are a 12 megawatt electrical load.
- The shore side electrical service would be provided by connecting directly into the electrical utility grid.
- Shore power must be quickly connected and disconnected from a cruise ship since the typical turnaround is 8 hours.
- The process must be transparent to the passengers aboard the ship, and the ship's electrical systems must remain energized throughout the process. There cannot be even a momentary "dark" period as the transition from ship to shore power occurs.

Extensive staff research indicated that only one service provider has completed a project with these requirements, a firm named Cochran, Inc., who had accomplished a similar project in Seattle Washington. At the October 2008 Board Meeting, the Commissioners authorized waiving Board Policy 110 and authorized staff to negotiate sole source agreements with Cochran, Inc. for procurement of services and components for the electrical Cruise Ship Terminal shore power system. Staff's instruction was to provide the Board the results of these negotiations, along with a recommendation to authorize the needed agreements at a later date.

Based upon the Board direction, staff identified six (6) major agreements necessary to complete the Cruise Ship Terminal Project. Each of the six (6) agreements require individual Board approval. For clarity, all six (6) agreements are again listed below, even though the Board has approved the first two (2) agreements;

Agreement One - Design Coordination Services by Cochran - Consultant services for design coordination of various components of the overall project. This contract was approved by the Board at the December 2008 meeting in the amount of \$152,000. This work is proceeding on schedule.

Agreement Two - Consultation Services for the Overall Design of the Shore Power System Infrastructure - This work includes overall design and preparation of construction bid documents for the complete Cruise Ship Terminal shore power system incorporating the equipment to be provided by Cochran. Engineering Partners, the recommended Electrical Engineering consultant for the project, was selected through a competitive Request for Qualification process. An agreement in

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the amount of \$252,000 was approved by the Board in March 2009. This work is proceeding on schedule.

Agreement Three - Equipment Purchase Agreement with Cochran - Electrical equipment integrated as a system such that it automatically synchronizes the power supply with the ship's electrical needs. In December 2008 the Board authorized the use of a sole-source procurement for this item. This purchase has been negotiated in the amount of \$2,658,395.93. It is recommended that this agreement be approved by this Board Action.

Agreement Four - Construction Coordination by Cochran - This is a consultant services agreement negotiated in the amount of \$203,028 with Cochran, Inc. for coordination during construction, start-up, and commissioning of the system. It is recommended that this agreement be approved by this Board Action.

Agreement Five - Construction Contract (Public Works) - The work includes construction of the Cruise Ship Terminal shore power system - complete in place. This work includes all trenching, conduit runs, pier work, fencing, etc, and physically incorporates the equipment that will be provided by Cochran into the project. This work is currently estimated to cost approximately \$1,800,000. Once the design work associated with agreement two (2) above is complete, this work will be competitively bid and the contract brought before the Board for award. It is estimated that this will occur in March/April 2010.

Agreement Six - SDG&E New Service - This is an agreement with SDG&E to provide the needed 12 megawatt of power at the site. This work is estimated to cost \$2,000,000 in design and infrastructure improvements. SDG&E has indicated that the design will cost \$50,000. If the Board approves the Agenda item today, staff will enter into the SDG&E design agreement immediately for the \$50,000. Once SDG&E has designed the project and finalized their cost estimates, staff will present the infrastructure improvement agreement to the Board for consideration.

It is aggressively estimated that the work as outlined above will require 17 months to complete. Based upon the Board approving all four (4) items in this Agenda Sheet, with Agreements 5 and 6 to follow, it is estimated that the project will be complete in late October 2010.

Current Agenda Recommendations

ITEM A – ALLOCATION OF FUNDS:

The total cost to complete the project based on the implementation plan and estimates as outlined above, is \$7,000,000. Of this amount \$1,000,000 has been budgeted in the FY 2009-13 CDP, and another \$2,400,000 is available through the Carl Moyer Grant. This leaves a funding shortfall of \$3,600,000.

To cover this shortfall, staff recommends that the Board consider allocating \$2,000,000 from the available \$3,205,000 in the CDP Contingency Fund, and \$1,600,000 from the

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\$2,047,793 available in uncommitted Environmental Fund, to cover the budget shortfall and fully fund the Cruise Ship Terminal Shore Power Project.

Based upon the schedule as presented above, the completion date of May 31, 2010 as required in the Carl Moyer Grant is not likely. If the Carl Moyer Grant is not available due to the schedule, the funding shortfall to provide shore power to the cruise ship terminal is \$6,000,000 (\$2,400,000 + \$3,600,00). If we are successful in getting the Carl Moyer Grant deadline extended the shortfall is \$3,600,000.

The CARB approving the Carl Moyer program requires that the project be operational by January 1, 2011, three (3) years before the regulatory requirement of January 1, 2014. Additionally, the CARB requires San Diego Air Pollution Control District (SDAPCD) to expend program funds by June 30, 2010. Therefore, SDAPCD requires the Port to complete the project and expend its funds by May 31, 2010. Please note that there is an opportunity to extend the grant deadline by the needed seven (7) months and still meet the three (3) year early compliance requirement. However, staff's efforts to date to get the grant deadline extended have not been successful. While the SDAPCD awarded the grant, the CARB has the authority to allow an extension.

The funding recommendation is based upon the deadline being extended and the Carl Moyer Grant funding being available. Staff will continue efforts to seek the extension. Staff will also continue efforts to offset the shortfall by seeking other grant funds as this project is implemented.

Finally, based upon the estimated power consumption of 120 cruise calls annually, SDG&E has established energy rates that result in a cost of approximately \$10,000 per eight (8) hour cruise ship visit. Visiting ships will be responsible for the cost of electricity. SDG&E has indicated that the District will be eligible for reimbursement of the \$2,000,000 that the utility company will charge to provide the required electrical service. SDG&E estimates that the District will be fully reimbursed in five (5) to six (6) years. Reimbursement is provided through the annual refund program in accordance with SDG&E's electrical tariff and California Public Utilities Commission rules. The SDG&E reimbursement could be used to partially restore one or both of these funds over the five (5) to six (6) year period.

ITEM B – EQUIPMENT PURCHASE AGREEMENT:

Staff has negotiated an agreement for the purchase of the shore power equipment that includes the following major equipment:

- Primary Electrical Equipment including main circuit breaker, control battery, protection relays, transition section to transformer, and equipment enclosure.
- Transformer with 20 megawatt capacity, dual voltage output, and cooling equipment.
- Secondary Electrical Equipment including capacitor circuit breaker, dual voltage breakers, rated disconnects for each ship connection, transition section from transformer, and equipment enclosure.

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- Ground Switches at each ship connection point (3 each) with rated disconnect switch, rated ground switch and equipment enclosure.
- Cable Management System at each ship connection point (3 each) with removable jib crane assembly, socket casing/receptacle to support removable jib crane, cable management drum and reel system, power hoist with controls, ship connection cables, and deck mount plug receptacle connector box.

The equipment purchase agreement includes an end-user software license agreement which protects the proprietary nature of the software controlling the electrical equipment and a software escrow agreement that protects the rights of the end-user for access to the software. As a part of the software escrow agreement, the District and Cochran Inc. agree to indemnify the escrow agent for damages as a result of carrying out the terms of the escrow agreement. We believe this is reasonable given the fact that the escrow agent will merely hold software and produce it to the District if the other parties go out of business.

The lump sum cost for providing the shore power equipment is \$2,658,395.93. This cost was reached after negotiations between staff and Cochran, Inc. and compares favorably with the existing shore power system in Seattle and San Francisco.

ITEM C – CONSTRUCTION PHASE CONSULTANT SERVICES AGREEMENT:

Staff has negotiated a consultant services agreement for the construction phase of the Shore Power Project with Cochran, Inc. The following services are included in this agreement:

- Construction Phase services for consultation for the coordination and seamless integration for all of the project components during the construction phase for the Shore Power Project.
- Startup and Commissioning Phase services for the consultation and oversight for a complete startup and commissioning process for the Shore Power Project.
- Closeout and Turnover Phase services for the consultation and oversight for the complete closeout and turnover documentation, testing and certification documentation, and orientation and training for the use of the shore power system.

The negotiated not to exceed amount for the construction phase consultant service agreement is \$203,028.

ITEM D – SERVICE AGREEMENT FOR MAINTENANCE AND OPERATIONAL SUPPORT:

Staff has negotiated a three-year service agreement with Cochran Inc. for the annual maintenance and operational support required for the shore power system that includes the following services:

- Seasonal Ship Call Support – Ship call support planning, automation system monitoring, connection and disconnection support, 24-hour phone support for

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emergencies/repair/service/scheduling/utility coordination/rescheduling, and automatic reporting of system status and events.

- Management Support – Home office management support, prepare of annual commissioning plan, prepare ship scheduling and requirements support plan, prepare annual re-commissioning plan, provide and manage 24-hour service resource list, maintain and upgrade automated system software.
- Annual Testing and Commissioning – Perform annual relay coordination study, inspect and clean shore power equipment, provide third party testing, and perform annual system re-commissioning, perform basic recommended system maintenance, develop list of required maintenance/repairs/upgrades, perform off-season maintenance/repairs/upgrades.

The cost for maintenance and operational support is an annual not-to-exceed average amount of \$252,648. Staff will work with the cruise lines to implement a program or tariff that will recover approximately \$150,000 of the maintenance and operational cost annually. The cost for three (3) years of service is a total not to exceed amount of \$757,945. These funds will be budgeted in the annual operating budget. At that time, the District can consider options to determine if the functions can be brought in-house or should remain contracted.

Port Attorney's Comments:

The Port Attorney has reviewed and approved the requested documents for form and legality. The Port Attorney's office is working with staff to facilitate the appropriate level of environmental review and has advised as to the appropriate procedure for legal compliance. The Port Attorney's office also concurs that the indemnity provision for the escrow agent is appropriate.

Environmental Review:

The CEQA process for the implementation of the shore power project, of which this item is a component, is underway. The onsite construction and installation activities will not proceed until CEQA is complete and a Coastal Development Permit has been issued.

Equal Opportunity Program:

Not applicable.

PREPARED BY: Stephen Kirkpatrick, Chief Engineer, Engineering/Construction
Mahmoud Akhavain, Manager, Engineering/Construction