

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION FINDING THE FOLLOWING BOARD ACTION EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), INCLUDING BUT NOT LIMITED TO, CEQA GUIDELINES SECTIONS 15301, 15303, 15304, 15306, and 15311 FOR THE DISTRICT'S BLUE ECONOMY INCUBATOR HYPERKELP PILOT PROJECT**

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, the District's Blue Economy Incubator (BEI) assists in the creation, development and scaling of new Blue Economy business ventures in and around San Diego Bay; and

WHEREAS, the program acts as a launch pad for sustainable aquaculture and Port-related blue tech ventures by removing barriers to early-stage companies and providing key assets and support services focused on pilot project facilitation; and

WHEREAS, BEI pilot project proposals are reviewed following a four-step cross-departmental due diligence process, culminating in a staff recommendation to the Board of Port Commissioners; and

WHEREAS, the review and selection process balances each proposal's potential social and environmental benefit, alignment with the District's core mission and Public Trust obligation, as well as potential financial return on investment; and

WHEREAS, to date, the District has approved the launch of nine (9) pilot projects, and a reinvestment in seaweed aquaculture, with projects ranging from shellfish nursery operations; copper remediation technology; a drive-in Boatwash; a smart marina application; a marine debris removal vessel; seaweed aquaculture; bio-enhancing shoreline armoring; a new approach to soil remediation in marine environments, and a real-time field-testing sensor device for stormwater monitoring; and

WHEREAS, staff is now recommending the Board authorize a pilot project with HyperKelp Inc. to demonstrate a pilot to develop, test, and validate a smart buoy platform tailored for various port monitoring applications for a total amount not to exceed \$250,000 for two years; and

WHEREAS, in exchange for District's funding and other assistance,

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HyperKelp will pay District a revenue share consisting of various percentages of gross revenue over time up to a maximum \$1,750,000; and

WHEREAS, the proposed BPC action, including without limitation, to authorize an agreement with HyperKelp to begin a two year pilot project which would include the deployment of five buoys to test and validate a tailored smart buoy platform for various Port monitoring applications including, dissolved copper concentrations, underwater noise levels, atmospheric carbon dioxide concentrations, and water quality, is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations to Land), 15306 (Information Collection), and 15311 (Accessory Structures), and Sections 3.a. (1), 3.c., 3.d. (6), 3.f., 3.i. (1) of the District's Guidelines for Compliance with CEQA because the project would consist of deploying buoys for the purposes of monitoring underwater activities that would result in no permanent effects on the environment, and would not involve the removal of mature, scenic trees and is for the purpose of basic data collection/research/experimental management/resource evaluation activities which would not result in a serious or major disturbance to an environmental resource; and

WHEREAS, the District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2); and

WHEREAS, the proposed BPC action complies with Section 87.(a)(1) of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operations of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation; and

WHEREAS, the proposed BPC action is consistent with the Port Act and, accordingly, the Public Trust Doctrine; and

WHEREAS, the proposed BPC action is considered excluded development pursuant to Section 8.a: Existing Facilities; Section 8.c: New Construction or Conversion of Small Structures; Section 8.d: Minor Alterations to Land; and Section 8.e: Information Collection, of the District's Coastal Development Permit Regulations because the project would consist of deploying buoys for the purposes of monitoring underwater activities to test and validate a tailored smart buoy platform for various Port monitoring applications as described earlier that would involve negligible or no expansion of use beyond that previously existing, would involve negligible or no change of existing use of the property, would not involve the removal of mature, scenic trees, and would not result in a serious or major significant disturbance to an environmental resource; and

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WHEREAS, if the BPC approves this action, District staff would notify California Coastal Commission (CCC) staff in accordance with Coastal Act Section 30717; and

WHEREAS, the approval would become effective after the 10th working day after notification to CCC staff, unless an appeal is filed with the CCC within that time frame; and

WHEREAS, staff recommends the BPC (1) adopt a resolution finding the BPC action exempt under the CEQA including but not limited to, CEQA Guidelines sections 15301, 15303, 15304, 15306, and 15311; and (2) authorize an agreement under the Blue Economy Incubator with HyperKelp Incorporated for a 2-year pilot project to develop, test, and validate a smart buoy platform tailored for various Port monitoring applications for a total amount not to exceed \$250,000.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners (BPC) of the San Diego Unified Port District, as follows:

1. The BPC finds the facts recited above are true and further finds that this BPC has jurisdiction to consider, approve and adopt the subject of this Resolution.

2. Based on the entire record available to the BPC and the findings set forth in this Resolution, the BPC finds that an agreement with HyperKelp to begin a two year pilot project which would include the deployment of five buoys to test and validate a tailored smart buoy platform for various Port monitoring applications including, dissolved copper concentrations, underwater noise levels, atmospheric carbon dioxide concentrations, and water quality, is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations to Land), 15306 (Information Collection), and 15311 (Accessory Structures), and Sections 3.a. (1), 3.c., 3.d. (6), 3.f., 3.i. (1) of the District's Guidelines for Compliance with CEQA because the project would consist of deploying buoys for the purposes of monitoring underwater activities as described earlier that would result in no permanent effects on the environment, and would not involve the removal of mature, scenic trees and is for the purpose of basic data collection/research/experimental management/resource evaluation activities which would not result in a serious or major disturbance to an environmental resource.

3. The BPC finds that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

4. The proposed Board action complies with Section 87.(a)(1) of the Port Act, which allows for the establishment, improvement, and conduct of a

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harbor, and for the construction, reconstruction, repair, maintenance, and operations of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation.

5. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed BPC action is consistent with the Public Trust Doctrine.

6. The BPC finds that the BPC action is considered excluded development pursuant to Section 8.a: Existing Facilities; Section 8.c: New Construction or Conversion of Small Structures; Section 8.d: Minor Alterations to Land; and Section 8.e: Information Collection, of the District's Coastal Development Permit Regulations because the project would consist of deploying buoys for the purposes of monitoring underwater activities to test and validate a tailored smart buoy platform for various Port monitoring applications as described earlier that would involve negligible or no expansion of use beyond that previously existing, would involve negligible or no change of existing use of the property, would not involve the removal of mature, scenic trees, and would not result in a serious or major significant disturbance to an environmental resource.

7. Subject to BPC approval of this Action, District staff would notify California Coastal Commission (CCC) staff in accordance with Coastal Act Section 30717, whereby the approval would become effective after the 10th working day after notification to CCC staff, unless an appeal is filed with the CCC within that time limit.

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 14th day of November 2023, by the following vote: