

**DRAFT**

**RESOLUTION 20xx-xxx**

**RESOLUTION BY A FOUR-FIFTHS (4/5) VOTE RATIFYING THE EXECUTIVE DIRECTOR'S EMERGENCY DECLARATION AND AUTHORIZING CONTINUED ACTION FOR THE EMERGENCY SINKHOLE REPAIR AT PEPPER PARK IN NATIONAL CITY INCLUDING PROCUREMENT OF A CONTRACTOR TO IDENTIFY THE CAUSE OF UNDERGROUND FAILURE, DETERMINE THE SEVERITY OF THE DAMAGE, AND MAKE REPAIRS**

**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 (Act); and

**WHEREAS**, Section 58 of the Port Act grants authority to the Board of Port Commissioners (BPC) to place into effect any emergency rule or regulation, for periods not exceeding thirty (30) days; and

**WHEREAS**, on January 11, 2000, the BPC adopted Resolution 2000-03, pursuant to California Public Contract Code (PCC) Sections 22035 and 22050, establishing contracting procedures in the event of an emergency or disaster, allowing contracts without bids, and empowering the Executive Director of the District to waive normal bidding procedures, to enter into any necessary contract and commit District funds without first obtaining BPC approval; and

**WHEREAS**, after a series of storm events and surge of high tides beginning November 26, 2019, a sinkhole was discovered at Pepper Park on Saturday, November 30, 2019; and

**WHEREAS**, the sinkhole was observed to be approximately 5 feet deep, 3 to 4 feet wide at the surface, and 6 feet wide at the bottom; and

**WHEREAS**, since the sinkhole is located in an area of the park that is highly used by the public and in anticipation of future storm events, urgent investigations and repairs to the site were required to prevent further damage to District property; and

**WHEREAS**, the scope of work necessary to excavate, dewater, investigate, and repair the damage is currently projected to exceed (1) the capacity of General Services, and (2) staff's direct negotiating limits of \$60,000 pursuant to California Public Contracting Code, therefore, a declaration of emergency was necessary in order to execute the exigent repair work; and

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**WHEREAS**, pursuant to PCC Section 22035 and 22050, Section 58 of the Port Act, and Board Resolution 2000-03, the Executive Director declared an emergency on Monday, December 2, 2019; and

**WHEREAS**, PCC Sections 22035 and 22050, Section 58 of the Port Act, and Board Resolution 2000-03 requires that the Board review actions exercised by the Executive Director pursuant to a declaration of emergency at every regularly scheduled meeting, to determine, by a four-fifths (4/5) vote, that there is a need to continue the emergency until the action is terminated; and

**WHEREAS**, District staff recommends the Board ratify the Executive Director's emergency declaration and authorize continuing the emergency action.

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

Adopt a resolution by a four-fifths (4/5) vote ratifying the Executive Director's emergency declaration and authorizing continued action for the emergency sinkhole repair at Pepper Park including procurement of a contractor to identify the cause of underground failure, determine the severity of the damage, and make repairs to the storm drain.

APPROVED AS TO FORM AND LEGALITY:  
GENERAL COUNSEL

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By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 10<sup>th</sup> day of December 2019, by the following vote: