

DRAFT

RESOLUTION 20xx-xxx

**CONDUCT A PUBLIC HEARING AND ADOPT A
RESOLUTION AUTHORIZING ISSUANCE OF AN
APPEALABLE COASTAL DEVELOPMENT PERMIT
TO HIW ASSOCIATES, L.P. FOR HARBOR ISLAND
WEST MARINA REDEVELOPMENT 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 Harbor Island West Marina (HIWM), operated by HIW Associates, L.P. (HIW), is an existing marina facility located at 2040 Harbor Island Drive on Harbor Island West in San Diego which provides services and amenities to the boating community and waterfront access opportunities to the public; and

WHEREAS, the HIWM Redevelopment Project (Project) will completely redevelop the landside and waterside marina facilities; and

WHEREAS, landside improvements include demolishing and replacing existing buildings, parking and landscaping; and

WHEREAS, waterside improvements include replacing existing aged dock structures and reconfiguring slips to accommodate a wider range of recreational vessel sizes and create more slip opportunities for a greater diversity of boaters.

WHEREAS, the redevelopment will extend the life of the marina and ensure its long-term viability; and

WHEREAS, construction of the Project is expected to begin within 18 months, during which time all necessary approvals shall be received, and take approximately two years; and

WHEREAS, a phased construction schedule is proposed to allow portions of the marina to remain open during construction, minimizing displacement of boaters; and

WHEREAS, pursuant to the District's Coastal Development Permit (CDP) Regulations and the California Coastal Act, the Project requires issuance of an appealable CDP; and

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WHEREAS, the Project site is located in Planning District 2, Harbor Island/Lindbergh Field, which is delineated on Precise Plan Map Figure 9 of the certified Port Master Plan; and

WHEREAS, the Port Master Plan land designation within the limits of the Project is Commercial Recreation and the water use designation is Recreational Boat Berthing, Fueling Dock, and Sanitary Pump Station; and

WHEREAS, the existing HIWM facility is consistent with the certified land and water use designations; and

WHEREAS, the Project is for the repair, maintenance, replacement, redevelopment and continued operation of HIWM landside and waterside facilities, no new uses are proposed, and thus, the Project is also consistent with the existing certified land and water use designations; and

WHEREAS, the Project conforms to the certified Port Master Plan; and

WHEREAS, the Project constitutes “development” under Section 30106 of the California Coastal Act as it will involve the demolition and construction of structures, and accordingly, a Coastal Act authorization from the District is required; and

WHEREAS, pursuant to the District’s CDP Regulations, the Project has been determined to be an “appealable” development because it is a recreational small craft marine-related facility; and

WHEREAS, Coastal Act Section 30715 lists the sole categories of development that are appealable, and the Project is within these categories of development; and

WHEREAS, the Project requires BPC authorization of issuance of an appealable CDP; and

WHEREAS, special conditions are incorporated into the CDP to ensure the Project’s conformance with the Final MND’s MMRP and related District and CCC staff requirements; and

WHEREAS, the Project, as conditioned, is fully consistent with Chapter 3 and 8 of the Coastal Act; and

WHEREAS, the Project is more particularly described in the corresponding agenda sheet and draft Coastal Development Permit (CDP) attached thereto, both of which are incorporated by reference; and

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WHEREAS, pursuant to the District's CDP Regulations, a public hearing is required for all appealable CDPs; and in accordance with Section 11.d. of the CDP Regulations, notices were mailed to certain property owners and occupants surrounding the project site, as well as the City of San Diego Mayor and Chief Operating Officer and the CCC, to inform them that a public hearing will be conducted on the CDP; and

WHEREAS, BPC action on the CDP may be appealed to the CCC pursuant to Chapter 7 of Division 20 of the Public Resources Code within 10 working days after the CCC receives a notice of the BPC's decision; and

WHEREAS, after the CCC receives notice of the BPC's decision, if a written appeal is not filed within 10 working days, the Executive Director may issue the CDP immediately; and

WHEREAS, District staff recommends the BPC conduct a public hearing and adopt a resolution to authorize issuance of the CDP; and

WHEREAS, the Project complies with Section 87 of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation 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 Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine and consequently, the Project is consistent with the Public Trust Doctrine; and

WHEREAS, the BPC considered the appealable CDP at the November 14, 2023, BPC meeting.

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. In general, the Project consists of: (1) demolition of all existing onsite building space and reconstruction of new building space; (2) demolition of the existing paved parking lot and construction of a new paved parking lot increasing the number of parking spaces by 29 for a total of 380 spaces with 12 spaces available to the general public; (3) removal of existing landscaping and installation of new drought tolerant non-invasive landscaping with an area for bicycle parking; (4) reconstruction of an existing public viewing deck and construction of a new 12-

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foot-wide waterside public promenade; (5) reconstruction of swimming pool and hot tub; (6) demolition of 11 existing docks providing 620 boat slips, and construction of 11 new docks providing 623 boat slips; and (7) modernization of on-site utilities and lighting.

3. The Project site is located in Planning District 2, Harbor Island/Lindbergh Field, which is delineated on Precise Plan Map Figure 9 of the certified Port Master Plan. The Port Master Plan land designation within the limits of the Project is Commercial Recreation and the water use designation is Recreational Boat Berthing, Fueling Dock, and Sanitary Pump Station. The existing HIWM facility is consistent with the certified land and water use designations. The Project is for the repair, maintenance, replacement, redevelopment and continued operation of HIWM landside and waterside facilities, no new uses are proposed, and thus, the Project is also consistent with the existing certified land and water use designations. Therefore, the Project conforms to the certified Port Master Plan.

4. The BPC finds that the Project constitutes “development” under Section 30106 of the California Coastal Act as it will involve the demolition and construction of structures and accordingly, a Coastal Act authorization from the District is required.

5. The BPC finds that under Chapter 8 of the Coastal Act, and the District’s CDP Regulations, the Project has been determined to require an “appealable” CDP (see California Public Resources Code Section 30715 and Section 7(4) of the District’s CDP Regulations) because it constitutes a category of development involving recreational small craft marine-related facility within the District’s boundaries.

6. The BPC finds that the proposed CDP shall permit the Project subject to the Applicant obtaining all necessary agreements and permits from the District and other regulatory agencies.

7. The Project is located between the sea (as defined in the Coastal Act) and the first inland continuous road paralleling the sea, and the Project is fully consistent with Coastal Act Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein, because the Project would comprehensively redevelop the landside and waterside marina facilities by replacing existing aged dock structures and reconfiguring slips to accommodate a wider range of recreational vessel sizes and create more slip opportunities for a greater diversity of boaters, and thereby extend the life of the marina and ensure its long-term viability. The Project also addresses public access and recreation policies by providing a public waterfront promenade with a public view deck, 12 public parking spaces and a 35-foot slip free for non-profit use.

8. The BPC also finds the Project is consistent with the Public Trust Doctrine, as the Project complies with Section 87 of the Port Act which allows for

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establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation 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. 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.

9. Based on the entire record available to the BPC and the findings set forth in this Resolution, the Executive Director or their designated representative is hereby authorized and directed to issue an appealable Coastal Development Permit to HIW Associates, L.P. for the Harbor Island West Marina Redevelopment Project. Said appealable Coastal Development Permit shall require compliance with all conditions set forth therein; provided, however, as a condition of approval, HIW Associates, L.P. shall indemnify and hold the San Diego Unified Port District (District) harmless against all third-party legal challenges, claims, lawsuits, proceedings and the like, including reimbursement of all attorneys' fees, costs and expenses incurred by the District related to the approval of this appealable Coastal Development Permit, as well as any liability from the Project's operation. Said condition is independent of any agreement between the District and HIW Associates, L.P.

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: