

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION AUTHORIZING ISSUANCE OF A
NON-APPEALABLE COASTAL DEVELOPMENT
PERMIT FOR THE DEMOLITION OF STORAGE
TANKS AND STORM WATER IMPROVEMENTS
PROJECT AT THE TENTH AVENUE MARINE
TERMINAL**

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, located near the Crosby Road entrance to the Tenth Avenue Marine Terminal (TAMT) at the southern end of the District's property are three (3) welded steel storage tanks that were fabricated and erected by Graver Tank and Manufacturing Company in 1961; and

WHEREAS, originally furnished and installed for the Pacific Molasses Company, the welded steel storage tanks held liquid commodities like molasses and palm oil; and

WHEREAS, along with other related facilities, mechanical features, piping, and equipment, the welded steel storage tanks have long been abandoned and out of commission for more than 30 years; and

WHEREAS, the abandoned molasses storage tanks have been studied and considered for demolition and replacement with pavement laydown space for many years; and

WHEREAS, in 2019, the tanks were shrink wrapped in order to contain the spread of their corrosion, peeling paint and other hazardous materials; and

WHEREAS, the Demolition of Storage Tanks and Stormwater Improvements Project (project) will demolish and remove the three existing steel storage tanks and make storm drain and storm water quality improvements for ultimate use as laydown area to allow for Tenth Avenue Marine Terminal (TAMT) to better support its current maritime customers as well as attract new maritime trade business; and

WHEREAS, demolition of the storage tanks is a project element of the Sustainable Terminal Capacity Scenario Project that was approved when the FEIR for the TAMT Redevelopment Plan and Demolition and Initial Rail Component was certified by the Board of Port Commissioners (BPC) on

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December 13, 2016 by Resolution No. 2016-199; and

WHEREAS, the project specifically includes the following: demolish and remove three existing steel storage tanks and associated piping and utilities and containment wall; salvage steel material and abate lead-containing materials; relocate electrical transformer; make storm drain and stormwater quality improvements; grade the area; and construct reinforced Portland cement concrete pavement for use as laydown area; and

WHEREAS, the project requires the issuance of a Non-Appealable Coastal Development Permit (CDP); and

WHEREAS, as conditioned, the project is consistent with the certified Port Master Plan (PMP) and applicable sections of Chapter 3 and Chapter 8 of the Coastal Act; and

WHEREAS, the District and the District's design consultant, Harris and Associates, are preparing 100% Construction Documents for the project; and

WHEREAS, the issued CDP will be included as part of the specifications when a request for bid for the project is published within the next few months; 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

WHEREAS, the proposed project 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, pursuant to CEQA Guidelines Sections 15162 and 15163, including without limitation, the FEIR, staff finds and recommends that the proposed BPC action does not require further environmental review and has determined no further analysis or environmental documentation is necessary because 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the previous FEIR due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the previous FEIR, (b) identifies significant impacts more severe than those analyzed in the previous FEIR, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant

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impacts, or (d) shows mitigation measures or alternatives which are considerably different from those analyzed in the previous FEIR would substantially reduce one or more significant effects on the environment.; and

WHEREAS, the proposed BPC action is merely a step in the furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required; and

WHEREAS, the BPC considered the CDP at the August 9, 2022 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 includes the following: demolish and remove three existing steel storage tanks and associated piping and utilities and containment wall; salvage steel material and abate lead-containing materials; relocate electrical transformer; make storm drain and stormwater quality improvements; grade the area; and construct reinforced Portland cement concrete pavement for use as laydown area.

3. The proposed BPC action, including without limitation, to authorize issuance of a non-appealable CDP was adequately analyzed in the FEIR for the TAMT Redevelopment Plan and Demolition and Initial Rail Component (UPD# EIR-2015-39; SCH# 2015-031046, Clerk Document No. 65901) certified by the Board on December 13, 2016 (Resolution No. 2016-199).

4. The proposed project 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.)

5. Pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR, the BPC finds that the proposed project does not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the previous FEIR due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the project will have one or more

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significant effects not discussed in the previous FEIR, (b) identifies significant impacts more severe than those analyzed in the previous FEIR, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, or (d) shows mitigation measures or alternatives which are considerably different from those analyzed in the previous FEIR would substantially reduce one or more significant effects on the environment. Because none of these factors have been triggered, pursuant to CEQA Guidelines §15162(b), the District has determined no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step in the furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

6. The proposed BPC action complies with Section 87 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. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

7. Based on the entire record available to the BPC and the findings set forth in this Resolution, the Executive Director or his designated representative is hereby authorized and directed to issue a Non-Appealable CDP to the District for the Demolition of Storage Tanks and Storm Water Improvements Project at TAMT.

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 9th day of August, 2022, by the following vote: