

**DRAFT****RESOLUTION 20xx-xxx****RESOLUTION ADOPTING ADDENDUM NO. 1 TO  
THE FINAL MITIGATED NEGATIVE DECLARATION  
FOR THE “HII SAN DIEGO SHIPYARD, INC.  
MARGINAL WHARF REPAIR AND AS-NEEDED  
PILE REPLACEMENT PROJECT” AND  
AUTHORIZING STAFF TO FILE A NOTICE OF  
DETERMINATION**

**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**, Continental Maritime of San Diego, LLC (CMSD) (formerly HII San Diego Shipyard, Inc.), as the project proponent and applicant, began its shipyard operations at its 27.3-acre leasehold located at 1995 Bay Front Street, San Diego, CA 92113 in 1985; and

**WHEREAS**, CMSD repairs and maintains military and other seagoing vessels and its operations involve onshore construction equipment, support buildings, wharves, and piers; and

**WHEREAS**, in 2017, HII submitted an application for a marginal wharf repair and as-needed pile replacement project (2019 HII Project) and the 2019 HII Project went through the entitlement process; and

**WHEREAS**, on April 9, 2019, the Board of Port Commissioners (BPC) adopted the Final Mitigated Negative Declaration (MND) for the “HII San Diego Shipyard Inc. Marginal Wharf Repair and As-Needed Pile Replacement Project,” (UPD #MND-2019-013; SCH #2019011069; Clerk Doc. No. 69876) by Resolution No. 2019-040; granted concept approval to HII; and authorized issuance of a Non-Appealable CDP to HII; and

**WHEREAS**, recent inspections conducted by CMSD identified that its Pier 4 and its marginal wharf have additional deterioration and structural insufficiencies, which if unrepaired, berthed vessels could exert sufficient stress onto these structures, creating damage and safety issues for both the structures and the surrounding environment; and

**WHEREAS**, CMSD has proposed changes to the 2019 HII Project; and

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**WHEREAS**, the 2019 HII Project with the proposed changes includes the following in-water construction: structural repair of the existing quay wall including rubble removal (Component 1), removal and improvement of Pier 4/Wharf 4 (Component 2), and removal of deteriorated Piers 1, 5, and 7 (Component 3) (collectively, Updated Project); and

**WHEREAS**, Component 1 of the Updated Project includes: portions of the existing concrete rubble quay wall to be reinforced by installing steel sheet pile along the outer edge of the quay wall, a concrete cap which would be installed on top of the sheet pile, the area between the existing and proposed quay wall would be backfilled with cementitious slurry, the removal of 20 to 25 tons of rubble from the landside intertidal area along the quay wall using an excavator to extract the rubble without disturbing the bay floor and re-using the majority of the excavated rubble to reinforce the quay wall; and

**WHEREAS**, Component 2 of the Updated Project includes: the demolition of the 478-foot long by 26-foot-wide timber portion of Pier 4 deck and replacement by a 478-foot long by 47-foot wide concrete deck, demolition of five (5) mooring dolphins (108 SF total) associated with Pier 4, and demolition of timber Marginal Wharf 4 (3,3583 SF) and improvement with a concrete wharf (3,070 SF); and

**WHEREAS**, Component 3 of the Updated Project includes the complete removal of Piers 1, 5 and 7 along with their deteriorated support piles; and

**WHEREAS**, construction activities for the Updated Project are anticipated to occur in two phases and begin in the mid- to late-2022 and would be completed by the end of 2026, for a duration of approximately 11 months spread out over an approximately 4.5-year period; and

**WHEREAS**, pile removal for the Updated Project would include the removal of 626 piles (fill reduction of 989 square feet (SF)) and replacement of 196 piles and sheet pile installation for quay wall reinforcement (fill increase of 515 SF), resulting in an overall net reduction of 474 SF of fill from piles; and

**WHEREAS**, the removal and improvement of the timber portions of Pier 4 and the Wharf 4 deck will result in an increase in overwater coverage of 9,525 SF while the removal of Piers 1, 5, and 7 will result in a reduction of 14,124 SF of overwater coverage, resulting in an overall net reduction of 4,599 SF of overwater coverage once all Project components are implemented; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), Addendum No. 1 to the Final MND for the "HII San Diego Shipyard, Inc. Marginal Wharf Repair and As-Needed Pile Replacement Project," dated

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September 2022, has been prepared to analyze the minor changes proposed by the CMSD Project; and

**WHEREAS**, the Addendum No. 1 documents that none of the conditions in CEQA Guidelines Section 15162, triggering preparation of a Subsequent MND, has occurred; and

**WHEREAS**, approval of Addendum No. 1 is recommended in accordance with CEQA Guidelines Section 15164; and

**WHEREAS**, all materials with regard to the Project were made available to the Board of Port Commissioners for its independent review and consideration of the Project including, but not limited to, the following:

1. The Final MND and Mitigation Reporting or Monitoring Program;
2. Addendum No. 1 to the Final MND;
3. The Staff Report and Agenda sheet for the Project; and
4. All documents and records filed in this proceeding by the District and all interested parties; and

**WHEREAS**, a complete copy of the Final MND and Addendum No. 1 is available in the Office of the District Clerk located at 3165 Pacific Hwy, San Diego, CA 92101, or on the District's website at: <https://www.portofsandiego.org/public-records/port-updates/notices-disclosures/ceqa-documents>, and was previously provided via a Board Memo (Agenda-Related Materials) dated September 8, 2022; and

**WHEREAS**, the Final MND and Addendum No. 1 are, by this reference, incorporated into this Resolution as if fully set forth herein; and

**WHEREAS**, having reviewed and considered all the materials made available to the BPC, including, but not limited to, the Final MND and Addendum No. 1, the staff reports and all the evidence in the record of the proceedings with respect to the proposed project, the BPC took the actions hereinafter set forth below; and

**WHEREAS**, the BPC considered the actions at a duly noticed meeting held on September 13, 2022, at which the BPC received public testimony, reviewed, and considered all testimony and materials made available to the BPC regarding the proposed Project.

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

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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. The BPC finds and determines that the applicable provisions of the CEQA, CEQA Guidelines, and District Guidelines have been duly observed in conjunction with said meeting and the considerations of this matter and all of the previous proceedings related thereto.

3. The BPC has independently reviewed, analyzed, and considered the Final MND and Addendum No. 1 and the whole record before it, and finds and determines, on the basis of the whole record before the BPC, that:

- a. The Final MND is complete and adequate in scope and is of continuing informational value with respect to the Updated Project;
- b. Some minor changes or additions to the Final MND are necessary and the preparation of an Addendum No. 1 to the Final MND documents that none of the conditions in CEQA Section 21166 and CEQA Guidelines Section 15162, triggering preparation of a Subsequent MND, has occurred. The Updated Project is within the scope of the Final MND and there will not be any new or more significant impacts or required new mitigation measures not previously identified in the Final MND or MMRP previously adopted by the BPC, and the analysis for the Updated Project is adequate and appropriate;
- c. Addendum No. 1 has been prepared in accordance and compliance with CEQA Guidelines Section 15164;
- d. The BPC has fully reviewed and considered the information in Addendum No. 1 to the Final MND prior to making a decision to approve the Updated Project;
- e. Addendum No. 1 to the Final MND reflects the District's independent judgment and analysis; and
- f. The Project is consistent with the Public Trust Doctrine, as 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. The Port Act was enacted by the California Legislature and is consistent with the

Public Trust Doctrine. Consequently, the proposed actions are consistent with the Public Trust Doctrine.

4. The BPC hereby adopts the Addendum No. 1 for the proposed project; provided, however, as a condition of this approval and adoption of the Addendum No. 1, Continental Maritime of San Diego, LLC shall indemnify and hold the District harmless against all third-party legal challenges, claims, lawsuits, proceedings, and the like, including reimbursement of all District attorneys' fees, costs and other expenses incurred by the District, related to the District's approval and adoption of the Addendum No. 1. Said indemnity and hold harmless condition is independent of any agreements by and between Continental Maritime of San Diego, LLC, and the District.

5. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075, the Clerk of the BPC shall cause a Notice of Determination to be filed with the Clerk of the County of San Diego and the State Office of Planning and Research.

6. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15074(c), the location and custodian of the documents and other materials which constitute the record of proceedings on which this Resolution is based is the District Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

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 13th day of September, 2022, by the following vote: