

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION AUTHORIZING ISSUANCE OF A
NON-APPEALABLE COASTAL DEVELOPMENT
PERMIT TO CONTINENTAL MARITIME OF SAN
DIEGO, LLC FOR THE FACILITY IMPROVEMENT
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, 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 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 Coastal Development Permit (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

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)

20xx-xxx

(collectively, Updated Project or 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 Updated Project components are implemented; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), Addendum No. 1 to the Final Mitigated Negative Declaration (MND) for the "HII San Diego Shipyard, Inc. Marginal Wharf Repair and As-Needed Pile Replacement Project," dated September 2022, has been adopted by the BPC; and

WHEREAS, the Updated Project site is located in Planning District 4, Tenth Avenue Marine Terminal, which is delineated on Precise Plan Map Figure 13 of the certified Port Master Plan (PMP); and

20xx-xxx

WHEREAS, the PMP land and water use designations within the limits of the Project are Marine Related Industrial and Specialized Berthing; and

WHEREAS, the Updated Project is the removal, improvement, and repair of existing in-water facilities at the shipyard and is consistent with the existing certified land and water use designations; therefore, the Project conforms to the certified PMP; and

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

WHEREAS, pursuant to the District’s CDP Regulations, the Updated Project has been determined to be a “non-appealable” development because it is not considered an “excluded,” “emergency,” or “appealable” development;

WHEREAS, additionally, Coastal Act Section 30715 lists the sole categories of development that are appealable, and the Project is not within these categories of development; therefore, the Updated Project requires authorization of a Non-Appealable CDP; and

WHEREAS, the Updated Project is located between the sea (as defined in the Coastal Act) and the first inland continuous public road paralleling the sea. The Project is fully consistent with Public Resources Code Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein since the Project is the removal, improvement, and repair of existing in-water facilities in a working shipyard that does not provide any public access amenities; and

WHEREAS, a copy of the draft CDP is provided as Attachment A to the corresponding Agenda Sheet; and

WHEREAS, special conditions are incorporated into the CDP to ensure the Project’s conformance with the Mitigation Monitoring and Reporting Program and related District requirements; and

WHEREAS, the “non-appealable” category of development is supported by the record, including the plain language of Section 30715, the PMP, the District’s CDP Regulations and the characteristics of the Updated Project; and

WHEREAS, the Updated Project requires a non-appealable CDP and an application has been prepared for a non-appealable CDP to implement the Updated Project; and

20xx-xxx

WHEREAS, the BPC finds that said application and attachments contain correct and accurate statements of fact; and

WHEREAS, the BPC has concluded that the Updated Project conforms to the certified PMP; and

WHEREAS, the BPC considered the non-appealable CDP at the September 13, 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 Updated Project includes 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, as more particularly described in the CDP.

3. The PMP land and water use designations within the limits of the Project are Marine Related Industrial and Specialized Berthing and the Updated Project is consistent with the existing certified land and water use designations; therefore, the Project conforms to the certified PMP.

4. Pursuant to the District's CDP Regulations, the Project has been determined to be a "non-appealable" development because it is not considered an "excluded," "emergency," or "appealable" development. Additionally, Coastal Act Section 30715 lists the sole categories of development that are appealable, and the Project is not within these categories of development.

5. The Updated Project is located between the sea (as defined in the Coastal Act) and the first inland continuous public road paralleling the sea. The Project is fully consistent with Public Resources Code Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein since the Project is the removal, improvement, and repair of existing in-water facilities in a working shipyard that does not provide any public access amenities.

6. In accordance with CEQA and its implementing guidelines, the Updated Project and proposed CDP were analyzed in the Final MND and First Addendum, as approved by the BPC and the BPC has determined that the CDP and Updated Project are adequately documented, described, disclosed, and analyzed in the Final MND and First Addendum, and no further CEQA review is required.

7. As conditioned, the BPC further finds that the Project is consistent with the certified PMP and Chapters 3 and 8 of the Coastal Act, as applicable.

8. The BPC's action 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 project 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 his designated representative is hereby authorized and directed to issue a Non-Appealable CDP to Continental Maritime of San Diego, LLC for the Facility Development Project.

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