

DRAFT**RESOLUTION 20xx-xxx**

RESOLUTION FINDING THE BOARD ACTION EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), INCLUDING BUT NOT LIMITED TO CEQA GUIDELINES 15301, 15304, 15306, 15307, AND 15308, AND AUTHORIZING AGREEMENTS WITH WSP USA ENVIRONMENT AND INFRASTRUCTURE, INC., WESTON SOLUTIONS, INC., AND DUDEK FOR AS-NEEDED ENVIRONMENTAL ANALYTICAL SERVICES FOR A TOTAL AGGREGATE AMOUNT NOT TO EXCEED \$3,000,000 FOR A PERIOD OF 5 YEARS. FUNDS FOR FY 2023 HAVE BEEN BUDGETED IN THE DISTRICT'S NON-PERSONNEL EXPENSE BUDGET. All FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETED IN THE APPROPRIATE FISCAL YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET

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 Board of Port Commissioners (BPC) adopted BPC Policy No. 110 to establish a policy governing the processing and administration of public projects, consulting and service agreements, the purchasing of supplies, materials and equipment, and grants; and

WHEREAS, to help the District successfully achieve its water quality goals and maintain compliance with regulatory permits, the District utilizes qualified consulting firms to provide technical expertise in developing work plans, conducting scientifically sound sample collection, laboratory analysis, modeling, and reporting for various in bay and landside studies; and

WHEREAS, these studies benefit the District's capital improvement, major maintenance, and environmental protection programs; and

WHEREAS, the District also conducts various environmental studies to further the success of the District's environmental stewardship efforts and as a requirement of environmental permits for projects, and to maintain compliance with environmental regulations; and

WHEREAS, the District currently maintains as-needed agreements for

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environmental analytical services with firms including WSP USA Environment and Infrastructure Inc. (WSP), Dudek, and Weston Solutions, Inc. (Weston) which are authorized by a Task Authorization; and

WHEREAS, prior to issuing individual task authorizations, District staff defines a scope of work and an appropriate fee is negotiated; and

WHEREAS, the existing agreements will expire in July 31, 2023; and

WHEREAS, on December 8, 2022, District staff issued RFQ #22-45RH seeking qualified firms to provide As-needed Environmental Analytical Services; and

WHEREAS, on January 17, 2023, an RFQ information exchange meeting was conducted, which six firms attended; and

WHEREAS, on February 9, 2023, the district received three proposals from WSP, Dudek, and Weston and all were deemed acceptable; and

WHEREAS, the District's DEI and Procurement departments participated and supported the RFQ advertisement and conducted the selection process by reviewing their relevant sections and administratively supporting the RFQ; and

WHEREAS, based upon the qualifications and information provided in the written proposals, it was determined that all three firms were well qualified and bring a wealth of knowledge and unique perspectives that would support the District's environmental and analytical efforts; and

WHEREAS, the three firms demonstrated solid experience with the issues relevant to the District such as regulatory compliance, stormwater management, TMDLs, water and sediment quality, building and maintaining positive relations with the San Diego Water Board and other regulatory agencies, and in working with other ports in California; and

WHEREAS, all three firms are locally established and can respond in a timely manner; and

WHEREAS, District staff have been satisfied with the performance of all three firms, with each firm demonstrating timely responses and submittals of project deliverables; and

WHEREAS, based on the proposals, staff determined that WSP, Dudek, and Weston are qualified and cost-effective consultants for this agreement; and

WHEREAS, the proposed Board Action, including without limitation, authorizing agreements with WSP USA Environment & Infrastructure Solutions, Inc., Dudek, and Westin Solutions, Inc. for as-needed environmental analytical

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services is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities), 15304 (Minor Alterations to Land), 15306 (Information Collection), 15307 (Actions by Regulatory Agencies for Protection of Natural Resources), and 15308 (Actions by Regulatory Agencies for Protection of the Environment); and

WHEREAS, the proposed agreements are determined to be Categorically Exempt pursuant to the CEQA Guidelines and the Sections of the District's Guidelines for Compliance with CEQA as identified above because they involve no expansion of use beyond those previously existing, no permanent effects on the environment, provide data collection, research, resource evaluation activities, and potentially responding to requests from regulatory agencies which would not result in a serious or major disturbance to an environmental resource; and

WHEREAS, the District has determined none of the six exceptions to the use of a categorical exemption apply to this Project (CEQA Guidelines Section 15300.2); and

WHEREAS, the proposed Board 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 operations 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 proposed BPC action is consistent with the Port Act and accordingly, the Public Trust Doctrine; and

WHEREAS, the proposed Board Action is considered excluded development pursuant to Sections 8.a.(2) and (3) (Existing Facilities), 8.d(4) (Minor Alterations to Land), 8.e. (Information Collection), and 8.f (Inspections) of the District's Coastal Development Permit Regulations because the agreements for environmental analytical services would involve no expansion of use beyond that previously existing, data collection and research, and inspections; and

WHEREAS, if the Board approves this Action, District staff would notify California Coastal Commission (CCC) staff in accordance with Coastal Act Section 3071; and

WHEREAS, the approval would become effective after the 10th working day after notification to CCC staff, unless an appeal is filed with the CCC within that time frame; and

WHEREAS, Staff recommends the Board adopt a resolution finding the Board action exempt under the California Environmental Quality Act (CEQA), including, but not limited to, CEQA guidelines section 15301, 15304, 15306, and

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15307 and authorize agreements with WSP USA Environment, Infrastructure Solutions, Inc., Dudek, and Westin Solutions, Inc. for as-needed environmental analytical services for a total aggregate amount not to exceed \$3,000,000 for a period of 5 years. Funds for FY 2023 have been budgeted in the District's non-personnel expense budget. All funds required for future fiscal years will be budgeted in the appropriate fiscal year, subject to board approval upon adoption of each fiscal year's budget.

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. Based on the entire record available to the BPC and the findings set forth in this Resolution, the BPC finds that the Project, including without limitation, a resolution finding the Board action exempt under the California Environmental Quality Act (CEQA), including, but not limited to, CEQA guidelines section 15301, 15304, 15306, and 15307 and authorize agreements with WSP USA Environment and Infrastructure Inc., Dudek, and Weston Solutions Inc. for as-needed environmental analytical services for a total aggregate amount not to exceed \$3,000,000 for a period of 5 years. Funds for FY 2023 have been budgeted in the District's non-personnel expense budget. All funds required for future fiscal years will be budgeted in the appropriate fiscal year, subject to board approval upon adoption of each fiscal year's budget.

2. The BPC finds that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

3. The Project was previously determined to be exempt from CEQA by District staff.

4. The BPC finds that the 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 operations 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.

5. 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.

6. The proposed Board Action is considered excluded development pursuant to Sections 8.a.(2) and (3) (Existing Facilities), 8.d(4) (Minor Alterations to Land), 8.e. (Information Collection), and 8.f (Inspections) of the District's Coastal Development Permit Regulations because the agreements for environmental analytical services would involve no expansion of use beyond that previously existing, data collection and research, and inspections.

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7. Subject to Board approval of this Action, District staff would notify California Coastal Commission (CCC) staff in accordance with Coastal Act Section 30717 whereby the approval would become effective after the 10th working day after notification to CCC staff, unless an appeal is filed with the CCC within that time frame.

8. 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 to authorize agreements with WSP USA Environment & Infrastructure Inc., Dudek, and Weston Solutions Inc. to provide as-needed environmental analytical services for an aggregate amount not to exceed \$3,000,000 for a period of five years. All funds required for future fiscal years will be budgeted in the appropriate fiscal year, subject to Board approval upon adoption of each fiscal year's budget.

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 May 2023, by the following vote: