

**RESOLUTION XXXX**

**RESOLUTION ADOPTING THE BAYSIDE  
PERFORMANCE PARK ENHANCEMENT PROJECT  
PORT MASTER PLAN AMENDMENT, AS  
CERTIFIED BY THE CALIFORNIA COASTAL  
COMMISSION, AND DIRECTING THE FILING OF  
NOTICE OF SAID ADOPTION WITH THE  
CALIFORNIA COASTAL COMMISSION**

**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 San Diego Symphony Orchestra Association (Symphony), as the applicant and project proponent, has proposed the replacement of its temporary performance and event venue located on the northern 3.68 acres of the 10.8-acre Embarcadero Marina Park South (EMPS) with a permanent performance and event venue, accessory uses and several enhancements to other areas of EMPS outside of the proposed venue location (collectively, Project); and

**WHEREAS**, in order to allow for the Project in EMPS, a designated public park in the Port Master Plan (PMP), as a year-round performance and event venue, a Port Master Plan Amendment (PMPA) was required to address public access, programming, park mitigation, lighting, and sea level rise adaptation; and

**WHEREAS**, the PMPA modifies text of the Marina Zone subarea of the Centre City Embarcadero Planning District, adds the proposed Project as a non-appealable project to the Centre City Embarcadero Project List (Table 11), and modifies the text of the South Embarcadero Public Access Program (SE PAP) to allow for the Project; and

**WHEREAS**, on January 9, 2018, the BPC, as Lead Agency under the California Environmental Quality Act (CEQA): (1) adopted Resolution No. 2018-019, certifying a Final Environmental Impact Report (EIR) entitled “Bayside Performance Park Enhancement Project and Port Master Plan Amendment” EIR (UPD #EIR-2016-176; SCH #2016121003), adopting Findings of Fact and a Statement of Overriding Considerations, and adopting a Mitigation Monitoring Reporting Program (MMRP) for the Project, which among other things analyzed the Project and associated PMPA and Coastal Development Permit (CDP); and (2) conducted a public hearing and adopted Resolution No. 2018-020, approving the PMPA and directing District staff to file the PMPA with the CCC for certification; and

**WHEREAS**, District staff subsequently filed the PMPA application with the CCC, and on November 8, 2018, the CCC unanimously certified the PMPA, as submitted, finding the PMPA to be consistent with Chapter 8 the California Coastal Act (Coastal Act); and

**WHEREAS**, pursuant to California Public Resources Code Sections 30714 and 30716 and Title 14, Section 13632(e) of the California Code of Regulations, in order for the PMPA to be fully certified the following must occur (1) approval of the PMPA by the Board of Port Commissioners (BPC); (2) certification of the PMPA by the California Coastal Commission (CCC); (3) the BPC must adopt a resolution adopting the PMPA as certified by the Coastal Commission, and the District must notify the Coastal Commission of said approval, as well as transmit the CEQA analysis and other pertinent documents, to the Coastal Commission, and the Coastal Commission must consider the submittal and accept the BPC's adoption as consistent with its certification.

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

That the Board of Port Commissioners (BPC) finds that the Port Master Plan Amendment pertaining to the Bayside Performance Park Enhancement Project (PMPA), as certified by the California Coastal Commission (CCC) and as adopted by the BPC, as certified by the CCC was fully analyzed and is within the scope of in the Final Environmental Impact Report (EIR) entitled "Bayside Performance Park Enhancement Project and Port Master Plan Amendment" EIR (UPD #EIR-2016-176; SCH #2016121003), associated findings and Mitigation Monitoring Reporting Program consistent with the California Environmental Quality Act. That the PMPA, on file in the office of the District Clerk as Document Nos. 67699 and 67700, is adopted, as certified by the Coastal Commission, and that the Executive Director or her designated representative is hereby authorized and directed to transmit this Resolution, together with the EIR and all relevant other documents to the CCC for its acceptance; provided, however as a condition of this approval, San Diego Symphony Orchestra Association 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 District attorneys' fees, costs and other expenses incurred by the District, related to the District's approvals. Said indemnity and hold harmless condition is independent of any agreements by and between San Diego Symphony Orchestra Association and the District.

**BE IT FURTHER RESOLVED**, consistent with Public Resources Code Sections 30714 and 30716, and California Code of Regulations Title 14, Section 13632(e), the subject Port Master Plan Amendment shall not be effective until the CCC has received this Resolution, the Final EIR, and all relevant other documents and accepts the BPC's adoption as consistent with its certification.

**BE IT FURTHER RESOLVED**, the BPC also hereby finds that the Project would facilitate the promotion and accommodation of public access to tidelands. The proposed BPC's action complies with Section 87 of the Port Act, which allows for all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants and facilities, public assembly and meeting places, parks and public recreation facilities. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed BPC actions are consistent with the Public Trust Doctrine.

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 11<sup>th</sup> day of December 2018, by the following vote: