

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION ADOPTING THE FINAL MITIGATED
NEGATIVE DECLARATION FOR THE HII SAN
DIEGO SHIPYARD INC. MARGINAL WHARF
REPAIR AND AS-NEEDED PILE REPLACEMENT
PROJECT, ADOPTING THE MITIGATION
MONITORING AND REPORTING PROGRAM, AND
DIRECTING THE FILING OF THE 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, in August 2017, Huntington Ingalls Industries San Diego Shipyard Inc. (HII), formerly Continental Maritime of San Diego, as the project proponent and applicant, submitted an application to the District to repair, reconfigure or replace existing in-water facilities located at the approximately 27.3-acre HII shipyard leasehold at 1995 Bay Front Street in San Diego (Project), as they have been on the Project site for over 60 years; and

WHEREAS, more particularly, the Project includes the repair, rehabilitation or removal of existing aging and deteriorating in-water facilities, the construction of new in-water facilities, and the as-needed replacement of degrading pier piles and has two components, which include: (1) marginal wharf repair to replace and reconfigure Wharves 2, 5, and 7 that have severely deteriorated, or in the case of Wharf 7, fallen completely into San Diego Bay (collectively, Marginal Wharf Repair”); and, (2) as-needed pile demolition and replacement to install pile replacements that would occur on an as-needed basis at the two main piers within the Project site (Piers 4 and 6) as well as Piers 1, 5, and 7, as well as the demolition of Pier 2 (collectively, Pile Replacement); and

WHEREAS, upon completion of the Marginal Wharf Repair, these wharves would be utilized for storage and staging for U.S. Navy contracts, as well as mooring small work vessels; and

WHEREAS, the Project would streamline existing operations by providing for more staging and storage areas near vessel repair areas as well as provide for greater safety by repairing or replacing the damaged and deteriorated piles and wharves; and

WHEREAS, the Pile Replacement proposes the replacement of all 1,304 piles that currently exist within the Project site with a total of 1,169 piles on an as-needed basis over four phases, resulting in a reduction in the number of piles onsite; and

WHEREAS, the proposed Pile Replacement would involve removal of the existing 60-foot-long piles made of wood, concrete, and steel, and with new concrete, plastic, or steel fender piles thereby protecting the existing piers, providing the ability to continue to safely moor vessels, and removing creosote treated wood piles, which are hazardous to humans and the marine environment; and

WHEREAS, in April 2018, District staff initiated the environmental review process for the Project pursuant to the California Environmental Quality Act (CEQA) and the District, as lead agency under CEQA, prepared a Draft Mitigated Negative Declaration (MND) for the Project entitled "HII San Diego Shipyard Inc. Marginal Wharf Repair and As-Needed Pile Replacement Project" (UPD #MND-2019-013) to evaluate the proposed Project and its potential environmental impacts, which was circulated for a 30-day public review period from January 30, 2019 to on February 28, 2019; and

WHEREAS, in conformance with CEQA, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the Project and circulated with the Draft MND and includes a program for reporting on and monitoring mitigation measures for the Project; and

WHEREAS, upon conclusion of the public review period, seven comment letters were received on the Draft MND from seven public agencies and one organization and as required by the District's Guidelines for Compliance with CEQA, staff prepared written responses to each of the comment letters; and

WHEREAS, after the public comment period and in response to public comments received, minor changes and clarifications were made to the Final MND; and

WHEREAS, the comment letters and written responses, and minor changes and clarifications do not present a substantial revision to the Draft MND, as defined by State CEQA Guidelines Section 15073.5(b), but clarify the MND and therefore, the Draft MND does not require recirculation; and

WHEREAS, the comment letters and written responses and MMRP are included in and part of the Final MND; and

WHEREAS, the Final MND finds that the Project, with the incorporation of mitigation measures identified in the MMRP, would not result in significant adverse impacts to the environment; and

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WHEREAS, the Final MND and MMRP have been prepared in accordance with CEQA, the State CEQA Guidelines, and the District's Guidelines for Compliance with CEQA (District Guidelines); 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 Draft MND; and
2. The Final MND; and
4. The Staff Report and Agenda sheet for the Project; and
5. The proposed MMRP; and
6. All documents and records filed in this proceeding by the District and all interested parties, including comment letters and District responses; and

WHEREAS, a complete copy of the Final MND is available for review in the Office of the District Clerk located at 3165 Pacific Hwy, San Diego, CA 92101, and was distributed to the BPC for its consideration by a Board Memo dated March 28, 2019 and was also made available to the BPC in the Commissioners' Office; and

WHEREAS, the Final MND and the MMRP 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 MMRP, 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, a duly noticed hearing was held on April 9, 2019, before the BPC, 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:

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 hearing 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 MMRP and the whole record before it, including without limitation the Draft MND, initial study, as well as comments received and responses to the same, and finds and determines, on the basis of the whole record before the BPC, that:

(a) No substantial revisions have been made to the MND requiring recirculation, meaning (1) there are no new, avoidable significant effects that have been identified requiring mitigation measures or project revisions to reduce such effects to a level of insignificance and (2) it has not been determined that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance or that new mitigation measures or revisions are required;

(b) There is no substantial evidence supporting a fair argument that the Project will have a significant unmitigated effect on the environment;

(c) The Final MND is complete and adequate in scope and has been completed in compliance with CEQA, the CEQA Guidelines and District Guidelines for implementation thereof;

(d) Mitigation Measures identified in the Final MND and MMRP are applicable and mitigate all potentially significant impacts to below a level of significance and thus, no additional mitigation measures are required; and

(e) The Final MND reflect the independent judgment and analysis of the District.

4. The BPC hereby adopts the MND and MMRP for the proposed project; provided, however, as a condition of this approval and adoption of the MND and MMRP, Huntington Ingalls Industries San Diego Shipyard Inc. 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 Final MND and MMRP. Said indemnity and hold harmless condition is independent of any agreements by and between Huntington Ingalls Industries San Diego Shipyard Inc. 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,

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San Diego, California 92101.

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 April, 2019, by the following vote: