

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION AUTHORIZING ISSUANCE OF A
NON-APPEALABLE COASTAL DEVELOPMENT
PERMIT TO WONDERLUST EVENTS, LLC FOR THE
WONDERFRONT FESTIVAL**

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, Wonderlust Events, LLC, as the project proponent/applicant (“Applicant” or “Permittee”), proposes a temporary three-day music and arts festival event, referred to as the “Wonderfront Festival” (“Festival”); and

WHEREAS, the Festival would be located on areas within and outside of District jurisdiction, roughly bounded by the San Diego trolley line from Santa Fe Depot along C Avenue to the Imperial Station at the base of 12th Avenue and all along portions of the North and South Embarcadero bayfront in San Diego; and

WHEREAS, only the areas of the Festival, including Festival improvements and activities, as well as setup and breakdown of the Festival (collectively “Project”) within the District’s jurisdiction would be permitted by the proposed Coastal Development Permit (“CDP”); and

WHEREAS, the maximum sites for the Project (collectively, “Project Site”) includes the following District public parks and other public spaces, public parking lots, and District tenant leasehold areas:

- Port Pavilion and Broadway Pier
- Lane Field Park
- North Embarcadero Promenade (Broadway Pier to Tuna Harbor)
- Ruocco Park (including adjacent parking)
- Seaport Village (including parking lots)
- The Headquarters courtyard
- Marriott Marina Terrace
- FAL parking lots
- San Diego Bayfront Park (adjacent to Hilton and FAL)
- EMPN (including parking lot)
- EMPS (including parking lot)
- Joe’s Crab Shack parking lot
- SDSOA leasehold
- South Embarcadero Promenade (EMPN to EMPS)

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WHEREAS, the proposed CDP is proposed to have a term of five (5) years from its effective date, but the Festival may only occur in the subsequent four (4) years (2020, 2021, 2022 and 2023), if the Project is approved in writing by the District's Executive Director and/or his/her designee or the Board of Port Commissioners ("BPC"), if deemed necessary by the District for each of those years and the Applicant obtains all other necessary agreements and permits from the District and other regulatory agencies; and

WHEREAS, the inaugural 2019 Festival would take place over three days from Friday, November 22 to Sunday, November 24, 2019; and setup and breakdown would take an additional eight days approximately wherein setup would occur five (5) days prior to the Festival (Sunday, November 17 to Thursday, November 21), and breakdown would occur three (3) days after the Festival (Monday, November 25 to Wednesday, November 27); and

WHEREAS, the Project generally includes: the temporary use of District public parks and other public spaces, public parking lots, and District tenant leasehold areas (subject to agreement with District tenants and the District's approval of said agreements); the temporary erection of structures (including up to 10 event stages), and equipment to support music and sports performances and other Festival activities, as more particularly described in the CDP and associated agenda sheet; the operation of the Festival event and setup and break down of the Festival amenities; the operation of transportation facilities and services, including land and water shuttle systems, ride sharing and micro-mobility transportation hubs, and parking facilities; the temporary modification of two District internal circulation street segments; and restoration of the Project Site to the condition it was in or better prior to the Project's commencement; and

WHEREAS, the Project also shall include a minimum of three (3) smaller-scale free activations available to the general public and Festival patrons such as open-air markets, outdoor movie screenings, sports performances, busker and band and other entertainer performances, or similar activations, as well as free programming for the public; and

WHEREAS, portions of several District public parks and other public spaces, public parking areas, and potentially portions of District tenant leaseholds (provided agreements are entered into) would be temporarily closed during some or all of the duration of the Project to allow for setup, breakdown, and Festival activities; and

WHEREAS, approximately 960 pre-paid parking spaces would be available for Festival patrons at District parking areas, as well as approximately 5,900 parking spaces throughout downtown both on District tidelands and off tidelands available on a first come, first served basis; and

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WHEREAS, the Project would also provide several mobility options including a Festival patron shuttle and water ferry, free fixed-route shuttle for the general public, and mobility hubs that would contain bicycle parking and pick up and drop off points for dockless micro-mobility vehicles; and

WHEREAS, the Project is required to provide Festival access to underserved communities (members of low-income communities, communities of color, and areas with populations of limited English proficiency) by donating free tickets (“Donated Tickets”); and

WHEREAS, for year one of the Festival, the Donated Tickets shall be the equivalent of 3,000 weekend passes or 9,000 one-day passes (or a combination of both) and for each subsequent year, such Donated Tickets shall be the equivalent of 3,000 weekend passes or 9,000 one-day passes (or a combination of both) or 10% of anticipated ticket sales, whichever is greater; and

WHEREAS, a CEQA Exemption was previously issued for the Project on September 13, 2018, and the Project was Categorically Exempt pursuant to CEQA Guidelines Sections 15301 (Existing Facilities), 15304 (Minor Alterations to Land), 15311 (Accessory Structures), and/or 15323 (Normal Operations of Facilities for Public Gatherings) and Sections 3.a., 3.d. (6), and/or 3.i. of the District’s Guidelines for Compliance with CEQA; and

WHEREAS, the Project is consistent and within the scope of the project analyzed in the District’s exemption and Notice of Exemption, and proposed BPC approval of the CDP is not a separate “project” for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036) and accordingly, the proposed Board action is merely a step-in furtherance of the Project for which environmental review was performed, and no further environmental review is required; and

WHEREAS, the Project site is located in the Civic Zone, Tuna Harbor, Marina Zone, and Convention Way Basin Subareas of Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified Port Master Plan; and

WHEREAS, the PMP land and water use designations within the limits of the Project are Commercial Recreation, Marine Terminal, Park/Plaza, Street, and Promenade and the Project is for a temporary three-day music and arts festival event, an ancillary use permitted under land use designations; and

WHEREAS, the Project for a temporary three-day music and arts festival event is consistent with the applicable special conditions and programming

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criteria of the existing CDPs for Broadway Pier and Pavilion, FAL, Hilton, Lane Field, The Headquarters, Marriott Marina Terrace, and Ruocco Park and therefore the Project would be consistent with the certified land use designations, the certified PMP, and existing entitlements, as a temporary special event; and

WHEREAS, according to the District's CDP Regulations, the Project constitutes a Non-Appealable development under Section 7.d.(3) because the Project is not classified in the District's CDP Regulations as "Excluded" pursuant to Section 7.d.(1), "Emergency" pursuant to Section 7.d.(2), or "Appealable" pursuant to Section 7.d.(4); and

WHEREAS, Coastal Act Section 30715 of Chapter 8 specifies the sole categories of development that may be appealed to the CCC and the Project is a temporary special event that is not a category listed as appealable in Section 30715 and therefore the Project is considered "non-appealable"; and

WHEREAS, the Project's events and associated temporary improvements and use of public areas are "development" as defined in Section 30106 of the Coastal Act as the Project involves erection of structures and an increase intensity of use; and

WHEREAS, the temporary use of the Project site is fully consistent with applicable land uses identified in the Port Master Plan and Chapters 3 and 8 of the Coastal Act (see Cal. Public Resources Code Section 30700, et seq.); and

WHEREAS, the "non-appealable" category of development is supported by the record, including the plain language of Section 30715, the Port Master Plan (PMP), the District's CDP Regulations and the characteristics of the Project; and

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

WHEREAS, the application and attachments thereto contain correct and accurate statements of fact; and

WHEREAS, the Project is located between the sea (as defined in the Coastal Act) and the first inland continuous public road paralleling the sea; and

WHEREAS, special conditions incorporated into the draft CDP ensure the Project's conformance with related District requirements and conditions of the existing CDPs; and

WHEREAS, the BPC considered the non-appealable CDP at the September 16, 2019 BPC meeting.

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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 Project includes the temporary use of District public parks and other public spaces, public parking lots, and District tenant leasehold areas (subject to agreement with District tenants and the District's approval of said agreements); the temporary erection of structures (including up to 10 event stages), and equipment to support music and sports performances and other Festival activities, as more particularly described in the CDP and associated agenda sheet; the operation of the Festival event and setup and break down of the Festival amenities; the operation of transportation facilities and services, including land and water shuttle systems, ride sharing and micro-mobility transportation hubs, and parking facilities; the temporary modification of two District internal circulation street segments; restoration of the Project Site to the condition it was in or better prior to the Project's commencement; at least three (3) small-scale activations and free programming open to the general public and Festival patrons; the Donated Tickets; parking; and mobility options.

3. The Project site is located in the Civic Zone, Tuna Harbor, Marina Zone, and Convention Way Basin Subareas of Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified Port Master Plan. The land use designations within the limits of the Project site are Commercial Recreation, Marine Terminal, Park/Plaza, Street, and Promenade. Temporary event uses are ancillary to allowed uses under the land use designations. Furthermore, the event is consistent with the applicable special conditions and programming criteria of the existing CDPs for Broadway Pier and Pavilion, FAL, Hilton, Lane Field, The Headquarters, Marriott Marina Terrace, and Ruocco Park. Therefore, the event would be consistent with the certified land use designations, the certified PMP, and existing entitlements, as a temporary special event.

4. The BPC finds that the CDP and associated Project complies with Section 87 of the Port Act, which allows for the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. 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.

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5. The BPC finds the Project was analyzed and is within the scope of the previously September 13, 2018 CEQA Exemption where the Project was Categorically Exempt pursuant to CEQA Guidelines Sections 15301 (Existing Facilities), 15304 (Minor Alterations to Land), 15311 (Accessory Structures), and/or 15323 (Normal Operations of Facilities for Public Gatherings) and Sections 3.a., 3.d. (6), and/or 3.i. of the District's Guidelines for Compliance with CEQA. The BPC further finds that the BPC action is not a separate "project" for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036) and accordingly, the CDP is merely a step-in furtherance of the Project for which environmental review was performed, and no further environmental review is required.

4. Based on the entire record available to the BPC and the findings set forth in this Resolution, the Executive Director or her designated representative is hereby authorized to issue a non-appealable CDP to Wonderlust Events, LLC, as the project proponent, for the "Wonderfront Festival". Said Non-Appealable CDP shall require compliance with all the conditions set forth in the Non-Appealable CDP; provided, however, as a condition of this approval, Wonderlust Events, LLC 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 approval of this Non-Appealable CDP and any development undertaken pursuant to the Non-Appealable CDP. Said indemnity and hold harmless condition is independent of any agreements by and between Wonderlust Events, LLC and the District.

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 16th day of September 2019, by the following vote: