

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE “LOCKHEED MARTIN HARBOR ISLAND FACILITIES DEMOLITION AND SEDIMENT REMEDIATION PROJECT,” ADOPTING MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING 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, Lockheed Martin Corporation (“Lockheed”), as the project applicant and project proponent, proposes the demolition of the existing Lockheed Martin Marine Terminal Facilities (“MTF”) and the remediation of contaminated sediment in the Harbor Island East Basin of San Diego Bay located at 1160 Harbor Island Drive in the City of San Diego (“Proposed Project”); and

WHEREAS, the Proposed Project includes demolition and removal of existing MTF infrastructure, including the pier, the marine railway, the Marine Terminal Building, and accessory buildings and sheds, and abatement of the effects of pollutants discharged to San Diego Bay within the Project area; and

WHEREAS, the Proposed Project would permit Lockheed to (1) satisfy end of lease obligations with the District, comply with Cleanup and Abatement Order R9-2017-0021 and associated remediation obligations imposed by the San Diego Regional Water Quality Control Board, and (2) comply with the Settlement Agreement between the District, General Dynamics Corporation, and Lockheed Martin Corporation (“Settlement”); and

WHEREAS, as the Lead Agency under the California Environmental Quality Act (“CEQA”), the District determined the Proposed Project required an Environmental Impact Report (“EIR”); and

WHEREAS, a Draft EIR was prepared and circulated for public review and comment beginning on July 31, 2020 and ending September 14, 2020; during this review period, the District received five comment letters; and

WHEREAS, the comment letters and responses to all written comments received on the Draft EIR are included in the Final EIR; and

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WHEREAS, the Final EIR and Mitigation Monitoring and Reporting Program (“MMRP”) were prepared in accordance with CEQA, the State CEQA Guidelines, and the District’s Guidelines for Compliance with CEQA; and

WHEREAS, the Final EIR and MMRP (as part of the Final EIR) were provided to the Board of Port Commissioners (“Board”) via a memorandum to the Board dated October 29, 2020; and

WHEREAS, the Board has read and considered all environmental documentation comprising the Final EIR, including the comments and the responses to comments and MMRP, and has found that the Final EIR considers all potentially significant environmental impacts of the Proposed Project, and is complete and adequate, and fully complies with all requirements of CEQA, the State CEQA Guidelines, and the District’s Guidelines for Compliance with CEQA.

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

1. The Board finds the facts recited above are true and further finds that this Board has jurisdiction to consider, approve and adopt the subject of this Resolution.

2. The Board finds and determines that the applicable provisions of CEQA, its implementing State Guidelines, and District Guidelines have been duly observed in conjunction with the considerations of this matter and all of the previous proceedings related thereto.

3. The Board finds and determines that (a) the Final EIR is complete and adequate in scope and has been completed in compliance with CEQA and the State and District Guidelines for implementation thereof, (b) the Final EIR was presented to the Board, and the Board has fully reviewed and considered the information in Final EIR prior to approving the Proposed Project, (c) the Final EIR reflects the District's independent judgment and analysis, and, therefore, the Final EIR is hereby declared to be certified in relation to the subject of this Resolution.

4. Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d), the Board hereby adopts and approves the Mitigation Monitoring and Reporting Program, which is appended hereto as Exhibit "A" and is made a part hereof by this reference, with respect to the significant environmental effects identified in the Final EIR, and resolves that the provisions of the Mitigation Monitoring and Reporting Program will be made conditions of approval for the Proposed Project.

5. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15094, the Clerk of the Board shall cause a Notice of

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Determination to be filed with the Clerk of the County of San Diego and the State Office of Planning and Research. Unless the Proposed Project is declared exempt herein and a Certificate of Filing Fee Exemption is on file, the Proposed Project is not operative, vested or final until the filing fees required pursuant to Fish and Game Code Section 711.4 are paid to the Clerk of the County of San Diego.

6. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e), the location and custodian of the documents and other materials which constitute the record of proceedings on which this Resolution is based is the Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

7. As a condition of this approval, Lockheed 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 of the Proposed Project and certification of the Final EIR, and Mitigation Monitoring and Reporting Program. Said indemnity and hold harmless condition is independent of any agreements by and between Lockheed and the District.

Attachments:

Exhibit A: Mitigation Monitoring and Reporting Program

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 10th day of November 2020, by the following vote:

Exhibit A

Mitigation Monitoring and Reporting Program

**Mitigation Monitoring and Reporting Program for the
Lockheed Martin Harbor Island Facilities Demolition and Sediment Remediation Project**

| Mitigation Measure No. | Measure | Person(s) to Verify | Timing of Verification | | | Responsible Party | Completed | | Completed |
|------------------------|--|--|------------------------|---------------|-------------|--|-----------|------|-----------|
| | | | Pre-Const. | During Const. | Post-Const. | | Initials | Date | |
| Biological Resources | | | | | | | | | |
| BIO-1A | <p>Preconstruction California Least Tern Surveys. The project proponent shall schedule and complete all in-water construction activity outside of the nesting season for California least tern (generally between April 1 and mid-September). Should in-water construction occur during the California least tern nesting season, the following construction measures shall be implemented:</p> <p>1. Prior to the start of construction, the contractor, shall retain a qualified biologist approved by the District, that shall continually conduct monitoring of the San Diego Bay waters within 500 feet of construction activities to identify presence of terns displaying foraging behavior (e.g., searching and diving) and assess the potential for adverse impacts or adverse impacts, if any, on California least tern. If adverse impacts on terns occur (e.g., agitation or startling during foraging activities), construction may not commence, and in the event construction has commenced, construction shall cease until the biological monitor determines that no adverse impacts would occur or the California least tern has left the site for longer than 10 minutes.</p> | San Diego Unified Port District (District) | X | X | | District, Qualified Biologist, Construction Contractor | | | |

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| BIO-1B | <p>Marine Mammal and Sea Turtle Construction Monitoring. Prior to construction activities involving in-water vibratory or impact hammer pile removal activities, the project proponent shall implement a marine mammal and sea turtle monitoring program. The monitoring program shall be approved by the San Diego Unified Port District and shall include the following components:</p> <ol style="list-style-type: none"> 1. For a period of 15 minutes prior to the start of in-water construction, a qualified biologist who meets the minimum requirements as defined by the National Oceanic Atmospheric Administration's Guidance for Developing a Marine Mammal Monitoring Plan shall be retained by the project proponent and approved by the San Diego Unified Port District and shall continuously monitor the applicable zones of influence of any vibratory pile removal (does not include pile jetting). The contractor shall halt in-water pile removal work if any marine mammals or green sea turtles are observed within the defined zone of influence for the species encountered. Work shall not recommence until it has been determined that the marine mammals and turtles have left the area or have not been seen on the surface within the zones of influence for a period of 15 minutes. 2. The construction contractor shall not start work if any observations of special-status | District | X | X | | District, Qualified Biologist, Construction Contractor | | | |

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| | <p>species are made prior to starting pile removal until marine mammals and turtle(s) have not been seen on the surface within the zones of influence for a period of 15 minutes.</p> <p>3. The qualified biologist shall continually monitor the zone of influence during pile removal activities to observe any marine mammals or sea turtles that approach or enter the zone of influence. The qualified biologist shall have authority to stop all work on site and shall do so if a marine mammal or green sea turtle enters the zone of influence or could otherwise be impacted by construction noise from vibratory or impact hammer pile removal operations.</p> <p>4. When performing vibratory pile removal, the contractor shall commence work with a few short pulses followed by a 1-minute period of no activity prior to commencing full pile removal activities. The purpose of this activity is to encourage the marine mammals and green sea turtles in the area to leave the project site prior to commencement of work. The contractor, under the direction of a qualified biologist, shall then commence monitoring as described to determine if marine mammals or turtles are in the area. This process should be repeated if pile removal ceases for a period of greater than an hour.</p> | | | | | | | | |

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| BIO-1C | Construction Vessels. Construction vessel traffic shall not exceed existing ambient speed limits for the marina. | District | | X | | District, Construction Contractor | | | |
| BIO-1D | Preconstruction Raptor and General Avian Nest Surveys. If project demolition activities are scheduled to commence during the raptor nesting season (generally January 15 through August 31), preconstruction surveys for raptor nests shall be performed by a qualified biologist within 500 feet of project construction activities no more than 7 days prior to the initiation of construction. Demolition activities within 500 feet of an identified active raptor nest shall not commence during the breeding season until a qualified biologist determines that the nest is no longer active and any young birds in the area have adequately fledged and are no longer reliant on the nest. Trees with inactive nests can be removed outside the breeding season without causing an impact. | District | X | X | | District, Qualified Biologist, Construction Contractor | | | |
| BIO-2A | Eelgrass Surveys. Prior to the start of any waterside construction activities, a qualified marine biologist who would be retained by the project proponent and approved by the San Diego Unified Port District shall conduct a preconstruction eelgrass survey per the California Eelgrass Mitigation Policy 2014. Surveys for eelgrass shall be conducted during the active eelgrass growing season | District | X | X | | District, Qualified Biologist, Construction Contractor | | | |

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| | <p>(March–October), and results shall be valid for 60 days, unless completed in September or October; if completed in September or October, results shall be valid until resumption of the next growing season. The qualified marine biologist shall submit the results of the preconstruction survey to the San Diego Unified Port District and resource agencies within 30 days.</p> <p>If preconstruction eelgrass surveys identify eelgrass, the qualified marine biologist shall demarcate the distribution of eelgrass to allow tug and barge operators to maintain a safe distance to avoid impacts to eelgrass during construction.</p> <p>If eelgrass is found during the preconstruction survey, within 30 days of completion of in-water construction activities, a qualified marine biologist retained by the project proponent and approved by the San Diego Unified Port District shall conduct a post-construction eelgrass survey. The post-construction survey shall evaluate potential eelgrass impacts associated with construction.</p> <p>Upon completion of the post-construction survey, the qualified marine biologist shall submit the survey report to San Diego Unified Port District and resource agencies within 30 days.</p> | | | | | | | | |

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| BIO-2B | <p>Eelgrass Mitigation. In the event that the post-construction survey identifies any impacts on eelgrass, the project proponent shall implement the following:</p> <ul style="list-style-type: none"> • A qualified marine biologist retained by the project proponent and approved by the San Diego Unified Port District shall develop a mitigation plan for in-kind mitigation. The qualified marine biologist shall submit the mitigation plan to the San Diego Unified Port District and resource agencies within 60 days following the post-construction survey. • The Eelgrass Mitigation Plan shall specify that the contractor/entity harvesting eelgrass to implement the required mitigation would need to obtain a scientific collecting permit for eelgrass harvest and a letter of authorization at least 30–60 days prior to implementation. • Mitigation for eelgrass impacts shall be at a ratio of no less than 1.2:1 as required by the California Eelgrass Mitigation Policy. Mitigation shall commence within 135 days of any noted impacts on eelgrass, such that mitigation commences within the same eelgrass growing season that impacts occur. • Upon completing mitigation, the qualified biologist shall conduct mitigation performance monitoring per the California Eelgrass Mitigation | District | | | X | District, Qualified Biologist | | | |

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| | <p>Policy, at performance milestones of 0, 12, 24, 36, 48, and 60 months. The qualified biologist shall conduct all mitigation monitoring during the active eelgrass growing season and shall avoid the low growth season (November–February). Performance standards shall be in accordance with those prescribed in the California Eelgrass Mitigation Policy.</p> <ul style="list-style-type: none"> The qualified biologist shall submit the monitoring reports and spatial data to the San Diego Unified Port District and resource agencies within 30 days after the completion of each monitoring period. The monitoring reports shall include all the specific requirements identified in the California Eelgrass Mitigation Policy. | | | | | | | | |
| BIO-2C | <p>Avoidance of Eelgrass Due to Anchored Barges, Boat Navigation, and Propeller Wash. If eelgrass is found during the preconstruction survey, tug and barge operators shall ensure that anchored construction barges are outside of eelgrass beds. Additionally, tugboat operators shall be instructed that propeller wash can damage eelgrass. No anchoring (and other bottom-disturbing activities) shall occur within eelgrass beds, and propeller wash shall not be directed toward eelgrass beds.</p> | District | X | X | | District, Construction Contractor | | | |

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| Cultural Resources | | | | | | | | | |
| CUL-1 | Historic American Buildings Survey Level 2 Documentation. Prior to demolition, the Marine Terminal Building, marine railway, and pier shall be documented to Historic American Buildings Survey Level 2 standards, according to the outline format described in the Historic American Building Survey Guidelines for Preparing Written Historical Descriptive Data, and be approved by the District. Photographic documentation shall follow the Photographic Specification – Historic American Building Survey, including 10–20 archival quality, large-format photographs of the exterior and interior of the building and its architectural elements. Construction techniques and architectural details shall be documented, especially noting the measurements, hardware, and other features that tie architectural elements to a specific date. If feasible, views of the pier and/or railway and their association with the building should be documented from the water with views to the west. The original architectural plans shall be archivally reproduced following Historic American Buildings Survey standards. Three copies of the Historic American Buildings Survey documentation package, with one copy including original photograph negatives, shall be produced, and at least one of these copies shall be placed in an archive or history collection accessible to the general public. | District | X | | | District | | | |

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| CUL-2 | Historical Interpretive Exhibit. An interpretative opportunity that would communicate the significance of the Lockheed Martin Marine Terminal Facilities to the San Diego community would be developed. This opportunity shall consist of a permanent interpretive exhibit that shall incorporate information from historic photographs, Historic American Buildings Survey documentation, or other materials in a location accessible to the public. The minimum size of the exhibit should be 2 feet by 3 feet and could be mounted on a pedestal at an angle or mounted vertically on a building or structure. The interpretive exhibit shall be developed by a qualified team, including a historian and graphic designer, and approved by the San Diego Unified Port District. If the exhibit could not be located at the current location, another appropriate venue on Harbor Island shall be considered by the San Diego Unified Port District during development and review of the interpretive exhibit. | District | X | | | District | | | |

Notes: District = San Diego Unified Port District

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