

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION AUTHORIZING ISSUANCE OF AN
APPEALABLE COASTAL DEVELOPMENT PERMIT
TO SAN DIEGO COMIC CONVENTION AND THE
SAN DIEGO CONVENTION CENTER
CORPORATION FOR PUBLIC ACCESS DURING
THE 2021 COMIC-CON INTERNATIONAL: SAN
DIEGO (COMIC-CON) SPECIAL EDITION**

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, San Diego Comic Convention (SD Comic Convention), which manages the Comic-Con International: San Diego convention temporary event (Comic-Con), and the San Diego Convention Center Corporation (SDCCC), which manages the San Diego Convention Center (SDCC), as the Project co-applicants (collectively, Applicant or Permittee), propose temporary activities associated with Comic-Con Special Edition, including operation of Comic-Con Special Edition within the District's jurisdiction, including, but not limited to, use of Embarcadero Marina Park South (EMPS) and Embarcadero Marina Park North (EMPN) and portions of the South Embarcadero Promenade, public access components, safety and security restrictions (i.e., temporary partial street, driveway, and sidewalk segment restrictions), and Comic-Con Special Edition line queuing within the site of the project (collectively, Project); and

WHEREAS, the Project site includes the public areas surrounding the SDCC: Park Boulevard/Convention Way, portions of EMPS and EMPN, Harbor Drive between First Avenue and Park Boulevard, the front driveway and sidewalk in front of SDCC, and the South Embarcadero Promenade between EMPS and EMPN; and

WHEREAS, Comic-Con is a popular culture convention typically held annually in July attracting 135,000 attendees and tens of thousands of others who visit the SDCC area to enjoy the free activations and associated events occurring throughout downtown San Diego and its waterfront; and

WHEREAS, the traditional in-person Comic-Con event typically takes place over 4.5 days (Wednesday through Sunday with Wednesday night being "Preview Night") and includes 2.5 days for setup and 2 days for breakdown, for a total duration of 9 days; and

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WHEREAS, Comic-Con was cancelled in 2020 and postponed in 2021 due to COVID-19 related public health restrictions, with SD Comic Convention instead opting to hold an online only event in July 2020 and 2021, referred to as Comic-Con@Home; and

WHEREAS, in anticipation that conditions will permit in-person gatherings like Comic-Con, the Applicant proposes a significantly smaller, 3 day in-person event, referred to as Comic-Con Special Edition, scheduled to be held November 26 to November 28, 2021, in addition to 4 days of setup and 2 days of breakdown, for a total duration of 9 days; and

WHEREAS, following the 2018 Comic-Con event, California Coastal Commission (CCC) staff informed SD Comic Convention and District staff that the Comic-Con event would require a Coastal Development Permit (CDP) for future year events to adequately assess the potential impacts to public access, including a comprehensive public access plan (PAP), to minimize impacts to public access to and along San Diego Bay; and

WHEREAS, District staff, along with SD Comic Convention, SDCCC, and City of San Diego staff, have been coordinating with CCC staff since the 2018 Comic-Con, to ensure that CCC staff's public access concerns are addressed and memorialized in the CDP; and

WHEREAS, in April 2020, staff intended to bring to the BPC for consideration a multi-year Appealable CDP; however, due to the COVID-19 pandemic, Comic-Con was cancelled in 2020 and postponed in 2021; and

WHEREAS, the CDP for the much smaller, in person, supplemental event to the July 2021 Comic-Con@Home online event, Comic-Con Special Edition, proposed for this fall, will require the Applicant to implement a PAP to ensure that certain areas within the Project site are available to, and accessible by, the general public during Comic-Con Special Edition; and

WHEREAS, staff intends to return to the BPC in the near future with a separate multi-year CDP to cover future traditional in-person Comic-Con events; and

WHEREAS, the Project is more particularly described in the corresponding agenda sheet and draft CDP attached thereto, both of which are incorporated herein by reference; and

WHEREAS, the Project site includes the areas surrounding the SDCC, including portions of EMPS and EMPN, EMPS and EMPN parking, the public promenades around the perimeters of EMPS and EMPN, the Embarcadero Promenade between the entrances to EMPS and EMPN, a segment of Harbor Drive between First Avenue and Park Boulevard, Park Boulevard/Convention

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Way, and the front driveway and sidewalk in front of the SDCC; and

WHEREAS, the Project site does not include the Comic-Con Special Edition events and activities located inside the SDCC, nor does it include areas within Fifth Avenue Landing, Hilton San Diego Bayfront, and San Diego Symphony Orchestra Association; these lessees may hold activations that would be permitted by their respective leases with the District; and

WHEREAS, the Project constitutes development pursuant to Public Resources Code (Coastal Act) Section 30106 as it would result in a change in the intensity of use of land and a change in the access to water; and

WHEREAS, the Project has been determined to be an “Appealable” development pursuant to Section 30715 of the Coastal Act and the District’s CDP Regulations because it constitutes a category of development involving roadways not principally for internal circulation within the District’s boundaries (i.e., the temporary partial Harbor Drive street segment restriction); and

WHEREAS, a portion of the Project is located between the sea (as defined in the Coastal Act) and the first inland continuous road paralleling the sea, and the Project is fully consistent with Coastal Act Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein because the Project would provide public access and recreational opportunities via the identified public access routes and Convention Way; and

WHEREAS, the proposed BPC action, which would authorize issuance of an Appealable CDP for the Project, is Categorically Exempt pursuant to CEQA Guidelines Sections 15304 (Minor Alterations to Land) and/or 15323 (Normal Operations of Facilities for Public Gatherings) and Section 3.d. (Minor Alterations to Land) of the District’s Guidelines for Compliance with CEQA because the Project in question would consist of activities associated with a temporary event that would not involve the removal of mature, scenic trees, would not have any permanent effects on the environment, and would consist of the normal operation of existing facilities for public gatherings; and

WHEREAS, the BPC considered the appealable CDP at the September 14, 2021 BPC meeting.

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.

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2. In general, the Project consists of: (1) temporary partial street, driveway, and sidewalk segment restrictions for safety and security purposes, wherein a partial segment of Harbor Drive from First Avenue to Park Boulevard and the driveway in front of the SDCC will be temporarily restricted for use only by Comic-Con Special Edition shuttle loading and unloading, prepaid parking pass holders, emergency vehicles, ADA access and if needed Comic Con Special Edition badgeholder screening and queuing and a portion of the sidewalk fronting SDCC will also be temporarily restricted for Comic-Con Special Edition badgeholders only; (2) Comic-Con Special Edition line queuing that will utilize a portion of EMPS as well as EMPS parking spaces for vendors, equipment storage, portable restrooms, production area and trash dumpsters; and if needed, due to COVID-19 requirements, additional line queuing space for vaccine verification and/or attendee line queuing that will utilize a portion of the Harbor Drive segment, a portion of the Embarcadero Promenade (between the entrances to EMPS and EMPN) and EMPN promenade as well as some EMPN parking spaces for portable restrooms and dumpsters; SD Comic Convention shall first use all available indoor SDCC and surrounding outdoor areas used for traditional Comic-Con events for line queuing, including the Harbor Drive segment, and if additional queuing space is needed, the Embarcadero Promenade segment may be used and if that is insufficient, the EMPN promenade may be used; and (3) a Public Access Plan (PAP) to ensure that certain areas within the Project site are available to, and accessible by, the general public during Comic-Con Special Edition. The Project including the PAP is more particularly described in the corresponding agenda sheet and draft CDP.

3. The Project site is located in the Convention Way Basin and Marina Zone Subareas of Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified PMP. The land use designations within the limits of the Project site are Commercial Recreation, Park/Plaza, Street, and Promenade. Public access is an allowed use under the land use designations, while temporary event activities are ancillary to allowed uses. Therefore, the Project would be consistent with the certified land use designations and the certified PMP as activities associated with a temporary event.

4. The BPC finds that the Project constitutes “development” pursuant to Public Resources Code (Coastal Act) Section 30106 as it would result in a change in the intensity of use of land and a change in the access to water and accordingly, a Coastal Act (see California Public Resource Code Section 30000 et seq.) authorization from the District is required.

5. The BPC finds that under Chapter 8 of the Coastal Act, and the District’s CDP Regulations, the Project has been determined to require an “appealable” CDP (see California Public Resources Code Section 30715 and Section 7(4) of the District’s CDP Regulations) because it constitutes a category of development involving roadways not principally for internal circulation within the

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District's boundaries (i.e., the temporary partial Harbor Drive street segment restriction).

6. The BPC finds that the Project requires issuance of a CDP pursuant to the CCC Temporary Event Guidelines which require that temporary events shall be subject to CDP review when unique circumstances exist relative to a particular temporary event that may have the potential for adverse impacts on coastal resources, including precluding the general public from use of a public recreational area for a significant period of time; and the event has historically required a CDP to address and monitor associated impacts to coastal resources. Furthermore, the Project would temporarily restrict public use of a roadway segment and parking areas.

7. The BPC finds that the subject CDP shall only permit the Project for the 2021 Comic-Con Special Edition, subject to the Applicant obtaining all necessary agreements and permits from the District and other regulatory agencies. The "Development" section of the Draft CDP represents a worst-case scenario, and activities and configuration of Project components may vary, but may not exceed the parameters described in the "Development" section of the CDP, as determined by the District, and in consultation with CCC staff, without a future amendment to the CDP.

8. While the District is the issuing agency of the CDP for the Project, the District is not responsible for deciding whether the Project moves forward considering COVID-19. However, the District recognizes the seriousness of COVID-19, COVID-19 orders, issued by the State, County of San Diego and the City of San Diego (collectively, Orders) and the importance of social distancing and public health and safety. Accordingly, the Project shall comply with all COVID-19 orders, and the Permittee shall obtain any necessary approvals from health officials to conduct the Project. Prior to commencement of the Project, Permittee shall provide, in a form acceptable to the District, proof of the necessary approvals from health officials to conduct the Project. Permittee acknowledges and agrees that the District has no liability, whether in law or equity, related to COVID-19 and the Project.

9. A portion of the Project is located between the sea (as defined in the Coastal Act) and the first inland continuous road paralleling the sea. The BPC finds the Project is fully consistent with the Coastal Act, including, without limitation Chapter 8 of the Coastal Act, Coastal Act Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein as it would provide public access and recreational opportunities via the identified public access routes and Convention Way.

10. The BPC also finds the Project is consistent with the Public Trust Doctrine, as the Project complies with Section 87 of the Port Act which allows for the construction, reconstruction, repair, maintenance, and operation of public

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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 Board action is consistent with the Public Trust Doctrine.

11. 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 and directed to issue an Appealable Coastal Development Permit to San Diego Comic Convention and the San Diego Convention Center Corporation for public access during the 2021 Comic-Con International: San Diego (Comic-Con) Special Edition after passage of the ten (10) working day appeal period as described in the CDP Regulations of the District. Said Appealable Coastal Development Permit shall require compliance with all conditions set forth therein; provided, however, as a condition of approval, San Diego Comic Convention and the San Diego Convention Center Corporation 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 attorneys' fees, costs and expenses incurred by the District related to the approval of this Appealable Coastal Development Permit, as well as any liability from the Project's operation and COVID-19. Said condition is independent of any agreement between the District and San Diego Comic Convention and the San Diego Convention Center Corporation.

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 14th day of September 2021, by the following vote: