

## **RESOLUTION 2017-111**

### **RESOLUTION RESCINDING BOARD RESOLUTION 2016-205 AUTHORIZING ISSUANCE OF A NON- APPEALABLE COASTAL DEVELOPMENT PERMIT FOR THE PORTSIDE PIER RESTAURANT REDEVELOPMENT PROJECT**

**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**, Section 21 of the Port Act authorizes the Board of Port Commissioners (BPC) to pass all necessary ordinances and resolutions for the regulation of the District; and

**WHEREAS**, Section 87(b) of the Port Act grants authority to the District to lease the tidelands or submerged lands, or parts thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which those lands are held, by the State of California; and

**WHEREAS**, a vacant and fenced off structure, consisting of piles, a platform, a building, a dock and associated improvements (Existing Structure), once occupied as four (4) restaurants operated by Anthony's Fish Grotto of La Mesa (Anthony's), exists at 1360 N. Harbor Drive, in the City of San Diego (Project Site); and

**WHEREAS**, Anthony's, vacated the premises on March 15, 2017 and, since that time, the District has fenced off the site; and

**WHEREAS**, the District has proposed to demolish the Existing Structure conditioned on reimbursement for the costs by Anthony's; and

**WHEREAS**, at the December 13, 2016 BPC Meeting, pursuant to BPC Resolution No. 2016-205, the BPC authorized issuance of a non-appealable Coastal Development Permit (CDP) to The Brigantine, Inc. (The Brigantine) pursuant to the California Coastal Act, for the Portside Pier Restaurant Redevelopment Project (Portside Pier Project), which at the time, consisted of demolition of the Existing Structure, and construction of a new platform; supporting piles; a new, two-story restaurant structure containing three restaurants and a gelato and coffee shop; and an expanded dock and dine facility (December 13<sup>th</sup> BPC Approval); and

**WHEREAS**, to date, the CDP has not been issued or executed and at this time The Brigantine is no longer proposing demolition of the Existing Structure; and

**WHEREAS**, the CDP could have been amended to remove the demolition of the Existing Structure and a new CDP could have been issued to Anthony's for demolition of the Existing Structure or alternatively, the CDP could have been rescinded and two new CDPs issued – one to Anthony's and one to The Brigantine; however, considering Anthony's option not to demolish the Existing Structure, that is no longer a viable option; and

**WHEREAS**, the Existing Structure is currently fenced off, which is a viable short-term option, but in the long-term the vacant Existing Structure poses health and safety issues, as evidenced in the corresponding Agenda Sheet; and

**WHEREAS**, in light of the change of circumstances and the health and safety concerns of the District, on July 11, 2017, the BPC authorized the issuance of two new CDPs be issued – one to the District for the demolition of the Existing Structure (see Board Resolution No. 2017-110) and one to The Brigantine for the development of the new piles, platform, restaurant and dock and dine facility (see Board Resolution No. 2017-109) (collectively, July 11<sup>th</sup> Board Approvals); and

**WHEREAS**, the July 11<sup>th</sup> Board Approvals now make the December 13<sup>th</sup> BPC Approval moot and no longer effective and hence, District staff recommends the BPC rescind its December 13<sup>th</sup> BPC Approval; and

**WHEREAS**, The Brigantine has agreed to the rescinding of the December 13<sup>th</sup> BPC Approval.

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

That Resolution No. 2016-205 authorizing issuance of a non-appealable Coastal Development Permit for the Portside Pier Restaurant Redevelopment Project is hereby rescinded and said authorization is no longer valid or of any effect.

APPROVED AS TO FORM AND LEGALITY:  
GENERAL COUNSEL

  
By: Assistant/Deputy

2017-111

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11<sup>th</sup> day of July 2017, by the following vote:

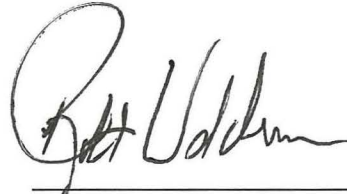
AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Valderrama, and Zucchet

NAYS: None.

EXCUSED: None.

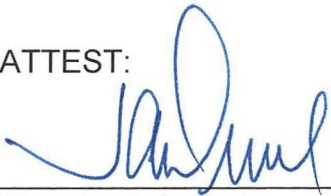
ABSENT: None.

ABSTAIN: None.



Robert Valderrama, Chair  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk



(Seal)