

RESOLUTION 2019-042

RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT TO HII SAN DIEGO SHIPYARD INC. FOR MARGINAL WHARF REPAIR AND AS-NEEDED PILE REPLACEMENT

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, the Project is located within the jurisdiction of the District and in the California Coastal Zone; and

WHEREAS, Section 30106 of the California Coastal Act defines “development” as, among other things, demolition and the placement or erection of any solid material or structure and consequently, the Project is considered “development” under the California Coastal Act, requiring a Coastal Act authorization from the District; and

WHEREAS, pursuant to the District’s Coastal Development Permit (CDP) Regulations, the Project has been determined to be a “non-appealable” development because it is not considered an “excluded,” “emergency,” or “appealable” development; and

WHEREAS, Coastal Act Section 30715 lists the sole categories of development that are appealable, and the Project is not within these categories of development; 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, the Project is fully consistent with Public Resources Code Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein since the Project is the repair, rehabilitation or removal of existing in-water facilities and the construction of new in-water facilities in a working shipyard that does not provide any public access amenities; and

WHEREAS, the Project site is located in Planning District 4, Tenth Avenue Marine Terminal, which is delineated on Precise Plan Map Figure 13 of the certified PMP; and

WHEREAS, the PMP land and water use designations within the limits of the Project are Marine Related Industrial and Specialized Berthing and Project is the repair, rehabilitation removal and replacement of existing in-water facilities at

the shipyard and is consistent with the existing certified land and water use designations; therefore, the Project conforms to the certified Port Master Plan; and

WHEREAS, the Project also satisfies the requirements of the Planning District.

WHEREAS, special conditions are incorporated into the CDP to ensure the Project's conformance with the Final Mitigated Negative Declaration's Mitigation Monitoring Reporting Program and related District requirements; and

WHEREAS, the BPC considered the non-appealable CDP at the April 9, 2019 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.

2. In general, 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).

3. The land and water use designations within the limits of the Project are Marine Related Industrial and Specialized Berthing in the certified Port Master Plan (PMP) and the Project is consistent with the land and water use designations and the certified PMP and the precise planning text.

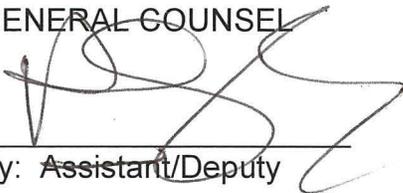
4. The proposed BPC direction or action complies with Section 87 of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operations of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. Consequently, the proposed actions are consistent with the Public Trust Doctrine.

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 HII San Diego Shipyard, Inc.

for the "HII San Diego Shipyard Inc. Marginal Wharf Repair and As-Needed Pile Replacement Project". Said Non-Appealable CDP shall require compliance with all the conditions set forth in the Non-Appealable CDP, including, but not limited to, the mitigation measures in the Final Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; provided, however, as a condition of this approval, Huntington Ingalls Industries San Diego Shipyard Inc. 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 Huntington Ingalls Industries San Diego Shipyard Inc. 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 9th day of April 2019, by the following vote:

AYES: Bonelli, Castellanos, Merrifield, and Valderrama

NAYS: None.

EXCUSED: Malcolm, Moore, and Zucchet

ABSENT: None.

ABSTAIN: None.



Garry J. Bonelli, Chairman
Board of Port Commissioners

ATTEST:



Donna Morales
District Clerk

(Seal)