

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION PROCLAIMING THE CONTINUANCE
OF A LOCAL EMERGENCY RELATING TO THE
ON-GOING TIJUANA RIVER VALLEY
TRANSBOUNDARY POLLUTION CRISIS**

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 1 (Port Act); and

WHEREAS, in accordance with Board of Port Commissioners (BPC), Policy No. 777, Emergency Management, as amended by the BPC by Resolution 2020-045 (April 14, 2020), the Executive Director/Chief Executive Officer may request the BPC proclaim a local emergency when such conditions exist that are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of the District, and which may require the supplemental efforts and available resources of other local government entities, the state and/or federal government, and/or disaster relief organizations to help alleviate the damage, loss, hardship, or suffering caused thereby; and

WHEREAS, for decades, pollution and contamination from transboundary flows have negatively impacted community health, economy, and ecosystems within the Tijuana River Valley watershed and coastline on both the U.S. and Mexico sides of the border; and

WHEREAS, the unabated pollution from U.S. facilities violates multiple fundamental federal and state environmental laws and regulations and harms human health and wellbeing, damages the Tijuana River Valley, estuary, and adjacent state tidelands, and drastically limits coastal access; and

WHEREAS, on March 2, 2018, the District and the Cities of Imperial Beach and Chula Vista, filed suit in the U.S. District Court for the Southern District of California against the US International Boundary and Water Commission (USIBWC) and Veolia Water North America-West, LLC (Veolia) for violations of the Clean Water Act; and

WHEREAS, on April 25, 2022, the District and the Cities of Imperial Beach and Chula Vista executed a settlement agreement resolving their claims against USIBWC whereby USIBWC has been implementing several substantive measures to mitigate the effects of transboundary pollution in the Tijuana River Valley and to improve situational awareness and the flow of information from USIBWC to stakeholders; these actions reflect interim mitigation measures while the US EPA allocates \$300 million in funding as part of the United States-

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Mexico-Canada Agreement Implementation Act (USMCA) to design, construct, and operate the Comprehensive Infrastructure Solution to address chronic transboundary flows; and

WHEREAS, progress towards implementing the EPA's Comprehensive Infrastructure Solution to expand the USIBWC's International Treatment Plant (ITP) has been impeded by significant and previously undisclosed rehabilitation needs at ITP due to insufficient maintenance of the facility; and

WHEREAS, the District and the regional coalition have focused on advocating for additional federal funding required to complete both rehabilitation needs and the expansion of the ITP; and

WHEREAS, until the repairs to the existing facilities are completed, IBWC has indicated that that the plant cannot be expanded as contemplated in the Comprehensive Infrastructure Solution; and

WHEREAS, the BPC position continues to focus on lobbying for the completion of the Comprehensive Infrastructure Solution, including Tijuana River diversion and expanded treatment capacity; and

WHEREAS, transboundary flows and beach closures continue to occur and are beyond the control of local resources, requiring substantial efforts and resources of the federal and state government; and

WHEREAS, the south San Diego County shoreline from the Tijuana Slough to Border Field State Park has now been closed every day since December 8, 2021 and is approaching 1,000; and

WHEREAS, the District and the cities of Imperial Beach, San Diego, and the County of San Diego have all declared a state of local emergency and the County of San Diego has also issued a public health emergency for the Tijuana River Valley; and

WHEREAS, on April 3, 2024, by Resolution No. 2024-0085, the Board of Port Commissioners (BPC) adopted a proclamation of a local emergency relating to the on-going Tijuana River Valley transboundary pollution crisis; and

WHEREAS, pursuant to BPC Policy 777, the BPC is required to review the need for the continuation of the local emergency at least every 60 days until the local emergency is terminated; and

WHEREAS, on May 14, 2024, by Resolution No. 2024-255, the BPC continued the proclamation of a local emergency to July 13, 2024; on July 9, 2024, by Resolution No. 2024-301, the BPC continued the proclamation to September 7, 2024; and

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WHEREAS, the 60-day period expires prior to the September 10, 2024 BPC meeting; and

WHEREAS, based on the facts recited hereinabove and detailed in the corresponding agenda sheet, there continues to be the actual and threatened existence of conditions of disaster or peril to the health and safety of persons or property within the District's jurisdiction caused by the continuous flow of untreated sewage and pollutants into the Tijuana River Valley and coastal waters; the existing and threatened conditions are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of the District, and may require the supplemental efforts and available resources of other local government entities, the state and/or federal government, and/or disaster relief organizations to help alleviate the damage, loss, hardship, or suffering caused thereby.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED by the Board of Port Commissioners (BPC) that that the local emergency declared by the BPC on July 9, 2024, by Resolution No. 2024-301 continues and is extended based on the continuous flow of untreated sewage and pollutants in the Tijuana River Valley and coastal waters.

BE IT FURTHER PROCLAIMED AND ORDERED that during the existence of said local emergency, the powers, functions, and duties of the emergency organization of this District shall be those prescribed by BPC Policy No. 777, state law, ordinances and resolutions of the District.

BE IT FUTHER PROCLAIMED AND ORDERED that this emergency proclamation shall continue to and expire on October 12, 2024, which is 60 days from the date of this proclamation, unless confirmed and extended by the BPC prior to the expiration date.

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 13th day of August 2024 by the following vote: