

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 impacted the 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 chronic beach closures not only limit coastal access, constituting a fundamental violation of multiple federal and state regulations and requirements, they also inflict direct harm upon the Tijuana River Valley, estuary, and the adjacent state tidelands and have impacts on human health from polluted water and air; 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

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the US EPA allocates \$300 million in funding as part of the United States-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) was subsequently 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 because IBWC has indicated that that the plant cannot be expanded as contemplated in the Comprehensive Infrastructure Solution until the repairs to the existing facilities are completed; 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

WHEREAS, the shoreline from the Tijuana Slough to Border Field State Park has now been closed every day for over 900 days; 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 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, following the adoption of the Emergency Proclamation, the District sent letters to the White House and the Congressional Delegation informing them of the District's Emergency Proclamation and the District will continue to lobby for the completion of the Comprehensive Infrastructure Solution, including Tijuana River diversion and expanded treatment capacity; and

WHEREAS, pursuant to BPC Policy 777, a continuance of the initial proclamation of a local emergency is needed every 60 days so long as there continues to be on-going pollution and contamination from transboundary flows within the Tijuana River Valley watershed and nearby coastline on both the U.S. and Mexico sides of the border; and

WHEREAS, the BPC continued the proclamation on May 14, 2024, by Resolution 2024-255 due to the continued transboundary pollution to the Tijuana

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River Valley watershed and nearby coastline on both the U.S. and Mexico sides of the border; and

WHEREAS, to further the District's request for state and federal actions, Port of San Diego Vice Chair Danielle Moore participated in a press conference on June 4, 2024 along with Imperial Beach Mayor Paloma Aguirre, Coronado Councilman John Duncan, Dr. Paula Stigler Granados with San Diego State University's School of Public Health, and Lauren Cazares with the San Diego Regional Chamber of Commerce to compel state and federal action to address the urgent public health emergency severely impacting the South Bay communities; 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 that that the local emergency declared by the BPC on May 14, 2024, by Resolution No. 2024-255 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 Board of Port Commissioners (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 September 7, 2024, which is 60 days from the date of this proclamation, unless confirmed and extended by the BPC prior to the expiration date.

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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 July 2024 by the following vote: