San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

6a

AGENDA REPORT
Public Hearing

February 3, 2025

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Michaela Peters, Analyst II

SUBJECT: **Establishment of an Interim Sphere of Influence | San Diego Unified Port District (Port of San Diego)**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider establishing an interim sphere of influence for the San Diego Unified Port District ("Port"). The item is being presented consistent with statute and LAFCO's task to designate spheres to demark an affected agencies' appropriate service area relative to community needs and – among other features – to inform potential boundary changes and out-of-agency services. The item's timing follows Commission action in March 2024 to determine the Port is an independent special district subject to LAFCO oversight and subsequent negotiations with the Port in establishing next steps as part of an approved Memorandum of Understanding (MOU) in December 2024. The establishment of an interim SOI to match the existing sphere designations of the Port's five member cities – Chula Vista, Coronado, Imperial Beach, San Diego, and National City – as well as any other territory conveyed to the Port under the Port Act is consistent with the MOU. A permanent SOI will be considered following the preparation of an inaugural municipal service review covering the Port, which is expected to commence in 2025-2026. A draft resolution establishing an interim SOI as well as making an exemption finding under the California Environmental Quality Act are presented.

Adoption would be subject to a 30-day reconsideration period.

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Marni von Wilpert, Alt., City of San Diego
Vice Chair Barry Willis, Alpine Fire Protection
Jo MacKenzie, Vista Irrigation
David Drake, Alt., Rincon del Diablo
Harry Mathis, General Public
Brigette Browning, Alt., General Public

BACKGROUND

March 2024 Commission Action | Determination the Port is an Independent District Under LAFCO Oversight

On March 4, 2024, San Diego LAFCO received a final administrative assessment on the applicability of the Commission's oversight of the Port as part of a noticed public meeting. The administrative assessment followed an earlier request of the Commission and concluded the Port is an independent special district subject to LAFCO oversight. The Commission agreed with the administrative assessment and unanimously approved a conforming policy statement in commencing oversight of the Port.

Request for Reconsideration and Subsequent Tolling Agreement

On April 3, 2024, the Port submitted a reconsideration request of the Commission's March 2024 approval to assert oversight. LAFCO and the Port – however – agreed to pause any action on the reconsideration in step with entering into a tolling agreement on May 6, 2024.

Approval of a Memorandum of Understanding and Port's Withdrawal of its Request for Reconsideration

LAFCO and Port representatives continuously communicated between June and December 2024 on establishing mutually agreeable steps and related procedures in implementing LAFCO oversight. These communications included holding several in-person meetings led by both Chairs (Stephen Whitburn and Frank Urtasun) and culminated with LAFCO and the Port agreeing to the MOU at their respective regular meetings in December 2024. It includes, among other provisions, outlining six sequential steps in implementing LAFCO oversight while concurrently accounting for unique conditions with the Port and the Port Act. These implementing measures are summarized as follows with the lead agency role in parentheses.

1) Withdrawal of Reconsideration Request (Port)

2) Adoption of an Interim Port Sphere (LAFCO)

3) Invoice and Payment of FY25 LAFCO Apportionment (LAFCO and Port)

4) Ministerial Boundary Clean Ups and SBE Filings (Port and LAFCO)

5) Completion of Inaugural MSR

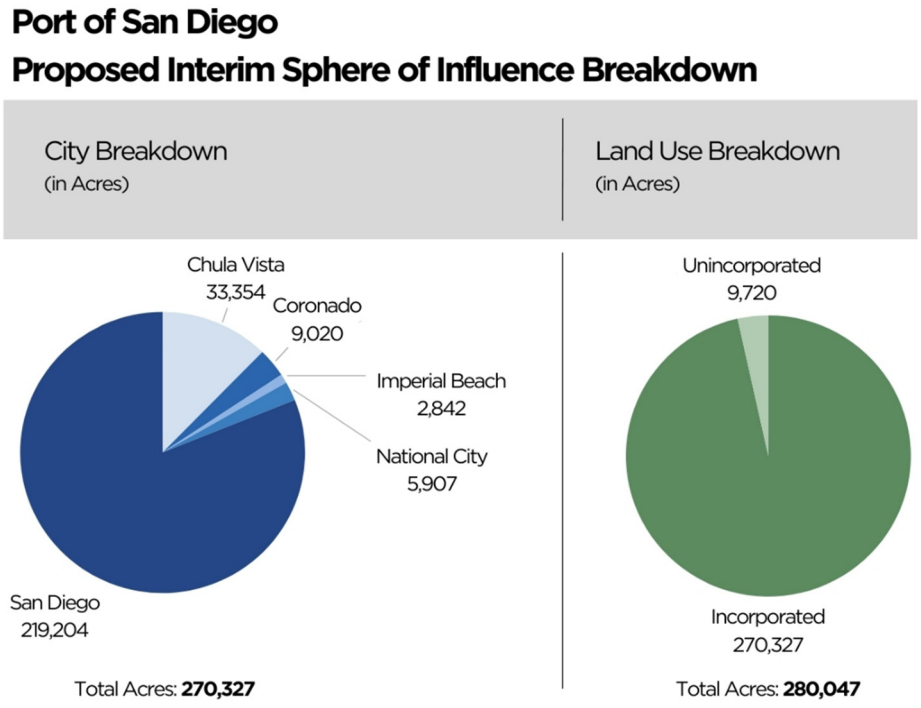
    a) Formalizing Active Service Functions
    b) Formalizing Out-of-Agency Services

6) Adoption of a Permanent Port Sphere

The first of the six implementing steps has been completed with the Port formalizing withdrawing its request for reconsideration on December 11, 2024.

DISCUSSION

This item is for San Diego LAFCO to consider establishing an interim sphere of influence for the Port and in doing so meet statutory responsibility to designate spheres for all cities and special districts consistent with the Commission's growth management interests and tasks. Consistent with the LAFCO-Port MOU, the proposed sphere is presented as an "interim" designation and matches the combined spheres of the five member cities along with certain unincorporated territory granted to the Port under the Port Act. The proposed sphere covers 438 square miles – or 280,047 acres – with key characteristics summarized below.



*Breakdown does not include a 425-acre area comprising tidelands, which lies outside of the five-member agency spheres and adjacent to Imperial Beach.

It is also proposed the interim sphere include the three total special study areas currently assigned to two of the five member cities. Two of the special study areas are assigned to the City of San Diego with one located in San Pasqual Valley (5,829 acres) and the other located in Paradise Hills (1,485 acres). The third special study area is assigned to the City of Chula Vista and covers the Otay Landfill (515 acres).

ANALYSIS

The proposed interim sphere of influence for the Port before San Diego LAFCO is consistent with the MOU between the two agencies and premised as an agreeable placeholder to setting a permanent assignment in step with preparing a municipal service review. In the intervening time, staff attests the interim sphere meets the Commission's statutory task to formally delineate what it independently believes is the Port's appropriate current and near-term

boundary as well as service area relative to community needs. As provided in the MOU, the interim sphere may be amended over time to reflect any changes to the spheres of the Port's five member cities. At the completion of an inaugural MSR, LAFCO will designate a permanent sphere, which may deviate from the interim assignment as appropriate – including, but not limited to, setting special study areas.

RECOMMENDATION

It is recommended San Diego LAFCO approve the action to establish an interim sphere of influence for the Port, as detailed. This recommendation and related actions are consistent with Alternative One outlined below.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO and can be accomplished through a single-approved motion.

Alternative One (recommended):

a) Adopt the draft resolution provided as Attachment One making findings in establishing an interim sphere of influence for the Port along with making a related general rule exemption under State CEQA Guidelines.

b) Direct the Executive Officer to administratively record the sphere of influence action following the completion of a standard 30-day reconsideration period.

Alternative Two:
Continue the item and request additional information from staff as needed.

PROCEDURES

This item has been placed on the agenda for action as part of a noticed public hearing. The following procedures are recommended in the consideration of this item.

1) Commissioner disclosures, if any.
2) Receive verbal presentation from staff unless waived.
3) Open the hearing and invite comments.
4) Close the hearing, discuss item, and consider staff recommendation.

On behalf of the Executive Officer,

Michaela Peters

Michaela Peters
Analyst II

Attachments:

1) Draft Resolution Approving an Interim Sphere for Port
2) Map of Proposed Interim Sphere for Port
3) Approved MOU Between Port and LAFCO
4) Joint Press Release – Port and LAFCO
5) Notice by Port Withdrawing Reconsideration Request

RESOLUTION NO. _____

**RESOLUTION OF THE
SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS**

**ESTABLISHING AN INTERIM SPHERE OF INFLUENCE FOR THE
SAN DIEGO UNIFIED PORT DISTRICT**

WHEREAS, the San Diego County Local Agency Formation Commission, hereinafter referred to as the "Commission", is a political subdivision of the State of California with regulatory and planning responsibilities to facilitate orderly growth and development under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the Commission is responsible under Government Code Section 56425 to determine and regularly update the sphere of influence of each city and each special within San Diego County and enact policies designed to promote the logical and orderly development of the area within the sphere; and

WHEREAS, the San Diego Unified Port District, hereinafter referred to as the "Port", is a public corporation created in 1962 by the Legislature through the Port's principal act codified at California Harbors and Navigation Code, Appendix 1 and the vote of voters in the cities of Chula Vista, Coronado, Imperial Beach, National City and San Diego, hereinafter referred to as the "Member Cities"; and

WHEREAS, the Commission and Port have approved a Memorandum of Understanding at their respective meetings held on December 2, 2024 and December 10, 2024 that establishes implementing measures for the Commission to extend oversight in consideration of the Port's otherwise unique local conditions and provision under its principal act; and

WHEREAS, the Memorandum of Understanding between the Commission and Port provides – among other implementing measures – the establishment of an interim sphere of influence for the Port that is to match the existing sphere designations of the Member Cities and to include any other territory included in the Port's boundaries or conveyed to the Port pursuant to principal act; and

WHEREAS, the Executive Officer's written report on the establishment of an interim sphere of influence on the Port was presented to the Commission on February 3, 2025 in a manner provided under law;

WHEREAS, the Commission heard and fully considered all the evidence presented at a public hearing concerning the establishment of an interim sphere of influence for the Port on February 3, 2025 – including information necessary to make required findings under Government Code Section 56425(e).

NOW, THEREFORE, BE IT RESOLVED, the Commission hereby finds, determines, and orders the following:

1. The Commission determines the establishment of an interim sphere of influence for the Port is a project under the California Environmental Quality Act but exempt from further review under the "general rule" under State Guidelines 15061(b)(3). This exemption appropriately applies given it can be seen with certainty spheres of influence are planning policies, and any amendments or updates do not make any changes to the environment or authorize any new uses or services.

2. The Commission has considered the Executive Officer's written report advising on the establishment of an interim sphere of influence for Port and is incorporated into the record.

3. The Commission APPROVES establishing an interim sphere of influence designation for the Port to match the existing sphere designations of the Member Cities and to include any other territory included in the Port's boundaries or conveyed to the Port pursuant to principal act as shown in Exhibit A.

    a) The interim sphere of influence includes three special study areas consistent with the Member Cities as shown in Exhibit A.

4. The Commission makes the following determinative statements under Government Code Section 56425(e) in support of the establishment of the interim sphere of influence for the Port as follows

    a) With respect to present and planned land uses within the interim sphere of influence, it is largely developed and/or earmarked for urban uses by the Member Cities or the County of San Diego. These otherwise urban land uses are compatible with the Port and its role in providing services in concurrent benefit of the Member Cities and State.

    b) With respect to present and probable need for public facilities and services in the interim sphere of influence, it merits a full range of urban-supporting services consistent with their otherwise present and planned uses and existing projected resident population of 1,803,538. This includes the need and use of the Port's core service functions involving, but not necessarily limited to, harbor and port, recreation, public safety, and waterfront development in step with the Member Cities shared economic and cultural interest in San Diego Bay.

    c) With respect to the present capacity of public facilities and adequacy of public services, information considered to date reasonably suggests the Port's service functions are sufficiently organized, funded, and delivered consistent with community needs within the interim sphere of influence.

    d) With respect to the existence of any relevant communities of interest, the interim sphere of influence reflects an area with shared economic and social stakes in the Port's role in providing services in support of San Diego Bay.

5. Adoption of this resolution and approval of an interim sphere of influence for the Port is subject to 30-day reconsideration under Government Code Section 56895.

6. The Commission authorizes the Executive Officer on good cause to make any non-substantive changes to this resolution under Government Code Section 56883.

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PASSED AND ADOPTED by the Commission on February 3, 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

ATTEST:

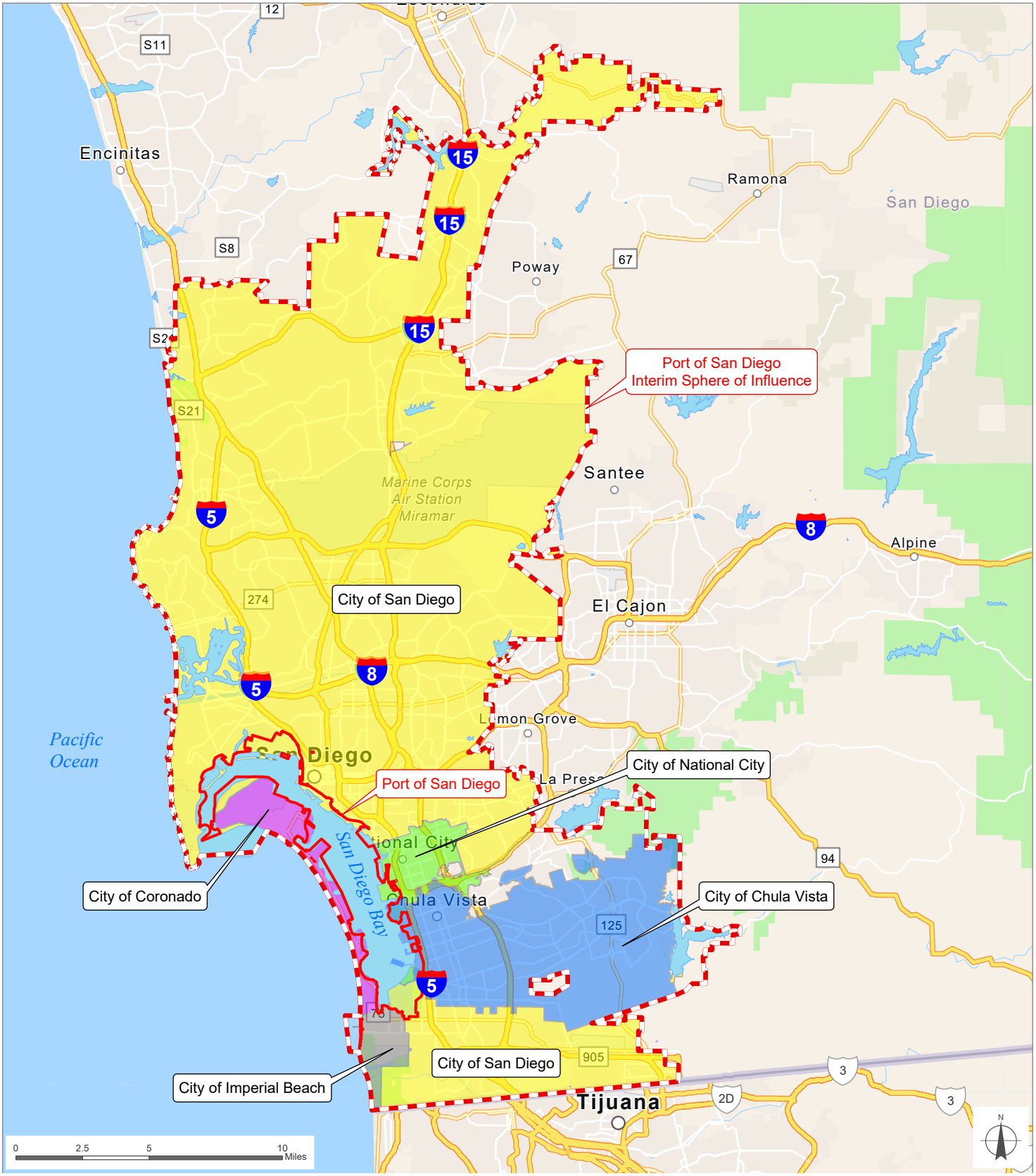
_____
Keene Simonds
Executive Officer

EXHIBIT A

INTERIM SPHERE OF INFLUENCE FOR THE SAN DIEGO UNIFIED PORT DISTRICT

Placeholder

Port of San Diego



San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

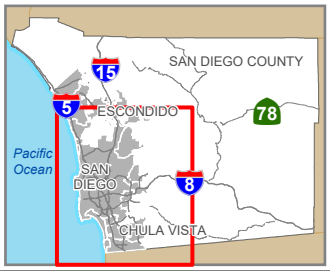
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Created by Dieu Ngu -- 1/24/2025

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- Port of San Diego Interim Sphere of Influence
- Port of San Diego

MEMBER CITIES
- CHULA VISTA
- CORONADO
- IMPERIAL BEACH
- NATIONAL CITY
- SAN DIEGO



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MEMORANDUM OF UNDERSTANDING

AGREEMENT BETWEEN SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION AND SAN DIEGO UNIFIED PORT DISTRICT

This MEMORANDUM OF UNDERSTANDING ("MOU") is made by and between the San Diego County Local Agency Formation Commission ("LAFCO") and the San Diego Unified Port District, a public corporation ("Port"), jointly referred to as "Parties."

RECITALS

WHEREAS, LAFCO is a political subdivision of the State of California created by the Legislature in 1963 to help coordinate regional growth and development;

WHEREAS, LAFCO's duties and powers are presently authorized under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH") to oversee cities, towns, and special districts in each county with respect to their organizational structures, jurisdictional boundaries, and municipal services;

WHEREAS, CKH defines in Government Code Section 56036(a) that "'district' and 'special district' are synonymous and mean an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries and in areas outside district boundary when authorized by the commission pursuant to Section 56133";

WHEREAS, the Port is a public corporation created in 1962 by the Legislature through the Port's principal act codified at California Harbors and Navigation Code, Appendix 1 ("Port Act") and the vote of voters in the cities of Chula Vista, Coronado, Imperial Beach, National City and San Diego (collectively, "Member Cities");

WHEREAS, Section 2 of the Port Act states that "[b]ecause of the several separate cities and unincorporated populated areas in the area hereinafter described, only a specially created district can operate effectively in developing the harbors and port facilities";

WHEREAS, pursuant to Port Act Section 5(a), when the Port was established the boundaries of the Port were coterminous with the boundaries of the Member Cities, as well as any unincorporated County territory, which is economically linked to the development and operation of San Diego Bay that were included in the Port by the County Board of Supervisors;

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WHEREAS, pursuant to Port Act Section 5(b), the Port "shall exercise its land management authority and powers" over lands and tidelands in and surrounding San Diego Bay (collectively, "Tidelands") granted to the Port by the Legislature and any other lands conveyed to the Port by any city or the County or acquired by the Port in furtherance of the Port's powers and purposes as provided in Section 87 of the Port Act;

WHEREAS, pursuant to the Port Act, the Legislature also granted the Port Tidelands and the Port owns these granted Tidelands, in trust, for all Californians "without subjugation of statewide interests, concerns, or benefits to the inclination of local or municipal affairs, initiatives, or excises" (Cal. Pub. Resources Code, § 6009(d));

WHEREAS, the State continues to have oversight over granted public trust lands, including Tidelands and the State retains a duty to protect the public interest in granted public trust lands, including Tidelands;

WHEREAS, while the Legislature has ultimate authority over granted public trust lands, including Port Tidelands, it has delegated primary authority to the State Lands Commission ("SLC") (Cal. Pub. Resources Code, §§ 6216–6217.6, 6301);

WHEREAS, as codified in Government Code Section 56301, one of LAFCO's objectives is to "make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities";

WHEREAS, all trustees of submerged waters and tidelands, including the Port, must exercise their authority consistent with the public trust doctrine, a common law doctrine that mandates that Tidelands can only be managed for all Californians with a statewide purpose and only revenues generated on Tidelands can be spent in furtherance of the public trust doctrine and public trust purposes;

WHEREAS, pursuant to Harbors and Navigation Code Section 1718(a), the SLC retains absolute discretion over actions of the Port to ensure consistency with the State's interest in Tidelands, including review of the Port's revenues and expenditures;

WHEREAS, while the Port's services are provided locally and regionally, the Port's powers are subjected to and exercised in furtherance of the public trust doctrine for the benefit of all Californians and its activities cannot be municipal in nature as that concept is described and defined in the public trust doctrine;

WHEREAS, previously LAFCO has expressly asserted it did not have oversight over the Port, and did not exercise jurisdiction over the Port;

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WHEREAS, LAFCO revisited oversight as it applies to the Port as part of noticed public meetings held on December 4, 2023 and March 4, 2024 (collectively. "LAFCO Actions");

WHEREAS, consistent with the recommendations of a written assessment prepared by the LAFCO Executive Officer, LAFCO unanimously determined the Port is subject to LAFCO oversight and approved a conforming policy statement confirming the Port is an independent special district subject to LAFCO oversight paired with ancillary actions on March 4, 2024;

WHEREAS, the Port submitted a request for reconsideration involving LAFCO's March 4, 2024 actions pursuant to LAFCO Rule 3.4(2);

WHEREAS, the Port asserts that LAFCO does not have oversight or jurisdiction over the Port's Tidelands;

WHEREAS, the Parties voluntarily entered into a tolling agreement on May 6, 2024 at the Port's request, which tolls LAFCO's March 4, 2024 actions, and tolls the statute of limitations for the Port to challenge LAFCO's Actions;

WHEREAS, the Parties entered into the Tolling Agreement based on the Parties' mutual interest to reach an agreement; and

WHEREAS, without waiving any of the Parties rights, in law and equity, the Parties desire to enter into this MOU to memorialize their understanding of all related topics going forward in applying CKH to the Port.

THEREFORE

NOW, FOR MUTUAL CONSIDERATION, the Parties mutually agree, effective on the date of the last signature ("Effective Date"), as follows:

1. Recitals and Existing Law, Facts and Local Conditions. The Parties agree that the Recitals set forth above are true and correct and are incorporated into this Agreement by reference. The Parties also agree that this MOU is based on existing law, facts, and local conditions as of the Effective Date of this MOU. If the law, facts, or local conditions change making any portion of this MOU ineffective, the Parties agree to meet and confer, in good faith, regarding an amendment to this MOU.

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2. Changes of Organization to the Port.

a. Annexation.

i. Annexation into the Port, Generally. The Parties agree that any proposed annexation of territory into the Port is limited to those specified in Section 53 of the Port Act.

ii. Termination of Annexation. No annexation into the Port may occur if the Port objects based on any financial- or service-related concern. If the Port submits a resolution requesting termination of the annexation proceedings based on written findings supported by substantial evidence in the record that the request is justified by a financial or service-related concern pursuant to Government Code Section 56857(b), LAFCO shall terminate the proceedings pursuant to Government Code Section 56857(c).

iii. Swaps of Territory Between Member Cities. A "Swap" as used herein is an application for a detachment of territory from one or more Member Cities and annexation of the detached territory into one or more Member Cities. Any Swap that does not involve Tidelands requires no action by LAFCO with regard to the Port. Further, any Swap involving Tidelands located within the existing area of any of the Member Cities requires no action by LAFCO with regard to the Port; however, the process specified in Government Code Section 56740 shall apply if Port Tidelands are being incorporated into, or annexed to, a city.

iv. Future Annexation to Port of Additional Tidelands. If the Legislature grants to the Port any additional Tidelands or other territory expressly subject to the Port Act outside of its boundaries, LAFCO will process an application submitted by the Port to change the Port's boundaries to reflect the new grant. LAFCO shall consider the annexation application in a timely manner, including making appropriate findings as a responsible agency under the California Environmental Quality Act ("CEQA").

v. Annexation of Tidelands into a City. The process specified in Government Code Section 56740 shall apply to any application filed with LAFCO requesting to annex Port Tidelands into a city. The Parties acknowledge that Section 56740 requires SLC approval prior to any such annexation.

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vi. As a matter of standard practice, LAFCO agrees to reorganize all jurisdictional change proposals involving annexations to any of the Member Cities to include concurrent annexations to the Port.

b. Subsidiary District. The Parties agree that under existing law, facts, and local conditions the Port cannot be established as a subsidiary district of a city given that the Port's boundaries currently encompass the territory of all Member Cities.

c. Consultation with SLC. Should a recommendation, proposal or application regarding any change of organization or reorganization involving the Port Tidelands occur, LAFCO agrees to request consultation with the SLC and if said consultation occurs, give "great weight" or great deference to any SLC recommendations. For purposes of this MOU the Parties agree that the term "great weight" means that LAFCO shall incorporate the SLC recommendations unless LAFCO determines that SLC's recommendations are arbitrary and capricious or are not supported by substantial evidence.

3. Interim Sphere of Influence Designation.

a. LAFCO agrees to take action at the next available regular meeting following the effective date of the MOU in which notice can be sufficiently provided to establish an interim sphere of influence ("Interim SOI") for the Port to match the existing sphere designations of the Member Cities and to include any other territory included in the Port's boundaries or conveyed to the Port pursuant to the Port Act, including but not limited to Port Act Sections 5, 5.5, 5.7, and/or 5.8, territory granted to the Port by SB 507 (2019-2020) and any additional territory granted to the Port following the Effective Date of the MOU and LAFCO's action to establish the Interim SOI ("Other Port Territory"); provided, however, said item at the regular meeting may be subject to a continuation.

b. There shall be no cost to the Port associated with LAFCO establishing an Interim SOI.

c. The Interim SOI established for the Port may be amended from time to time as appropriate to correspond with any LAFCO approved changes to the spheres of influence of the Member Cities.

d. LAFCO will replace the Interim SOI with a permanent sphere of influence ("Permanent SOI") designation after and/or in conjunction with preparing an inaugural municipal service review ("Inaugural MSR") covering the Port as addressed in Section 9 in this MOU.

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4. LAFCO Apportionment Payment.

   a. The Port agrees to make payment to LAFCO within 60 days of receipt of an invoice from LAFCO to cover its proportional apportionment share of LAFCO's budget for Fiscal Year 2024-2025 as calculated by the County of San Diego Auditor-Controller's Office and based on an overall allocation to independent special districts of $623,998.

   b. LAFCO shall proportionally credit all other independent special districts contributing to LAFCO's budget in Fiscal Year 2025-2026.

   c. LAFCO shall continue to apportion and invoice the Port thereafter under the provisions of Government Code Section 56381(b)(C).

5. Initiation and Approval of "Clean-Up" Annexations and Detachments to the Port.

   a. LAFCO agree to process a "clean-up" annexation and detachments to the Port to ensure its jurisdictional boundary is consistent with the jurisdictional boundaries of its Member Cities and Other Port Territory ("Clean-Up Annexations/Detachments").

   b. LAFCO agrees to provide the Port with information regarding all prior changes of organization that impacted the exterior boundaries of the Member Cities processed by LAFCO, necessary for the Port to prepare an application for the Clean-Up Annexations/Detachments, including but not limited to maps and legal descriptions in a form compliant with current legal requirements. The Port agrees to provide LAFCO with information regarding Other Port Territory.

   c. The Port agrees to present a resolution of application to its Board of Port Commissioners ("BPC") for a change of organization for the Clean Up Annexations/Detachments during Fiscal Year 2024-2025 seeking the annexation or detachments of any lands currently within the boundaries of the Member Cities and Other Port Territory; provided, however, this date may be extended by mutual agreement of the Parties. Following approval by the BPC, the Port will file an application with LAFCO for the Clean-Up Annexations/Detachments.

   d. The expected scope of the change of organization involves annexations to or detachments from any of Member Cities.

   e. The Port agrees to serve as the lead agency for the change of organization under the provisions of CEQA, and to the extent not

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included in materials provided by LAFCO pursuant to Section 5.b. above, LAFCO agrees to provide the Port with all applicable environmental review documentation related to the prior annexations or detachments.

f. There shall be no cost to the Port associated with the Clean-Up Annexations/Detachments. LAFCO agrees, at its sole cost and expense, to have a map and geographic description prepared of the affected territory proposed as part of the Clean Up Annexations/Detachments consistent with the filing requirements of the State Board of Equalization.

g. LAFCO agrees to waive its own application fees and agrees to pay for all other ancillary and outside costs associated with processing the Clean-Up Annexations/Detachments application, including but not limited to Board of Equalization Fees.

h. In collaboration with the Port, LAFCO shall consider the change of organization in a timely manner, including considering the appropriate findings as a responsible agency under CEQA.

6. Postpone Application of Government Code Section 56133 Involving Out-of-Agency Services by Contract or Agreement.

a. LAFCO agrees to identify the services pursuant to Government Code Section 56133 during the completion of the Inaugural MSR covering the Port as addressed in Section 9 of this MOU. Until such time as the Inaugural MSR is complete, existing Port operations may continue related to services beyond its jurisdictional boundary and/or Interim SOI or Permanent SOI.

b. The Port agrees to voluntarily notify LAFCO of any new or extended operations it will exercise beyond its jurisdictional boundary and/or Interim SOI while the Inaugural MSR is pending completion.

7. LAFCO Oversight Limitations Under Government Code Section 56133 Involving Out-of-Agency Services by Contract or Agreement.

a. Irrespective of any other provisions in this MOU, LAFCO agrees oversight of out-of-agency services is limited to San Diego County and based on agreements with other LAFCOs, the other 57 counties in California, but shall exclude California coastal waters as defined by Government Code Section 170.

b. Any services provided by the Port outside of its boundaries prior to LAFCO's consideration and approval of the Inaugural MSR shall be

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deemed grandfathered and will not be subject to LAFCO review or approval, even if provided by the Port pursuant to new or amended contracts or agreements.

8. Postpone Application of Government Code Sections 56824.10-14 and Establishment of Port's Activated Functions or Classes of Services.

a. Subject to Section 8.c., the Parties anticipate that Exhibit A are the Port's functions or classes of services that it has not exercised ("Latent Powers") and the Port's functions or classes of services that it has exercised ("Activated Powers") for the purposes of Government Code Sections 56824.10-14 that will be established as part of the Permanent SOI for the Port pursuant to Section 9.k.iii. Any functions or classes of services that the Port is authorized to exercise in the Port Act within its boundaries and (i) the Port has contracted with a third-party to do so, including with a Member City(ies), (ii) the Port has identified in the Port Master Plan or Port Master Plan Update, or (iii) the Port is mandated by the State or federal government to do shall be considered an Activated Power, and shall not be considered a Latent Power requiring LAFCO approval pursuant to Government Code Sections 56824.10-14.

b. All existing Port operations may continue while the Inaugural MSR is pending and during this time the Port is not required to submit any requests related to application of Government Code Sections 56824.10-14 and its provisions requiring special districts to receive approval from LAFCO to provide new or different service functions or classes as authorized by the principal act or divestiture of existing service functions or classes within all or part of its jurisdictional boundary.

c. The Port agrees to voluntarily notify LAFCO of any activation of its Latent Powers or divestiture of service functions or classes while the Inaugural MSR is pending and any activation of service functions or classes shall be considered activated and no longer a Latent Power. Accordingly, the Parties agree that Government Code Sections 56824.10-14 applies after the completion of the Inaugural MSR covering the Port.

9. Municipal Service Review ("MSR") of the Port.

a. LAFCO agrees to prepare an Inaugural MSR covering the then current Port operations beginning in Fiscal Year 2025-2026.

b. LAFCO agrees to prioritize the preparation of the MSR as part of its adopted workplan for Fiscal Year 2025-2026 with the expectation work will conclude sometime in the prior fiscal year.

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c. LAFCO agrees to cover all costs associated with preparing the Inaugural MSR, and the cost for future municipal service reviews will be paid for out of the LAFCO budget, unless the Port is the applicant for a change of organization or reorganization other than the Clean-Up Annexations/Detachments.

d. LAFCO agrees to consult with the Port and SLC staff, provided SLC staff agrees to the consultation, on the scope of work for any MSRs done for the Port prior to commencing its preparation. LAFCO further agrees to select consultants for any MSRs done for the Port that is acceptable to the Port. The Parties agree to openly consult for all Port MSRs and if requested by the Port, consult with SLC staff.

e. LAFCO agrees to provide the Port and SLC staff an opportunity to review and comment any draft MSR of the Port no later than 60 days prior to the LAFCO's official release of the draft for comment. LAFCO agrees to meet and confer with the Port and/or SLC on the draft if requested by the Port and/or SLC. LAFCO further agrees that it shall give "great weight" as described in Section 2(c), above, to any comments and recommended revisions provided to LAFCO by the Port and/or SLC.

f. If the Port agrees in writing, LAFCO agrees to make available a stakeholder group comprising board members of the San Diego Waterfront Association for purposes of ongoing consultation in preparation of the Inaugural MSR.

g. Notwithstanding other provisions in this MOU, and subject to the above consultation in preparing the Inaugural MSR, LAFCO tentatively expects the municipal functions covered in the document to involve (a) harbor and port, (b) recreation, (c) public safety, and (d) community (waterfront) development.

h. Consistent with local policy, LAFCO will consider a draft and final Inaugural MSR at noticed public meetings.

i. The Inaugural MSR will be deemed complete in line with the Commission approving determinative statements at a noticed public hearing consistent with Government Code Section 56430.

j. The Parties acknowledge that the public trust doctrine imposes constraints on the Port's ability to contract for police and fire services. Specifically, the Port may only pay for fire and police services on Tidelands where the Harbor Police Department ("HPD") does not provide

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services and only for parcels that are not subject to property tax or possessory interest tax. Further, the Port's payment must bear a direct relationship to the actual services being provided.

k. LAFCO will, consistent with the terms of this MOU, immediately draw on the completed Inaugural MSR with respect to all of the following:

i. Determine a Permanent SOI for the Port.

ii. Determine all grandfather out-of-agency Port services relative to applying Government Code Section 56133.

iii. Determine all Activated Powers and Latent Port service functions and associated classes relative to applying Government Code Sections 56824.10-14, which are anticipated to match Exhibit A.

iv. LAFCO further agrees that when it conducts any MSR on the Port, its evaluation shall distinguish between discretionary and non-discretionary provision of services with the latter related to the Port's performance of obligations as a grantee of Tidelands for the purpose of compliance with the public trust doctrine and/or other statewide duties.

10. Meet and Confer. If any Party has objections related to implementation of this MOU, the Parties shall meet and confer in good faith to try and resolve the objections and may request SLC to participate in the meet and confer process related to Sections 2 and 9 of this MOU. If the Port has any objection(s) to a LAFCO proceeding involving the Port, the Parties shall meet and confer in good faith prior to the LAFCO proceeding in an attempt to resolve the objection(s).

11. Settlement and Release.

a. Each Party hereby releases and forever discharges the other Party, and all each of its commissioners, officers, employees, agents, attorneys and employees, from any and all claims, demands, liabilities, and causes of action relating to LAFCO's actions on LAFCO Actions. The Parties agree that the LAFCO Actions may not be used by any Party in any future legal challenge, either affirmatively, or as a defense, limitation, or otherwise.

b. Port agrees immediately following the effective date of the MOU, which shall be no longer than three business days, to submit to LAFCO a request to withdraw the Port's request for reconsideration of LAFCO's Actions and the parties agree that LAFCO will take no further action related to the Port's request for reconsideration of LAFCO's Actions.

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12. Miscellaneous.

a. Section Headings. The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision hereof.

b. Drafting Presumption, Review Standards. The Parties acknowledge that this MOU has been agreed to by both the Parties, that both Parties have consulted with attorneys with respect to the terms of this MOU and that no presumption shall be created against the drafting party. Any deletion or addition of language from this MOU prior to its execution by the Parties shall not be construed to raise any presumption, canon of construction or implication, including, without limitation, any implication that the Parties intended thereby to state the converse of the deleted language.

c. Reservation of Rights. Neither of the Parties waive any rights in law or equity by entering into this MOU and both Parties may bring future legal challenges against each other for future actions notwithstanding this MOU, including without limitation a legal challenge of a proceeding(s) that changes the Port's ownership of Tidelands, detaches Tidelands from the Port or dissolves, merges or consolidates the Port. Subject to the foregoing sentence and Section 2(c), this MOU does not cover changing the Port's ownership of Port Tidelands, dissolution, consolidation or merger of the Port or detachment of Port Tidelands from the Port. All rights and remedies existing as of the date of this MOU are hereby preserved except as expressly agreed to the contrary herein.

d. Partial Invalidity. If any term, provision or condition contained in this MOU shall, to any extent, be invalid or unenforceable, the remainder of this MOU, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this MOU shall be valid and enforceable to the fullest extent possible permitted by the laws of the State of California.

e. Authority. Both Parties hereby represent and warrant that they have the full rights and authority to execute and deliver this MOU to the other and that each of the persons signing on behalf the Parties is authorized to do so.

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f. Attorneys' Fees. Should any suit or action be commenced to enforce, protect, or establish any right or remedy of any of the terms and conditions of this MOU, each of the Parties shall pay its own attorneys' fees and costs including, without limitation, any and all costs incurred in enforcing, perfecting and executing such judgment.

g. Governing Law. Venue for any legal proceeding shall be in San Diego County, California. This MOU shall be construed and enforced in accordance with the laws of the State of California.

h. Counterparts. This MOU may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

i. Entire Understanding. This MOU contains the entire understanding of the Parties, and by executing the same, acknowledges that there is no other written or oral understanding between the Parties. No modification, amendment, or alteration of this MOU shall be valid unless it is in writing and signed by the Parties hereto.

j. Communications. The Parties shall issue a joint press release ("Joint Statement") regarding this MOU that is mutually agreed upon by the Parties, through their respective chairs. The Parties also agree that, with the exception of the Joint Statement, the Parties' respective staff, commissioners, officers, attorneys or agents shall not make any statements to the press or in a public forum related to the LAFCO Actions or the subject matters of the LAFCO Actions or this MOU, except by way of reference to this MOU. This Section does not, in any way, restrict or impede the Parties' respective staff, commissioners, officers, attorneys or agents from exercising protected rights to the extent that such rights cannot be waived by agreement or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency, provided that such compliance does not exceed that required by the law, regulation, or order.

///SIGNTURES ON FOLLOWING PAGE///

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Dated: December 5, 2024

SAN DIEGO LOCAL AGENCY FORMATION COMMISSION

By:

Stephen Whitburn Chair

As to Form and Legality

By:

DeeAnne Gillick Counsel

Dated: December 23, 2024

SAN DIEGO UNIFIED PORT DISTRICT

By:

Francisco Urtasun

Frank Urtasun Chair

As to Form and Legality

By:

Rebecca Harrington

Rebecca Harrington Counsel

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EXHIBIT A

Port's Anticipated Latent Powers and Activated Powers as of the Effective Date of this MOU

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Port Act Section	**Summary of Power**	**Activated**	**General Summary**
4(a)	HARBOR WORKS AND IMPROVEMENTS (INCLUDING RAIL AND WATER) • Acquisition • Construction • Maintenance • Operation • Development • Regulation	YES	Three terminals, several marinas and the boatyards, as well as accessory uses/facilities are located on tidelands, as well as rail. The Port and/or its tenants have acquired, constructed, maintained, operated, developed and regulated harbor works and improvements. The Port also conducts dredging operations and maintenance activities in the Bay to support harbor works and improvements.
	PHYSICAL ACCESS TO THE BAY • Protect • Preserve • Enhance	YES	The Port operates 23 parks – soon to increase to 24 with Navy Pier park in San Diego – promenade, sidewalks, roads, trails that provide physical access to the Bay. On the water there are transient docks, dock and dine facilities, and public modes of transportation such as ferries.
	NATURAL RESOURCES OF THE BAY (INCLUDING PLANT AND ANIMAL LIFE) • Protect • Preserve • Enhance	YES	The Port monitors and enhances sensitive habitat in the Bay such as eelgrass, overwater development, soft bottom habitat as well as animal life. The Port is currently undergoing the process to make Pond 20 a mitigation bank.

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	QUALITY OF WATER • Protect • Preserve • Enhance	YES	The Port has a stormwater department, manages and maintains its outfalls and is the lead on the Regional MS4 permit for the Bay and Tidelands, as well as several sediment clean ups.
19	MASTER PLAN • This is the Port's land use plan.	N/A	Not a LAFCO review function.
Section 27	EMINENT DOMAIN	N/A	Not a LAFCO review function.
Section 30	• The District's Board can regulate and control anchoring, mooring, towing and docking of vessels • Within or outside of the District, within other states or in foreign countries, the District's Board may, through employees or agencies: o manage its business and promote the maritime and commercial interests by: ▪ proper advertisement of its advantages and ▪ the solicitation of business • The District may perform the following functions as to properties of all kinds: o warehousemen o stevedores o lighterers o reconditioners o shippers	YES N/A YES YES	The Port has regulations and controls for anchoring, mooring, towing and docking of vessels. (For example, see Port Code Sections 4.01-4.09, 4.14, 4.30, 4.35-4.40.) Not a LAFCO review function. Through the Port's and its tenants maritime and terminal operations, all the functions listed have been performed.

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	○ reshippers • Within its boundaries (consistent with the Act), the District may do all of the following: ○ Acquire, purchase, take over, construct, maintain, operate, develop, and regulate: ▪ grain elevators ▪ bunkering facilities ▪ belt or other railroads ▪ floating plants ▪ lighterage ▪ towage facilities ▪ and facilities, aids, equipment or property necessary for or incident to development and operation of a harbor or for the accommodation and promotion of commerce, navigation, fisheries, or recreation in the District. ○ Highways ○ Streets ○ Roadways ○ Bridges ○ Railroads ○ Trolleys ○ Buses ○ and similar: ▪ transportation facilities	This will have to be examined on a case-by-case basis NO re Highways if they are defined as interstate-highways. YES to the remining items.	Through the Port's and its tenants maritime and terminal operations, all the functions listed have been performed. The Port has acquired, constructed, maintained, operated, developed, and regulated: Streets, roadways, bridges, and railroads. A public shuttle akin to a trolley or bus. Transportation facilities such as the airport, water transportation, shuttle services, etc. Parking lots and garages. A power plant. The Port has permitted and regulated but not

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	▪ parking facilities ▪ power ▪ communication facilities ▪ water and gas pipelines ▪ and all of the following that are incidental, necessary or convenient to the development and operation of air terminal and rail facilities or other purposes for which the District was established. • transportation and utility facilities or betterments	This will have to be examined on a case-by-case basis.	operated cable lines and cell towers, water and gas pipelines.
Section 30.5 (related to out of Section 5 property if adjacent)	• The District can exercise the power of eminent domain or certain activities, outside of its boundaries if it is adjacent to Port Tidelands or lands conveyed to the Port, the Board of Port Commissioners finds that adequate areas for these activities do not presently exist within the Port lands and the activity is necessary or incidental to carrying out the purposes described in Section 87 of the Port Act (see below). • Thresholds for notifying or obtaining Sate Lands	N/A	Not a LAFCO review function.

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	Commission's approval for spending money on capital improvements. • Acquired property becomes an asset of the Public Trust.		
Section 37	• The District's authority to undertake public projects, defined as the following: o Projects related to buildings and works o Work in or around streams, bays, waterfronts, embankments, or other work for protection against overflow. o Street or sewer work (other than maintenance or repair) o Furnishing supplies or materials for public projects (including maintenance or repair of streets or sewers).	YES	The Port has bid out a vast variety of public projects, including without limitation buildings, street and sewer works and work in and around water including for the protection of overflow. The Port has also maintained and repaired streets and sewer.
Section 55	• Make and enforce rules and regulations for the use and control of all navigable waters, tidelands and submerged lands, filled or unfilled and other lands within the District's boundaries • Regulate and control the anchoring, mooring and docking of all vessels • Establish and maintain harbor police and	N/A YES YES	Not a LAFCO review function. (For example, see Port Code Sections 4.01-4.09, 4.14, 4.30, 4.35-4.40.)

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	establish harbor fire protection		The Harbor Police Department (HPD) is the Port's police force. HPD patrols the airport and within the boundaries of the Port. HPD provides on-water fire protection. For land-based fire protection, the Port contracts with its member cities.
Section 56	• Public services and utilities operated in connection with or for the promotion or accommodation of commerce, navigation, fisheries, and recreation.	YES, but may need to be examined on a case-by-case basis.	This Section codifies the Port's traditional health, safety and welfare police powers and through this power, the Port has enacted regulations relative to the construction, maintenance, operation and use of all public services and public utilities in the Port. The Port believes it likely has exercised its authority under this Section but recognizes there may be exceptions.
Section 57	Within the District's boundaries: • Acquire, construct, erect, maintain or operate within the district, all improvements, utilities, appliances or facilities that are necessary or convenient for the promotion and accommodation of commerce, navigation, fisheries, and recreation • Acquire, maintain and operate facilities of all kinds within the District's Boundaries	YES, but may need to be examined on a case-by-case basis	The Port has acquired, constructed, erected, maintained and operated improvements, utilities, appliances and facilities on Tidelands. The Port believes it likely has exercised its authority under this Section but recognizes there may be exceptions.

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	OR • Use all improvements, utilities, appliances or facilities for commerce, navigation, fisheries, and recreation, on the lands and waters under the control and management of the District		
Section 57.5	• Parking structure for convention center	YES	The Port constructed, operates and regulates the San Diego Convention Center parking garage.
Section 61	• Levy taxes, assessments., reassessments, special taxes or issue bonds.	N/A	Not a LAFCO review function
Section 62	• Port may contribute money to the federal, state or county government, or one of its member cities to defray costs for improving rivers, streams, or in doing other work, when such work will improve navigation and commerce, in or to the navigable waters in the district	N/A	Not a LAFCO review function
Section 81	• District revenue funds may be used for operation and maintenance of all harbor or port improvements, works, utilities, appliances, facilities and vessels owned, controlled or operated by the district for the promotion and accommodation of commerce, navigation, fisheries, and recreation, or used in connection therewith	N/A	Not a LAFCO review function

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Section 82 related to advertising for certain specified powers of the district	• Advertising the commercial and other advantages and facilities of any harbor in the District's boundaries, for encouraging and promoting commerce, navigation, and transportation in and through that harbor • Advertising for encouraging and promoting the region's commercial airport	N/A	Not a LAFCO review function.
Section 87	Hold in trust the tide and submerged lands which may be used for purposes in which there is a general statewide purpose, as follows:		
	• Establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation 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.	YES	The Port has established, improved and conducted harbors throughout the bay, as well as wharves, docks, piers, slips, quays and associated facilities, buildings, etc.
	• Commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities.	YES	The Port has constructed, reconstructed, repaired and maintained commercial and industrial building, plants and facilities.
	• Establishment, improvement, and		The Port has established

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	conduct of airport and heliport or aviation facilities, including, but not limited to, approach, takeoff, and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of air commerce and air navigation	NO related to highways if defined as interstate highways; YES to the remaining items.	and improved the San Diego Airport and associated facilities.
	• Construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in Section 87.	NO related to bathhouses and bathing facilities (based on research to date); YES to the remaining items.	As part of stand-alone projects or as part of larger projects, the Port has constructed, reconstructed, repaired and maintained all items listed with the exception of highways depending on how that term is defined.
	• Construction, reconstruction, repair, maintenance, and operation of public buildings, public		As part of stand-alone projects or as part of larger projects, the Port has constructed, reconstructed, repaired and maintained all items listed with the exception of bathhouses and bathing facilities based research to date.

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	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.	YES	As part of stand-alone projects or as part of larger projects, the Port has established, improved, constructed, reconstructed, repaired and maintained all items listed.
	• Establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses, including, but not limited to, snack bars, cafes, restaurants, motels, launching ramps, and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian	YES	The Port has established and maintained open space, ecological

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	ways, and landscaped areas. • For the establishment and maintenance of those lands for open space, ecological preservation, and habitat restoration.		preserves and habitat restoration.
MISC			The Port does a variety of other functions associate with the promotion of commerce, navigation and recreation. Some examples include: • Homelessness outreach • Sea level rise improvements • Security measures • Dive teams The Port also issues Coastal Development Permits within Tidelands and is in the process of establishing a building department to issue building permits for Tidelands development.

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Rebecca Harrington rharrington@portofsandiego.org Assistant General Counsel Security Level: Email, Account Authentication (None)	Rebecca Harrington Signature Adoption: Pre-selected Style Using IP Address: 207.215.153.162 Signed using mobile	Sent: 12/11/2024 1:28:57 PM Resent: 12/18/2024 4:16:36 PM Viewed: 12/19/2024 11:19:14 AM Signed: 12/19/2024 11:19:53 AM
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Port of San Diego (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

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At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

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Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Port of San Diego:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: customerservicecenter@portofsandiego.org

To advise Port of San Diego of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at customerservicecenter@portofsandiego.org and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Port of San Diego

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to customerservicecenter@portofsandiego.org and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Port of San Diego

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

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i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to customerservicecenter@portofsandiego.org and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: https://support.docusign.com/guides/signer-guide-signing-system-requirements.

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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Port of San Diego as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Port of San Diego during the course of your relationship with Port of San Diego.

San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

PRESS RELEASE

PORT OF SAN DIEGO AND SAN DIEGO COUNTY LAFCO APPROVE MEMORANDUM OF UNDERSTANDING

The Port of San Diego and the San Diego County Local Agency Formation Commission (San Diego LAFCO) have approved a Memorandum of Understanding (MOU) that outlines a collaborative framework for the future relationship between the agencies. This agreement marks a significant step in fostering a cooperative relationship between the Port and LAFCO while respecting the Port's unique mission and operations.

"The Port of San Diego successfully champions public access, the environment, and responsible economic development of San Diego Bay," said Chairman Frank Urtasun, Port of San Diego Board of Port Commissioners. "We thank LAFCO Chairman Stephen Whitburn, the Commission, and the LAFCO team for coming together on an MOU that demonstrates the Port's ongoing commitment to transparency, accountability, and integrity, and establishes collaboration between the two agencies to maintain open communication and achieve common objectives."

"I'd like to thank Chairman Urtasun and the Port Commissioners and staff for the collaborative process that produced this MOU," said Stephen Whitburn, Chairman of San Diego LAFCO. "The Port is a tremendous asset to the San Diego region, and this agreement paves the way for our continued partnership to benefit the public."

Provisions of the MOU include the following:

- Jurisdiction – acknowledges and specifies LAFCO areas of oversight and review of the Port, and the California State Lands Commission's role in making recommendations.

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Chair Stephen Whitburn, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Vice Chair Barry Willis, Alpine Fire Protection
Jo MacKenzie, Vista Irrigation
David Drake, Alt., Rincon del Diablo
Harry Mathis, General Public
Brigette Browning, Alt., General Public

- Changes of organization to Port territory – includes a process for cleanup and future annexations of territory into the Port and specifies that any change or reorganization of Port Tidelands must be done in consultation with and great deference to the recommendations of the California State Lands Commission, the state agency with oversight of the Port.

- Sphere of Influence (SOI) – details how and when LAFCO will establish an interim SOI and future permanent SOI for the Port.

- Apportionment payment – as one of the special districts with LAFCO oversight, the Port will contribute its proportional apportionment share of LAFCO's budget, supporting the commission's operational costs.

- Municipal Services Reviews (MSRs) – provides a roadmap for and delineates the scope of LAFCO MSRs of the Port. LAFCO can conduct limited MSRs, focusing on specific Port services and operational aspects, while respecting state-mandated limitations. The first MSR under this agreement is anticipated to take place in 2026.

- Stakeholder group - if the Port agrees in writing, LAFCO agrees to make available a stakeholder group comprising board members of the San Diego Waterfront Association for purposes of ongoing consultation in preparation of the Inaugural MSR. Note: as part of the Port Board's resolution approving the agreement, and in response to public feedback, the Port added language to the resolution to ensure diverse stakeholder representation inclusive of the Port's member cities and communities.

LAFCO's Board approved the MOU on December 2, 2024. The Board of Port Commissioners approved the MOU on December 10, 2024.

The full MOU is available here.

PORT of SAN DIEGO

December 11, 2024

Keene Simonds, Executive Officer
San Diego Local Agency Formation Commission
2550 Fifth Avenue Suite 725
San Diego CA 92103

Mr. Simonds:

Re: Rescindment of Request for Reconsideration of March 4, 2024, Commission Action (Agenda Item 8a)

The San Diego Unified Port District ("Port District") hereby rescinds its request for reconsideration ("Request") of Agenda Item 8a of the March 4, 2024, meeting of the Board of Commissioners of the San Diego Local Agency Formation Commission ("SD LAFCO"). The Port District filed the Request on April 3, 2024, pursuant to SD LAFCO Rule 3.4(2). By rescinding the Request, the Port District withdraws its request for a reconsideration hearing or any other action by SD LAFCO relating to the Request.

Please provide written confirmation of receipt of this request for rescindment. Thank you.

Sincerely,

Randa Coniglio
Acting President and Chief Executive Officer

cc: Priscilla Mumpower (San Diego LAFCO)

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