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RESOLUTION NO. HD-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AFFIRMING THE CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PIER B ON-DOCK RAIL SUPPORT FACILITY PROJECT (SCH NO. 2009081079) BY THE BOARD OF HARBOR COMMISSIONERS AND MAKING CERTAIN FINDINGS RELATED THERETO

WHEREAS, the City of Long Beach ("COLB"), acting by and through its Board of Harbor Commissioners ("Board"), has authority over the City of Long Beach Harbor District, commonly known as the Port of Long Beach; and

WHEREAS, on March 14, 2007, the Deputy Chief Harbor Engineer of the Long Beach Harbor Department ("Harbor Department") of COLB submitted an application for a Harbor Development Permit ("HDP") for the Pier B On-Dock Rail Support Facility Project relating to the reconfiguration, expansion and enhancement of the existing Pier B Railyard located within COLB's Harbor District (the "Project"); and

WHEREAS, the COLB is the lead agency for California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) ("CEQA") compliance for the Project, and the Board is the decision-making body for the Harbor Department; and

WHEREAS, the Harbor Department determined that because the Project could have a significant effect on the environment, an environmental impact report ("EIR") should be prepared to assess the environmental impacts associated with the construction and operation of the Project; and

WHEREAS, on August 20, 2009, the Environmental Planning Division of the Harbor Department mailed a CEQA Notice of Preparation ("NOP"), which indicated the Harbor Department's intent to prepare an EIR and application summary report for the

1 Project, to public agencies, organizations and persons who requested notice or were likely  
2 to be interested in the potential impacts of the Project and also posted the NOP on the  
3 Harbor Department website, published it in the Long Beach Press-Telegram and emailed  
4 it to the Harbor Department contact list; and

5 WHEREAS, scoping meetings for the Project were held on  
6 September 2, 2009 and September 16, 2009; and

7 WHEREAS, the Harbor Department thereafter caused a Draft EIR to be  
8 prepared, which took into account the comments received on the NOP and described the  
9 Project, the environmental impacts resulting therefrom, and the proposed mitigation  
10 measures; and

11 WHEREAS, on December 16, 2016, the Draft EIR was circulated for public  
12 and agency review and comment; and

13 WHEREAS, pursuant to order of the Board, a Notice of Availability and  
14 Notice of Public Hearing was published in the "Press-Telegram", a newspaper of general  
15 circulation, on December 15, 2016, January 8, 2017, January 27, 2017, and February 12,  
16 2017, by news release in the Press-Telegram, by letter mailed to public agencies,  
17 organizations and persons who requested notice or were likely to be interested in the  
18 potential impacts of the Project, by email to the Harbor Department contact list and by  
19 posting on the Harbor Department website noticing public hearings on the DEIR to be  
20 held on January 11, January 18, and February 15, 2017; and

21 WHEREAS, three public hearings were held on the Draft EIR on January 11,  
22 January 18 and February 15, 2017; and

23 WHEREAS, the public comment period closed on March 13, 2017; and

24 WHEREAS, Harbor Department staff and consulting environmental experts  
25 reviewed all comments received on the Draft EIR, including those received after the close  
26 of the public comment period, and prepared full and complete responses thereto; and

27 WHEREAS, on January 12, 2018, the Harbor Department's Environmental  
28 Planning Division provided copies of the responses to comments received to all

1 government agency commenters, and provided written notice of the public availability of  
2 the responses to all other commenters in accordance with California Public Resources  
3 Code Section 21092.5; and

4 WHEREAS, on January 12, 2018, members of the Board received copies of  
5 the FEIR; and

6 WHEREAS, on January 22, 2018, in a duly noticed public hearing, the Final  
7 EIR for the Project was presented to the Board, as the decision-making body of the lead  
8 agency, for certification as having been completed in compliance with the provisions of  
9 CEQA and the state and local CEQA Guidelines; and

10 WHEREAS, the Board carefully reviewed and considered all environmental  
11 documentation comprising the Final EIR, including the Draft EIR and the comments and  
12 the responses thereto, together with all written communications and oral testimony  
13 regarding the same, and found that the Final EIR considered all potentially significant  
14 environmental impacts of the Project and was complete and adequate, and fully complied  
15 with all requirements of CEQA and the state and local CEQA Guidelines; and

16 WHEREAS, prior to action on the Project, the Board considered all significant  
17 impacts, mitigation measures, and Project alternatives identified in the Final EIR and found  
18 that all potentially significant impacts of the Project have been lessened or avoided to the  
19 extent feasible; and

20 WHEREAS, on January 22, 2018, the Board pursuant to Resolution No.  
21 HD-2906, certified the Final EIR, made certain findings and determinations relative thereto,  
22 adopted a statement of overriding considerations, a mitigation monitoring and reporting  
23 program and the application summary report, and approved the Project and the issuance  
24 of the HDP for the Project; and

25 WHEREAS, by letter dated February 5, 2018 from Greenberg, Whitcombe,  
26 Takeuchi, Gibson & Grayver, LLP, Phillips Steel Company, pursuant to Long Beach  
27 Municipal Section 21.21.507, appealed the Board's certification of the Final EIR for the  
28 Project; and by an undated letter received by the City Clerk on February 6, 2018, Superior

1 Electrical Advertising also appealed the Board’s certification of the Final EIR for the Project;  
2 and

3 WHEREAS, on February 28, 2018, the Long Beach City Clerk issued notice  
4 to the appellants pursuant to Long Beach Municipal Code section 21.21.507 that their  
5 appeals would come before the Long Beach City Council on March 20, 2018 at 5:00 p.m.

6 NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
7 follows:

8 Section 1. Based on its independent review and consideration of  
9 Resolution No. HD-2906, the Final EIR, the appeals filed by appellants and all written  
10 communications and oral testimony regarding the Project which have been submitted to  
11 and received by the Council, the City Council finds as follows:

12 A. The above recitals are true and correct.

13 B. The Final EIR for the Project has been completed in compliance with  
14 CEQA and the state and local CEQA Guidelines. The Board, having final approval  
15 authority over the Project, properly adopted and certified as complete and adequate  
16 the Final EIR, which reflected the independent judgment and analysis of the Board.  
17 The Board further certified that the Final EIR was presented to the Board and the  
18 Board reviewed and considered the information contained in it prior to approving the  
19 Project.

20 C. All grounds properly raised during the appeal process have been  
21 adequately addressed in the Final EIR. Attachments 7 and 9 to the staff report to  
22 the City Council fully address all issues raised by the appeal.

23 Section 2. Based on its independent review and consideration of the Final  
24 EIR, all grounds raised during the appeal process, all written communications and oral  
25 testimony regarding the appeal, the transcript of the January 22, 2018 Board meeting, the  
26 reports and presentations by City Staff, including the reports, written communications, and  
27 presentations by the Harbor Department, and the findings and determinations set forth  
28 above, the City Council of the City of Long Beach hereby:

1           A.       Affirms the certification by the Board that the Final EIR for the Project  
2 has been completed in compliance with CEQA and the state and local CEQA  
3 Guidelines promulgated pursuant thereto, and denies the appeals filed by  
4 appellants.

5           B.       Affirms the certification by the Board that the Final EIR was presented  
6 to the Board, that the Board reviewed and considered the information contained in  
7 it prior to approving the Project, and that the Final EIR reflects the Board’s  
8 independent judgment and analysis.

9           C.       Affirms that the City Council has independently reviewed and  
10 considered the information contained in the Final EIR and that the Final EIR reflects  
11 the City’s independent judgment and analysis.

12           D.       Adopts and makes, to the extent required by law, the findings set forth  
13 in the Findings of Fact and Statement of Overriding Considerations for the Project  
14 attached as Exhibit “A” to Resolution No. HD-2906 of the Board, which is  
15 incorporated herein by reference as though set forth in full.

16           Section 3.   The Harbor Department Director of Environmental Planning,  
17 whose office is located at 4801 Airport Plaza Drive, Long Beach, California 90815, is  
18 hereby designated as the custodian of the documents and other materials which constitute  
19 the record of proceedings upon which the City Council decision is based, which documents  
20 and materials shall be available for public inspection and copying in accordance with the  
21 provisions of the California Public Records Act (Cal. Government Code section 6250 *et*  
22 *seq.*).

23           Section 4.   The Harbor Department Director of Environmental Planning  
24 shall file a notice of determination with the County Clerk of the County of Los Angeles and  
25 with the State Office of Planning and Research within five (5) working days after adoption  
26 of this resolution.

27           Section 5.   This resolution shall take effect immediately upon its adoption  
28 by the City Council, and the City Clerk shall certify to the vote adopting this resolution.

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I hereby certify that the foregoing Resolution was adopted by the City Council of the City of Long Beach at its meeting of March 20, 2018 by the following vote:

Ayes: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
City Clerk