

RESOLUTION 2013-140

RESOLUTION TO ADOPT AN ADDENDUM TO THE FINAL MITIGATED NEGATIVE DECLARATION FOR THE SHELTER POINTE HOTEL (KONA KAI RESORT) EXPANSION PROJECT

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, in 2006, Atlas Kona Kai, LLC (Atlas) proposed to renovate and to expand an existing 129-room hotel, including restaurant, spa, meeting space and parking, then known as the Shelter Pointe Hotel (Proposed Project); and

WHEREAS, the Proposed Project included the relocation and renovation of an existing restaurant, the expansion and upgrade of conference meeting space, and the construction of two new three-story guest wings with 158 new rooms, a new subterranean parking facility with attached housekeeping and marina facilities, a new pool, as well as associated landscaping; and

WHEREAS, the Proposed Project site is located at 1551 Shelter Island Drive, San Diego, California, on the southwestern tip of Shelter Island in Planning District 1 of the District's certified Port Master Plan; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000, et seq., and its implementing regulations, 14 California Code of Regulations Section 15000, et seq. (CEQA Guidelines), the Board of Port Commissioner (Board) adopted a Final Mitigated Negative Declaration SCH # 2006071037/UPD # 83356-MND-683 (Final MND) and Mitigation Monitoring and Reporting Program (MMRP) for the Proposed Project on October 10, 2006, which is on file in the Office of the District Clerk as Document No. 51132; and

WHEREAS, Atlas subsequently assigned its interest in the leasehold and the Proposed Project to Noble House Hotels and Resorts, the parent company of Westgroup Kona Kai, LLC, doing business as Kona Kai Resort (Kona Kai); and

WHEREAS, Kona Kai has proposed changes and alterations to the original design of the Proposed Project that will result in more renovation of existing facilities and less new development on the Proposed Project site; and

WHEREAS, the proposed changes and alterations to the original design of the Proposed Project will consist of a phase one renovation component, including renovation and enhancement of the existing restaurant and patio area, spa and fitness center, conference and meeting facilities, guest rooms, lobby and marina facility and dock master buildings and an increase of 56 spaces in the existing parking lot (collectively, Renovation Component), and a phase two expansion component, including the addition of 41 new guest rooms in two buildings, a new two-story marina facility retail building, a new second pool and pool deck, and expansion of the existing pool deck (collectively, Expansion Component); and

WHEREAS, the District has analyzed said changes and alterations as required by CEQA and, pursuant to CEQA Guidelines section 15164, has prepared an Addendum to the Final Mitigated Negative Declaration (SCH # 2006071037) for the Shelter Pointe Hotel (Kona Kai Resort) Expansion Project (Addendum to the Final MND) because some minor changes or additions are necessary and none of the conditions described in CEQA Guidelines section 15162 calling for preparation of a subsequent Negative Declaration have occurred; and

WHEREAS, all materials with regard to the Proposed Project were made available to the Board for its review and consideration of the Proposed Project including, but not limited to, the following:

1. The Final MND, dated September 2006;
2. The Addendum to the Final MND, dated May 2013;
3. The Staff Report and Agenda Sheet, dated July 22, 2013;
4. All documents and records filed in this proceeding by the District and all interested parties; and

WHEREAS, having reviewed and considered all the materials made available to the Board, including, but not limited to, the Addendum to the Final MND, the Final MND, the staff reports and all the evidence in the record of the proceedings with respect to the Proposed Project, the Board took the actions hereinafter set forth.

NOW THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

1. The Board finds the facts recited above are true and further finds that this Board has jurisdiction to consider, approve and adopt the subject of this Resolution.

2. The Board finds and determines that the applicable provisions of CEQA, the CEQA Guidelines and the District Guidelines have been duly observed in the considerations of this matter and all of the previous proceedings related thereto.

3. The Board finds and determines, on the basis of the whole record before the Board, that:

- a. Some minor changes or additions to the Final MND are necessary, but there is no substantial evidence that new significant environmental effects or a substantial increase in the severity of a previously identified effect have occurred because of substantial changes to the Proposed Project or with respect to the circumstances under which the Proposed Project is undertaken;
- b. There is no substantial evidence that new information exists that shows that: (i) the Proposed Project will have one or more significant effects that were not discussed in the Final MND; (ii) significant effects previously analyzed will be substantially more severe; (iii) mitigation measures or alternatives previously found infeasible are now feasible and would substantially reduce one or more significant effect of the Proposed Project, but the applicant declines to adopt the mitigation measures or alternatives; or (iv) mitigation measures or alternatives which are considerably different from those analyzed in the Final MND would substantially lessen one or more significant effects, but the applicant declines to adopt the mitigation measures or alternatives;
- c. There is no substantial evidence that the Proposed Project will have a significant unmitigated effect on the environment;
- d. The Addendum to the Final MND is complete and adequate in scope and has been completed in compliance with CEQA, the CEQA Guidelines and District Guidelines for implementation thereof;
- e. Mitigation Measures identified in the Addendum to the Final MND, Final MND, and MMRP are applicable with the exception of Mitigation Measure Wat-2, and mitigate all potentially significant impacts to below a level of significance and thus, no additional mitigation measures or alternatives are required;
- f. The Addendum to the Final MND was presented to the Board and the Board has fully reviewed and considered the information in Addendum to the Final MND and the Final MND prior to approving a resolution Granting Concept Approval for West Kona Kai, LLC


for the Proposed Expansion Project and a resolution Authorizing Issuance of an Appealable Coastal Development Permit for the Proposed Project; and

- g. The Addendum to the Final MND and the Final MND reflect the District's independent judgment and analysis.

4. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075, the Clerk of the Board shall cause a Notice of Determination to be filed with the Clerk of the County of San Diego and the State Office of Planning and Research. Unless the Proposed Project is declared exempt herein and a Certificate of Filing Fee Exemption is on file, the Proposed Project is not operative, vested or final until the filing fees required pursuant to Fish and Game Code Section 711.4 are paid to the Clerk of the County of San Diego.

5. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15074(c), the location and custodian of the documents and other materials which constitute the record of proceedings on which this Resolution is based is the Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

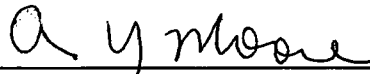
APPROVED AS TO FORM AND LEGALITY:



PORT ATTORNEY

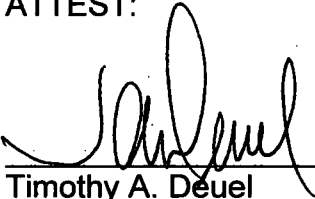
PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of August, 2013, by the following vote:

AYES: Castellanos, Merrifield, Moore, Nelson, Smith, Valderrama
NAYS: None.
EXCUSED: Malcolm.
ABSENT: None.
ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)