

RESOLUTION 2013-86

**RESOLUTION CONSIDERING FINAL MITIGATED
NEGATIVE DECLARATION PREPARED BY SAN DIEGO
ASSOCIATION OF GOVERNMENTS, ADOPTING
MITIGATION MONITORING AND REPORTING PROGRAM,
AND AUTHORIZING FILING OF NOTICE OF
DETERMINATION FOR A PORTION OF SEGMENT 5 OF
THE BAYSHORE BIKEWAY 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, the Bayshore Bikeway is planned by the San Diego Association of Governments (SANDAG) as a designated 24-mile bike route around San Diego Bay with its route starting at the Broadway Pier near the intersection of Broadway and Harbor Drive in San Diego and extending through the cities of San Diego, National City, Chula Vista, Imperial Beach and Coronado, where it ends at the Coronado Ferry Terminal which provides the connecting link between the Broadway Pier and the Coronado Ferry Terminal; and

WHEREAS, the Bayshore Bikeway currently consists of a combination of off-street bicycle paths and on-street bicycle lanes and routes which after completion of the route will be a Class I off-street bicycle path, which is defined by Caltrans' Highway Design Manual as a path that provides for two-way bicycle travel on a paved right-of-way completely separated from streets or highways; and

WHEREAS, the Bayshore Bikeway route is included in the San Diego Regional Bicycle Plan adopted by SANDAG on May 21, 2010 and implementation of which will help the region meet its goals in reducing greenhouse gas emissions, improve mobility, and enhance access to San Diego Bay; and

WHEREAS, the bikeway is being constructed in segments with the section most recently completed being Segments 7 and 8A in Chula Vista between H Street and Palomar Street, which was completed in March 2012; and

WHEREAS, SANDAG now proposes to construct Segment 5 of the bikeway, in which an approximately 780 foot long portion (Proposed Project) of Segment 5 is located on District property and within the District's coastal development permit jurisdiction; and

WHEREAS, construction of Segment 5 will also relocate a driveway on the parcel leased by Pasha located at the northwest corner of Tidelands Avenue and 19th Street; and

WHEREAS, the Port District is the trustee of said tidelands where the Proposed Project will be constructed; and

WHEREAS, in December 2012, the City of National City authorized issuance of a Coastal Development Permit (CDP) to SANDAG for the portion of Segment 5 that is located south of the District's jurisdiction;

WHEREAS, the Proposed Project is located within the Northern Industrial subarea of Planning District 5, National City Bayfront, which is delineated on Precise Plan Map Figure 15 of the Port Master Plan (PMP); and

WHEREAS, the Circulation/Navigation Element (Figure 2b) of the PMP identifies Tidelands Avenue as a Bicycle Corridor; and

WHEREAS, the Proposed Project conforms to the certified PMP and facilitates the Bicycle Corridor being located on Tidelands Avenue north of Bay Marina Drive and construction of Segment 5 will further completion of the regional Bayshore Bikeway which is a public coastal access facility; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), SANDAG, as lead agency, prepared a Mitigated Negative Declaration (MND) for the Proposed Project entitled "Bayshore Bikeway Project (Segments 4,5,7, and 8A)" [SCH No. 2009021106] as required by law; and

WHEREAS, on May 1, 2009, SANDAG Transportation Committee adopted the MND as adequate and complete under CEQA and adopted a Mitigation Monitoring and Reporting Program (MMRP) as required by law; and

WHEREAS, pursuant to Public Resources Code Section 21069 and Section 15381 of the State CEQA Guidelines, 14 California Code of Regulations Section 15000, et seq. (CEQA Guidelines), the Port District is a responsible agency under CEQA because the Proposed Project requires a Coastal Development Permit (CDP) under the California Coastal Act and the Port District is the public agency which has discretionary approval power over a portion of the Proposed Project with respect to issuance of a CDP; and

WHEREAS, the Clerk of the Board has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and affidavit of mailing on file with the Clerk of the Board; and

WHEREAS, all materials with regard to this 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 adopted by the SANDAG Transportation Committee on May 1, 2009;
2. The MMRP adopted by the SANDAG Transportation Committee on May 1, 2011;
3. The Staff Report and Agenda Sheet, dated May 7, 2013; and
4. All documents and records filed in this proceeding by interested parties.

WHEREAS, a duly noticed public hearing was held on May 7, 2013, before the Board, at which the Board received public testimony and reviewed and considered all testimony and materials made available to the Board regarding the Proposed Project; and

WHEREAS, having reviewed and considered all testimony and materials made available to the Board, including but not limited to the Final MND and MMRP the staff reports and all the testimony and 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 State CEQA Guidelines, and the Port District Guidelines have been duly observed in conjunction with said hearing and the considerations of this matter and all of the previous proceedings related thereto.
3. Pursuant to CEQA Guidelines Section 15096(a) and (f), the Board finds and determines that (a) the Final MND prepared and adopted by the SANDAG Transportation Committee has been presented to the Board, (b) the Board has fully reviewed and considered the Final MND and the environmental effects of the Proposed Project as shown in the Final MND prior to making a decision whether to approve the Proposed Project, and (c) the Board has reached its own conclusions on whether and how to approve the Proposed Project.
4. Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Sections 15091(d) and 15096(g), the Board hereby adopts and approves the MMRP adopted by the SANDAG Transportation Committee, which is appended hereto as

Exhibit "A" and is made a part hereof by this reference, with respect to the significant environmental effects identified in the Final MND, and hereby makes and adopts the provisions of the MMRP as conditions of approval for the Proposed Project.

5. Based on the absence of evidence in the record of these proceedings as required by Public Resources Code Section 21082.2 for the purpose of documenting significant effects on the environment, the Board finds the Proposed Project will have impacts below the level of significance with regard to wildlife resources and, therefore, is hereby granted a "*de minimis*" exception in accordance with Fish and Wildlife Code Section 711. Additionally, the assumption of adverse effect is rebutted on the basis of the above referenced absence of evidence in the record.

6. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Sections 15094 and 15096(i), 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.

7. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e), 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.

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 7th day of May, 2013, by the following vote:

AYES: Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

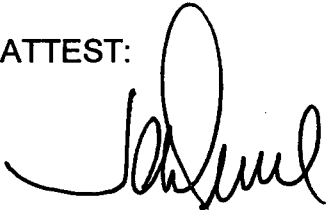
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)