

## RESOLUTION 2014-202

### RESOLUTION TO ADOPT FINAL NEGATIVE DECLARATION FOR SPRINT EMBARCADERO MARINA PARK SOUTH TELECOMMUNICATION PROJECT AND DIRECT FILING OF THE NOTICE OF DETERMINATION

**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**, on September 7, 2010, the Board of Port Commissioners (Board) granted a 10-year Tideland Use and Occupancy Permit (TUOP) with two 5-year options to Sprint PCS Assets, LLC (Sprint) for the installation, operation, and maintenance of a wireless communications facility (Project) in Embarcadero Marina Park South (EMPS); and

**WHEREAS**, the original proposed location of the Project was proposed to be adjacent to the basketball court in EMPS with a cellular tower disguised as a palm tree; however, since that time, Sprint revised the design and location of Project to be more aesthetically pleasing by placing the Project within a grove of existing eucalyptus trees (with heights ranging between 40-60 feet) instead of in an open area near the basketball court, and locating the equipment room adjacent to an existing delicatessen; and

**WHEREAS**, the Project includes: a) a 50-foot tall mono-eucalyptus (faux tree) cellular tower with a painted and texturized pole to resemble the trunk of a eucalyptus tree; b) three antenna sectors with four antennas and four remote radio heads on each antenna, which would be partially obstructed by the faux eucalyptus tree design and the existing eucalyptus trees in the area; c) demolition of the existing approximately 60-square-foot storage enclosure for the existing delicatessen and construction of a 10-foot tall equipment room placed on a poured-in-place concrete pad measuring approximately 276 square feet in size (23 feet x 12 feet) with an exterior architecture and a standing seam metal roof to match the nearby delicatessen and restroom buildings; d) a storage room for the adjacent delicatessen (3 feet x 12 feet); e) two 6-inch GPS antennas mounted behind the parapet of the structure; f) utility improvements; and g) an amendment to the existing TUOP to amend the premises pursuant to the relocation of the Project, to change the rent structure, update the indemnity and hold harmless, as well as add sustainable leasing language; and

**WHEREAS**, the District has analyzed the Project as required by CEQA and, pursuant to CEQA Guidelines section 15070, has prepared an Negative Declaration (SCH# 2014081004; UPD #ND-2014-70) for the Project because based on the entire record and the project description, there is no substantial evidence that the Project would have a significant effect on the environment; and

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

1. The Final Negative Declaration;
2. The Staff Report and Agenda Sheet;
3. All documents and records filed in this proceeding by the District and all interested parties; and

**WHEREAS**, the Office of the District Clerk 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 Office of the District Clerk; and

**WHEREAS**, the Board held a duly noticed public hearing on the Final Negative Declaration on October 14, 2014; and

**WHEREAS**, having reviewed and considered all the materials made available to the Board, including, but not limited to, the Final Negative Declaration, the staff reports and all the evidence in the record of the proceedings with respect to the 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

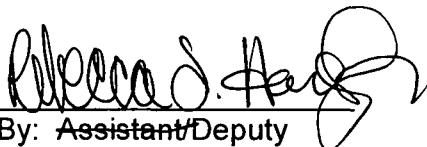
before the Board, that:

- a. There is no substantial evidence that the Project would have a significant environmental effect on the environment; and
- b. There is no substantial evidence that the Project will have a significant unmitigated effect on the environment; and
- c. The Final Negative Declaration is complete and adequate in scope and has been completed in compliance with CEQA, the CEQA Guidelines and District Guidelines for implementation thereof; and
- d. The Final Negative Declaration was presented to the Board and the Board has fully reviewed and considered the information in Final Negative Declaration prior to approving a resolution authorizing issuance of a non-appealable Coastal Development Permit for the Project and an ordinance granting Amendment No. 1 to the Tideland Use and Occupancy Permit for Telecommunication Sites between the District and Sprint PCS Assets, LLC Amending the Project Location and Updating Lease Language; and
- e. The Final Negative Declaration reflects 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.

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 Office of the District Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

APPROVED AS TO FORM AND LEGALITY:  
GENERAL COUNSEL

  
By: Assistant/Deputy

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PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 14th day of October 2014, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

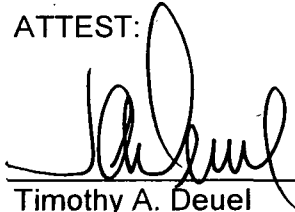
ABSENT: None.

ABSTAIN: None.



Robert E. Nelson, Chairman  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk

(Seal)