

RESOLUTION 2015-60

RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT TO AUTHORIZE THE EXECUTIVE DIRECTOR TO ESTABLISH MARKET-BASED PARKING RATES AT ALL TIDELANDS PUBLIC PARKING LOTS, EXCLUDING NAVY PIER, AND GARAGES WITHIN THE RANGE OF EXISTING PARKING RATES

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, consistent with the Public Trust Doctrine, Section 36 of the Port Act specifically gives the Board of Port Commissioners (BPC) the authority to “by ordinance fix the rate[s] . . . or other charges which are appropriate for the use of any of the facilities owned and constructed or services furnished or provided by the [D]istrict” and therefore, it is within the District’s authority to set parking rates on tidelands; and

WHEREAS demand for parking on the North Embarcadero has increased greatly over the past several years due to the opening of the San Diego County Waterfront Park, reductions in parking supply from development in the area and the continued success and popularity of businesses and activities on the waterfront; and

WHEREAS, the District owns, among others, four parking garages and lots: Lane Field Public Parking Lot, B Street Pier Public Parking Lot, the Convention Center Public Parking Garage (underground at the Convention Center) and the Convention Center (adjacent to Hilton) Public Parking Garage (collectively, District Parking Lots and Garages); and

WHEREAS, currently, the District Parking Lots and Garages have plenty of capacity; for example, the Convention Center Public Parking Garage under the Convention Center’s annual average vacancy rates are approximately 56% and the Convention Center Public Parking Garage near the Hilton is 36%; and

WHEREAS, the District proposes a project (Project) that includes an amendment to Article 8, Section 8.21 of the Port Code to rescind the current text of Section 8.21, which is the “Parking Pilot Program for Tuna Harbor Public Parking Lot,” and add new text that would authorize the Executive Director of the

District to implement parking rates, up to the maximum existing parking rates previously-approved by the BPC, at the District Parking Lots and Garages; and

WHEREAS, as part of the Project, a shuttle service would be provided to enable garage patrons to get to and from the District Parking Lots and Garages and the Embarcadero if and when any agreements are entered into for remote parking at the District Parking Lots and Garages; and

WHEREAS, the Project enables the Executive Director to set flexible rates to allow for affordable daily parking at the District Parking Lots and Garages and thereby shifts parking demand from the meters;

WHEREAS, the Project enables the Executive Director during periods of high demand or special events, hourly rates in the garages could be adjusted upward to encourage parking turnover; and

WHEREAS, on May 6, 2014, the District issued the attached Categorical Determination for the project and a related project, which is herein incorporated by reference; and

WHEREAS, the flexibility in setting the District Parking Lots and Garages rates will improve public access to the Bay by providing reasonable and affordable parking rates to tenant employees and the public; and

WHEREAS, the Project ensures there are longer parking time limits for recreational users and visitors (more than 3 hours) and therefore, it would not foreclose visitors from visiting the Bay for prolonged periods; and

WHEREAS, the Project does not change the operational characteristics of the District-owned 379 free parking spaces from Spanish Landing/Harbor Island down to Grape Street and of the City-owned 159 free spaces within walking distance to the Embarcadero, but one of the conditions of the proposed Non-Appealable Coastal Development Permit (CDP) proposes that signage be added at District-owned free parking, informing visitors of the nearest Big Bay Shuttle stop location and schedule for the same, as well as posting the information on the District's website; and

WHEREAS, the District is currently conducting a study of parking in the North Embarcadero, which is anticipated to be finished and presented to the BPC for its feedback; and

WHEREAS, the parking study may result in a parking program for the area, but the proposed Non-Appealable CDP includes conditions which will not foreclose or stifle implementation of a parking program, if adopted; and

WHEREAS, in 2009, the District conducted a North Embarcadero Visionary Plan (NEVP) Parking Management Plan and as detailed in the attached Categorical Determination, the Project would further the goals and measures in that plan; and

WHEREAS, as a condition of the California Coastal Commission (CCC) approved NEVP Phase 1 CDP (CDP A-6-PSD-11-006), the District was required to prepare and submit for approval a Parking Management and Transit Opportunity Plan (PMTOP); and

WHEREAS, the CCC approved the PMTOP, dated October 2011, satisfying the condition, and as detailed in the attached Categorical Determination, while the Project is not subject to the PMTOP, it would not conflict with the same; and

WHEREAS, the District is the trustee of said tidelands where the Project will be implemented; and

WHEREAS, the District Parking Lots and Garages are also located in the Coastal Zone; and

WHEREAS, the Project is located in Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified Port Master Plan and is designation within the limits of the Project as Commercial Recreation and Park/Plaza; and

WHEREAS, the Project conforms to the certified Port Master Plan because parking, including paid parking, is an allowable use in all Port Master Plan land use designations; and

WHEREAS, the Project constitutes "development" pursuant to Section 30106 of the California Public Resources Code because, among other things, it constitutes a change in intensity of use; and

WHEREAS, in accordance with the District's CDP Regulations (Regulations), the Project is considered "Non-Appealable" because it does not qualify as an "Excluded," "Appealable," or "Emergency" development; and

WHEREAS, pursuant to Coastal Act Section 30715 and Sections 7d(3) and (4) of the Regulations, parking, parking garages/lots and rates/hours/time limits of operation and enforcement for the same are not listed as appealable developments, requiring an Appealable CDP; and

WHEREAS, consistent with the Coastal Act and Regulations, on March 8, 1985, a Non-Appealable CDP was issued for the Underground Convention Center Parking Garage (see District Document Nos. 17936, available in the

Office of the District Clerk) and on November 4, 2003, a Non-Appealable CDP was issued for the Convention Center Parking Garage located adjacent to the Hilton Hotel (see District Document Nos. 46744, available in the Office of the District Clerk); and

WHEREAS, while the need for the Project is urgent with the coming of the high-demand summer months, it does not constitute an Emergency development; and

WHEREAS, while a Coastal Act exclusion may have been appropriate for the Project consistent with past approvals for the establishment of rates at the Lane Field and B Street Pier parking lots (see Clerk Document Nos. 61018, available at the Office of the District Clerk and incorporated herein by reference), the District has determined that a Non-Appealable CDP for the Project should be issued to ensure public access conditions in the permit are implemented; and

WHEREAS, the BPC considered the Non-Appealable CDP at the May 12, 2015 BPC meeting; and

WHEREAS, on May 12, 2015, prior to taking this action and pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code Section 21000, et seq., and its implementing regulations, 14 California Code of Regulations Section 15000, et seq. (CEQA Guidelines) and the District's CEQA Guidelines, the BPC adopted a Statutory Exemption pursuant to CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) and a Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) and Sections 2.h and/or 3.a of the District's Guidelines by Resolution 2015-58; and

WHEREAS, the Project falls within the scope of the CEQA exemption; and

WHEREAS, all materials with regard to the Project were made available to the BPC for its review and consideration of the Project including, but not limited to, the CEQA exemptions, the Categorical Determination, the associated Staff Report and Agenda Sheet and all documents and records filed in this proceeding by the District and all interested parties.

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

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

2. The Project, in general, consists of:

a. Amending UPD Code Sections 8.21 to authorize the Executive Director of the District to implement market-based parking rates, up to the maximum existing parking rates previously-approved by the BPC, at all District Parking Lots and Garages; and

b. A shuttle service would be provided to enable garage patrons to get to and from the District Parking Lots and Garages and the Embarcadero if and when any agreements are entered into for remote parking at the District Parking Lots and Garages.

3. Having reviewed and considered all the materials made available to the BPC, the BPC further finds and determines:

a. The applicable provisions of CEQA, the CEQA Guidelines and the District CEQA Guidelines have been duly observed in the considerations of this matter and all of the previous proceedings related thereto; and

b. The Project is statutorily exempted pursuant to CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) and categorically exempted pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) and Sections 2.h and/or 3.a of the District's Guidelines; and

c. The CEQA exemptions were presented to the BPC and the BPC has fully reviewed and considered the information contained therein prior to authorizing the issuance of the Non-Appealable CDP.

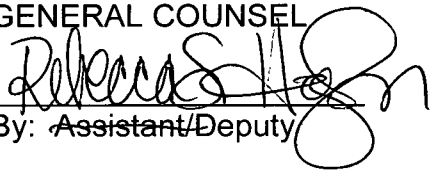
4. The Project is located in Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified Port Master Plan and is designation within the limits of the Project as Commercial Recreation and Park/Plaza. The BPC finds that the Project conforms to the to the certified Port Master Plan because parking, including paid parking, is an allowable use in all Port Master Plan land use designations and the Project will enhance public access through the implementation of flexible and reasonable rates at District Parking Lots and Garages and the establishment of a shuttle.

5. Pursuant to California Public Resources Code Section 30106, the Project constitutes "development" because, among other things, it constitutes a change in intensity of use. In accordance with the District's CDP Regulations, the Project is considered "development" but is "Non-Appealable" because it does not qualify as an "Excluded," "Appealable," or "Emergency" development. The Project, as conditioned in the Non-Appealable CDP, is also consistent with California Public Resources Code Sections 30715.5, 30718, 30604(c) and 30210-30224, and the Coastal Act public access and recreation policies referenced therein.

6. The BPC finds that said Categorical Determination contains correct and accurate analysis and statements of fact.

7. Based on the entire record available to the BPC and the findings set forth in this Resolution, the Executive Director or his designated representative is hereby authorized and directed to issue a Non-Appealable CDP for the Project, entitled "Market-Based Rates Up to Existing Maximum Rates at District Parking Lots and Garages." Said Non-Appealable CDP shall require compliance with all the conditions set forth in the Non-Appealable CDP.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 12th day of May, 2015, by the following vote:

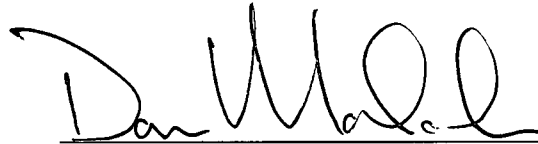
AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

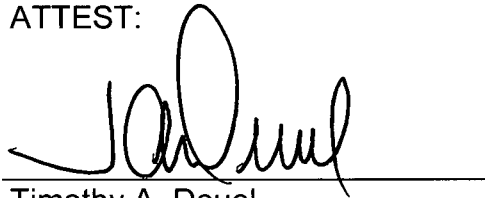
ABSENT: None.

ABSTAIN: None.



Dan Malcolm, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

