

RESOLUTION 2015-76

**RESOLUTION ADOPTING THE FINDINGS OF THE
FINAL MITIGATED NEGATIVE
DECLARATION/INITIAL STUDY (FINAL MND)
PREPARED BY THE SAN DIEGO ASSOCIATION OF
GOVERNMENTS FOR THE BAYSHORE BIKEWAY
PROJECT (SEGMENTS 4, 5, 7, 8A) AND A THIRD
ADDENDUM TO FINAL MND, AND AUTHORIZING
STAFF TO FILE A 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 1, (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 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 Bayshore Bikeway currently consists of a combination of off-street bicycle paths and on-street bicycle lanes and routes that 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 is being designed, funded and constructed in segments; and

WHEREAS, approximately 15 miles of the Bayshore Bikeway have been constructed and the most recently completed sections are an approximately 0.6-mile portion of Segment 4 in San Diego on Harbor Drive from Vesta Street to 32nd Street, which was completed by SANDAG in April 2015, and a 1.8-mile

segment (Segments 7 and 8A) in Chula Vista between H Street and Palomar Street, which was completed by SANDAG in March 2012; and

WHEREAS, Segment 5 of the Bayshore Bikeway is proposed to extend from Civic Center Drive to West 32nd Street via Tidelands Avenue in National City; and

WHEREAS, the District is the trustee of said tidelands where most of Segment 5 will be constructed; and

WHEREAS, due to ongoing concerns regarding potential impacts to maritime and industrial operations on a portion of Segment 5, SANDAG split Segment 5 into two portions: Segment 5 North is located on the west side of Tidelands Avenue, between Civic Center Drive and Bay Marina Drive, and consists of approximately 0.74 mile, of which approximately 780 feet is within District jurisdiction; and Segment 5 South is located on the west side of Tidelands Avenue, between Bay Marina Drive and West 32nd Street, and south side of West 32nd Street between Tidelands Avenue and Marina Way, and consists of approximately 0.67 mile located entirely within District jurisdiction; and

WHEREAS, on May 7, 2013, the Board of Port Commissioners (BPC) authorized issuance of a Coastal Development Permit (CDP) for approximately 780 linear feet of Segment 5 North located in the District's jurisdiction near the District's General Services facility; and

WHEREAS, on May 29, 2015, the District granted a two-year extension of the CDP for Segment 5 North because the CDP contained a standard provision that required commencement of construction within two years following issuance of the CDP and construction on Segment 5 North has not begun because SANDAG has not yet obtained the necessary approvals for certain railroad crossing improvements; and

WHEREAS, SANDAG, as the project proponent/applicant, has proposed Segment 5 South of the Bayshore Bikeway in the City of National City on tidelands (Proposed Project); and

WHEREAS, consistent with Segment 5 North, the Proposed Project is proposed as a Class I bike path with a total width of 12 feet, consisting of two 4-foot wide bike lanes and two 2-foot wide shoulders, separated from the roadway by a 2-foot wide buffer from the curb; and

WHEREAS, the Circulation/Navigation Element (Figure 2b) of the existing certified Port Master Plan (PMP) identifies Tidelands Avenue, north of Bay Marina Drive, as a Bicycle Corridor and shows the Bayshore Bikeway route through National City as occurring on the south side of Bay Marina Drive between Tidelands Avenue and Marina Way, and on or adjacent to Marina Way

between Bay Marina Drive and West 32nd Street; and

WHEREAS, in December, 2014, the BPC directed staff to pursue a Port Master Plan Amendment (PMPA) to allow the Proposed Project on an interim and temporary basis, on Tidelands Avenue between Bay Marina Drive and West 32nd Street, and on West 32nd Street between Tidelands Avenue and Marina Way; and

WHEREAS, the District has prepared a draft PMPA which revises the Circulation/Navigation Element to include an *interim* alignment of the Bayshore Bikeway along Tidelands Avenue between Bay Marina Drive and West 32nd Street, and along West 32nd Street between Tidelands Avenue and Marina Way, and revises the “Pedestrian and Bicycle Routes” land use designation of the PMP to include new text that describes this proposed *interim* Bayshore Bikeway alignment in National City; and

WHEREAS, adoption of the PMPA would allow the Proposed Project to conform to the certified PMP and would facilitate completion of the Bayshore Bikeway, which is a public coastal access facility, including issuance of a subsequent CDP and other entitlements; and

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

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

WHEREAS, SANDAG subsequently prepared and adopted two addenda to the MND for project changes that were unrelated to Segment 5; 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 District is a responsible agency under CEQA because the Proposed Project requires a PMPA and Coastal Development Permit (CDP) under the California Coastal Act and the District is the public agency which has discretionary approval power over the Proposed Project with respect to the PMPA and issuance of a CDP; and

WHEREAS, in connection with issuance of the CDP for Segment 5 North in May 2013, the BPC considered and adopted the MND pursuant to CEQA Guidelines Section 15096(f) and the MND, including SANDAG’s CEQA Findings of Fact, which is on file with the Office of the District Clerk as Document Number

62986; and

WHEREAS, pursuant to CEQA Guidelines section 15164, the District has prepared a Third Addendum to the MND for the BPC's consideration which corrects assumptions in the analysis regarding land use and parking, evaluates greenhouse gas (GHG) emissions; and documents that none of the conditions in CEQA Guidelines Section 15162 which would require preparation of a Subsequent MND have occurred; and

WHEREAS, the District has caused notice to be duly given of a public hearing for the PMPA 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, all materials with regard to this project were made available to the BPC for its review and consideration of the Proposed Project including, but not limited to, the following:

1. The MND, Findings of Fact and MMRP adopted by SANDAG for the Bayshore Bikeway Project (Segments 4, 5, 7, and 8A);
2. The Third Addendum to Final MND prepared by the District in May 2015;
3. The draft PMPA prepared by the District Staff in May 2015; and
4. All documents and records filed in this proceeding by interested parties.

WHEREAS, a duly noticed public hearing was held on June 11, 2015, before the BPC, at which the BPC received public testimony and reviewed and considered all testimony and materials made available to the BPC regarding the Proposed Project; and

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners (BPC) 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 BPC finds and determines that the applicable provisions of CEQA, the State CEQA Guidelines, and the Port District CEQA 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 BPC finds and determines that (a) the MND prepared and adopted by SANDAG has been presented to the BPC, (b) the BPC has fully reviewed and considered the MND and the environmental effects of the Proposed Project as shown in the MND prior to making a decision whether to approve the Proposed Project, and (c) the BPC has reached its own conclusions on whether and how to approve the Proposed Project.

4. Pursuant to CEQA Guidelines Section 15096(h), the BPC hereby adopts as its own and approves the Findings of Fact adopted by SANDAG, which are appended hereto as Exhibit "A" and are made a part hereof by this reference, with respect to the significant environmental effects identified in the MND, and hereby makes and adopts the provisions of the MMRP as conditions of approval for the Proposed Project.

5. Pursuant to CEQA Guidelines Section 15096(a) and (f), the BPC finds and determines that (a) the Third Addendum to the MND prepared and adopted by the District has been presented to the BPC, (b) the BPC has fully reviewed and considered the Third Addendum to the MND prior to making a decision whether to approve the Proposed Project, and (c) the BPC has reached its own conclusions on whether and how to approve the Proposed Project.

6. Pursuant to CEQA Guidelines Section 15164(e), the BPC finds that only minor technical changes or additions to the MND are necessary for the Proposed Project and none of the conditions requiring the preparation of a Subsequent MND pursuant to CEQA Guidelines Section 15162 has occurred and no additional environmental review is required because the Proposed Project is within the scope of the MND and will not result in any new or more severe significant impacts or require mitigation measures not previously identified in the MND previously adopted by SANDAG.

7. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Sections 15094 and 15096(i), the District Clerk 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.

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

9. As a condition of the Port Master Plan's approval, SANDAG shall indemnify and hold the District harmless against all third-party legal challenges, claims, lawsuits, proceedings, and the like, including reimbursement of all District attorneys' fees, costs and other expenses incurred by the District, related to the District's approval of the Port Master Plan Amendment, the Mitigated Negative Declaration (MND) for the Bayshore Bikeway Project (Segments 4, 5, 7, and 8A) [SCH No. 2009021106], adopted CEQA Findings of Fact for the MND, adopted a Third Addendum to the Mitigated Negative Declaration for the Bayshore Bikeway Project (Segments 4, 5, 7, and 8A) [SCH No. 2009021106].

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 11th day of June, 2015, by the following vote:

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

NAYS: Merrifield and Nelson.

EXCUSED: None.

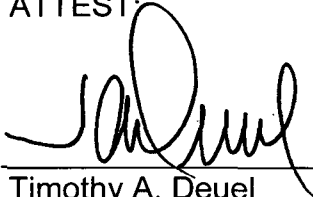
ABSENT: None.

ABSTAIN: None.



Dan Malcolm, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

