

**RESOLUTION 2016-140**

**RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE "NATIONAL CITY MARINE TERMINAL TANK FARM PAVING AND STREET CLOSURES PROJECT & PORT MASTER PLAN AMENDMENT," ADOPTING FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING 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**, Section 87(b) of the Port Act grants authority to the District to lease or enter into other agreements regarding the operation of real property on tidelands or submerged lands, or parts thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which those lands are held, by the State of California; and

**WHEREAS**, Pasha Automotive Services (Pasha), the project proponent and project applicant, currently operates the National City Marine Terminal (NCMT) under a Terminal Operating Agreement (TOA) with the District; and

**WHEREAS**, the TOA has an initial term of 10 years, from January 1, 2011 to December 31, 2020, and allows for term extensions until 2040 provided that Pasha invests a certain amount in capital improvements (Capital Improvement Projects); and

**WHEREAS**, improvements to the former 5.71-acre tank farm site (Tank Farm Component), which is located within the TOA premises, is identified as a Capital Improvement Project in the TOA due to its centralized location at NCMT and the fact it will provide area for additional Pasha operations; provided, however, improvements to the tank farm are not enough to extend the TOA to 2040; and

**WHEREAS**, the Tank Farm Component consists of grading and paving of the tank farm site and operation of Marine Related Industrial uses consistent with Pasha's current operations on the NCMT and the surrounding parcels; and

**WHEREAS**, Pasha also proposes to close and re-pave approximately five acres of portions of Quay Avenue, 28th Street, and 32nd Street (collectively Street Closure Component);

**WHEREAS**, Quay Avenue, 28th Street, and 32nd Street are private streets that are principally devoted to servicing NCMT and maritime related industrial uses surrounding the NCMT; and

**WHEREAS**, Pasha also proposes to potentially renew, for a term of five-years, existing short-term use permits covering approximately 47.32 acres on District-Owned Parcels 025-010-D, 028-007, 027-016, 027-042, 027-043, 025-010-C, 025-010-B, and 025-010-A, as shown on Exhibit "A" attached hereto (collectively, Renewal of Short-Term Use Permit Component); and

**WHEREAS**, Pasha also proposes to potentially enter into a new 5-year real estate agreement to use the Street Closures Component site and the approximately 6.14-acre former Weyerhaeuser Lumber leasehold for vehicle storage, the latter of which could include demolishing two existing structures and repaving a portion of the former Weyerhaeuser site (collectively, New Short-Term Use Permit Component); and

**WHEREAS**, to continue to use District-Owned Parcel 028-007 and the eastern portion of District-Owned Parcel 025-010-D (also known as Lot K) in the foreseeable future, Pasha may need additional entitlements, and accordingly, for that reason and others as specified herein, the eastern portion of 025-010-D, as well as District-Owned Parcel 027-047, which is not used by Pasha, are proposed to be incorporated into the certified Port Master Plan (the eastern portion of 025-010-D and District-Owned Parcel 027-047 are collectively referred to as "Uplands Properties" and inclusion of those properties into the certified Port Master Plan is referred to as the "Uplands Properties Component"); and

**WHEREAS**, the Uplands Properties Component is proposed pursuant to regulatory construct of the California Harbor & Navigation. Code, Appendix 1 (Port Act) Sections 4, 5, 19, 56, 79 and 87 and the California Coastal Act Sections 30710 and 30715, as well as the fact that certain Memoranda of Understanding, between the City of National City and the District, incorporated herein by reference, (see District Document Nos. 36077, 39834, 42362, and 46725, available with the Office of District Clerk located at 3165 Pacific Highway, San Diego, California 92101) which purported to give the City temporary land use jurisdiction over the Uplands Properties have expired; and

**WHEREAS**, the Uplands Properties are proposed to be designated with a

Commercial Recreation land use in the certified Port Master Plan and for clarification purposes, an overlay is proposed to be placed on District-Owned Parcel 028-007 and the eastern portion of District-Owned Parcel 025-010-D to allow for Marine Related Industrial uses until the earlier of seven years or the Board of Port Commissioners (BPC) approves a development through the issuance of a Coastal Development Permit consistent with the Commercial Recreation use designation (collectively, Overlay Component); and

**WHEREAS**, a Port Master Plan Amendment (PMPA) is needed for (1) the Street Closure Component, (2) the Uplands Properties Component, and (3) the Overlay Component; and

**WHEREAS**, the Tank Farm Component, the Street Closure Component, the Renewal of Short-Term Use Permit Component, the New Short-Term Use Permit Component, the Uplands Properties Component, the Overlay Component, and the PMPA are herein, collectively referred to as the "Project" and are generally shown on Exhibit "A", Project Sites; 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 District drafted a Draft Environmental Impact Report (EIR), entitled "National City Marine Terminal Tank Farm Paving and Street Closures Project & Port Master Plan Amendment" (UPD #EIR-2014-188, SCH# 2014121046), for the Project, which was circulated for 46 days from April 29, 2016 through June 13, 2016; and

**WHEREAS**, the District received ten comment letters concerning the Draft EIR from the United States Department of the Navy, California State Clearinghouse, California Department of Transportation, California Coastal Commission, County of San Diego Department of Environmental Health, San Diego Association of Governments, City of National City, National City Chamber of Commerce, Environmental Health Coalition, and Dixieline Lumber & Home Centers; and

**WHEREAS**, pursuant to CEQA Guidelines section 15088, the District has prepared written responses to all comments received on the Draft EIR during the public comment period which raised environmental issues; and

**WHEREAS**, the District has determined that the comments received on the Draft EIR did not contain any significant new information within the meaning of CEQA Guidelines Section 15088.5 and therefore, recirculation of the Draft EIR is not required; and

**WHEREAS**, the District has prepared a Final EIR, which contains the information required by CEQA Guidelines Section 15132, including the Draft EIR and its technical appendices, the revisions and additions thereto, including

an Errata and Revisions, public comments and the District's responses to public comments on the Draft EIR, which has been filed with the Office of the District Clerk, located at 3165 Pacific Highway, San Diego, California 92101; and

**WHEREAS**, pursuant to CEQA Guidelines Sections 15091, 15093 and 15097, the District has prepared Findings of Fact, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program, all of which are attached hereto and incorporated herein by reference; 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**, 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 following:

1. The Draft EIR, including appendices (April 2016);
2. The Final EIR (August 2016);
3. The Errata and Revisions to the Final EIR and proposed Mitigation Monitoring and Reporting Program (August 2016);
4. The Staff Report and Agenda Sheet (September 2016);
5. The proposed Findings of Fact and Statement of Overriding Considerations (September 2016);
6. The proposed Mitigation Monitoring and Reporting Program (August 2016);
7. The proposed PMPA and Coastal Development Permit, needed for the Tank Farm Component (August and September 2016, respectively); and
8. All documents and records filed in this proceeding by interested parties; and

**WHEREAS**, a duly noticed public hearing was held on September 8, 2016 before the BPC, at which the BPC received public testimony, reviewed and considered all testimony and materials made available to the BPC regarding the Project; and

**WHEREAS**, having reviewed and considered all testimony and materials made available to the BPC, including but not limited to the Draft EIR, Final EIR,

Errata and Revisions to the Final EIR and proposed Mitigation Monitoring and Reporting Program, the staff reports and all the testimony and evidence in the record of the proceedings with respect to the Project, the BPC 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 of Port Commissioners (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 the California Environmental Quality Act (CEQA), CEQA Guidelines, and 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. The BPC finds and determines that (a) the Final Environmental Impact Report (EIR) is complete and adequate in scope and has been completed in compliance with CEQA and the CEQA Guidelines and District Guidelines for implementation thereof, (b) the Final EIR was presented to the BPC, and the BPC has fully reviewed and considered the information in Final EIR prior to approving the Project or any component thereof, and (c) the Final EIR reflects the District's independent judgment and analysis, and, therefore, the Final EIR is hereby declared to be certified in relation to the subject of this Resolution; and therefore, the BPC hereby certifies the Final EIR.

4. Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 and 15093, the BPC hereby makes and adopts the findings with respect to each significant environmental effect as set forth in the Findings of Fact and Statement of Overriding Considerations, appended hereto as Exhibit "B" and made a part hereof by this reference, and declares that it considered the evidence described in connection with each such finding.

5. Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d), the BPC hereby adopts and approves the Mitigation Monitoring and Reporting Program, which is appended hereto as Exhibit "C" and is made a part hereof by this reference, with respect to the significant environmental effects identified in the Final EIR, and hereby makes and adopts the provisions of the Mitigation Monitoring and Reporting Program as conditions of approval for the Project.

6. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15094, 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.

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

8. As a condition of this approval, Pasha 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 certification of the Final EIR, and adoption of the Findings of Fact, including the Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program. Said indemnity and hold harmless condition is independent of any agreements by and between Pasha and the District.

APPROVED AS TO FORM AND LEGALITY:

GENERAL COUNSEL

By: Assistant/Deputy

Attachments:

Exhibit A: Project Sites

Exhibit B: Findings of Fact and Statement of Overriding Considerations


Exhibit C: Mitigation Monitoring and Reporting Program

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8<sup>h</sup> day of September, 2016, by the following vote:

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

  
\_\_\_\_\_  
Marshall Merrifield, Chairman  
Board of Port Commissioners

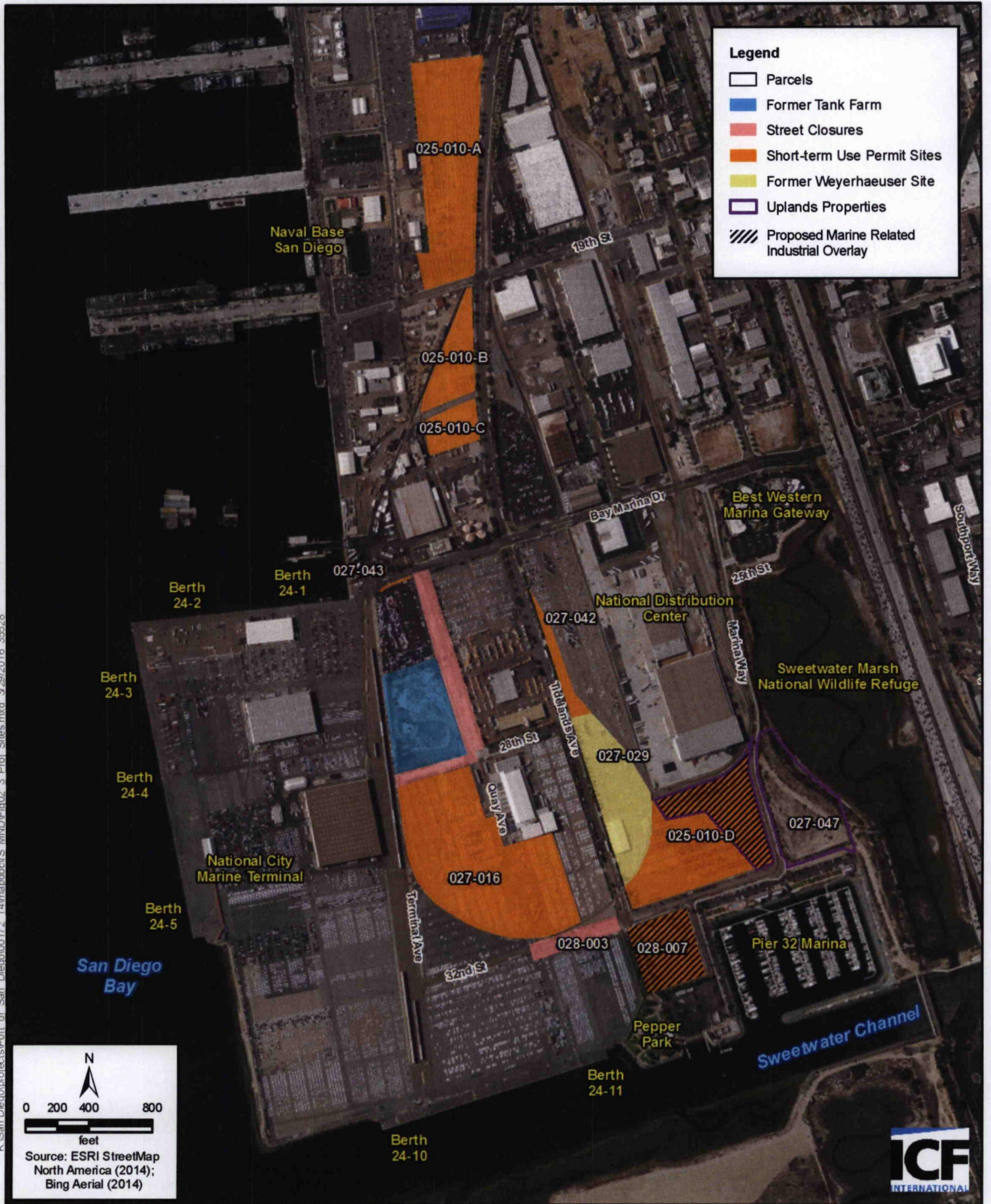
ATTEST:

*for*   
\_\_\_\_\_  
Timothy A. Deuel  
District Clerk

(Seal)

# Project Sites

# EXHIBIT A



K:\San Diego\projects\Port of San Diego\00772\_14\mapdoc\15\_MNDI\Fig02\_3\_Proj\_Sites.mxd 3/29/2016 3:55:28





**THE BOARD OF PORT COMMISSIONERS  
OF THE  
SAN DIEGO UNIFIED PORT DISTRICT**

**FINDINGS OF FACT  
AND  
STATEMENT OF OVERRIDING CONSIDERATIONS  
FOR**

**NATIONAL CITY MARINE TERMINAL  
TANK FARM PAVING AND STREET  
CLOSURES PROJECT & PORT MASTER  
PLAN AMENDMENT**

**FINAL ENVIRONMENTAL IMPACT REPORT  
(UPD # EIR-2014-188; SCH # 2014121046)**

**September 2016**

**This page intentionally left blank**

## TABLE OF CONTENTS

1.0	PROJECT DESCRIPTION .....	1
1.1	Project Location.....	2
1.2	Project Components.....	3
1.3	Project Objectives .....	9
2.0	ENVIRONMENTAL PROCEDURES .....	9
2.1	Lead Agency .....	9
2.2	Environmental Impact Report.....	10
2.3	Public Participation.....	10
2.4	Record of Proceedings.....	11
3.0	FINDINGS UNDER CEQA .....	12
3.1	Purpose and Terminology .....	12
3.2	Legal Effect .....	14
3.3	Mitigation Monitoring and Reporting Program.....	15
3.4	Certification of the Final EIR.....	15
4.0	FINDINGS REGARDING DIRECT SIGNIFICANT EFFECTS.....	15
4.1	Air Quality and Health Risk .....	16
4.2	Greenhouse Gas Emissions, Climate Change, and Energy Use.....	17
4.3	Hazards and Hazardous Materials .....	20
4.4	Noise and Vibration.....	21
4.5	Transportation, Circulation, and Parking .....	22
5.0	FINDINGS REGARDING CUMULATIVE SIGNIFICANT EFFECTS.....	22
5.1	Air Quality and Health Risk .....	23

5.2	Greenhouse Gas Emissions, Climate Change, and Energy.....	25
6.0	FINDINGS REGARDING PROJECT ALTERNATIVES .....	27
6.1	Redevelop NCMT Tank Farm Only (No Renewal of Short-Term Use Permits Alternative).....	29
6.2	Short-Term Use Permits Only (No NCMT Tank Farm or Street Closures).....	30
6.3	Remove Port Parcel 028-007 from the Project Alternative .....	32
6.4	No Marine Related Industrial Overlay and No Renewal of Short-Term Agreements on the Overlay Sites Alternative.....	33
6.5	No Project Alternative.....	35
7.0	STATEMENT OF OVERRIDING CONSIDERATIONS .....	36

**FINDINGS OF FACT AND  
STATEMENT OF OVERRIDING CONSIDERATIONS**

**FOR THE**

**NATIONAL CITY MARINE TERMINAL PAVING AND STREET CLOSURES  
PROJECT & PORT MASTER PLAN AMENDMENT**

**FINAL ENVIRONMENTAL IMPACT REPORT  
(UPD # EIR-2014-188; SCH # 2014121046)**

**INTRODUCTION**

The Board of Port Commissioners of the San Diego Unified Port District (“District” or “Port District” or “Port”) hereby makes the following Findings and Statement of Overriding Considerations concerning the Final Environmental Impact Report (Final EIR) (UPD # EIR-2014-188; SCH #2014121046) for the National City Marine Terminal (NCMT) Tank Farm Paving and Street Closures Project & Port Master Plan Amendment (“Project” or “proposed Project”), pursuant to the California Environmental Quality Act, Public Resources Code § 21000, et seq. (CEQA), and its implementing regulations, CCR, Title 14 § 15000, et seq. (CEQA Guidelines). Pasha Automotive Services (“Pasha” or “Project Applicant”) is the applicant and project proponent for the proposed Project.

The Final EIR prepared for the Project consists of three volumes. Volume 1 contains the final Introduction; the final Executive Summary and Summary of Impacts and Mitigation Measures for the proposed Project; the Errata and Revisions to the Draft EIR; a list of public agencies, organizations and persons commenting on the Draft EIR; comments received on the Draft EIR and the District’s responses to those comments; and the Mitigation Monitoring and Reporting Program (MMRP). Volume 2 contains the Draft EIR, and Volume 3 contains the appendices to the Draft EIR.

The environmental effects, proposed mitigation measures and alternatives analyzed in the Draft EIR, and the public comments and responses thereto contained in the Final EIR have influenced the design and features of the Project. These environmental documents and procedures reflect the District’s commitment to incorporate the environmental considerations identified during the CEQA process into the final project design.

**1.0 PROJECT DESCRIPTION**

The proposed Project involves (1) grading and paving the former NCMT tank farm [approximately 5.71 acres], as well as Pasha’s operation of the same; (2) closing, grading, and paving portions of Quay Avenue, 28th Street, and 32nd Street (street closures) [approximately 5 acres total], as well as Pasha’s operation of the same; (3) a new real estate agreement (i.e., a Tideland Use and Occupancy Permit, a

Temporary Use Permit, or a lease) for the street closures and the former Weyerhaeuser site [approximately 6.14 acres] in the vicinity of the NCMT; (4) renewal of existing short-term use permits (i.e., Tideland Use and Occupancy Permits and Temporary Use Permits) [approximately 47.32 acres in total]; and (5) a Port Master Plan Amendment (PMPA), as described below.

The PMPA proposes to remove the "Street" use designations for the street closures from the Port Master Plan, redesignate the former streets as "Marine Related Industrial". The PMPA also proposes the incorporation of District-owned Port Parcel 027-047 and the eastern half of District-owned Parcel 025-010-D (commonly known as Lot K), which are located east of the mean high tide line north of 32nd Street, east and west, respectively, of Marina Way, south of the National Distribution Center, and east of Tidelands Avenue and the balloon rail track (collectively, Uplands Properties), into the Port Master Plan and designating the Uplands Properties as Commercial Recreation. In addition, the proposed PMPA includes a Marine Related Industrial Overlay (Overlay) for the eastern half of District-owned Parcel 025-010-D (Lot K) and District-Owned Parcel 028-007, both of which are currently used for vehicle storage by Pasha. The Overlay would allow for the same uses specified in the Marine Related Industrial land use designation for a maximum of 7 years or until Commercial Recreational developments are approved by the Board of Port Commissioners, whichever occurs first.

## **1.1 PROJECT LOCATION**

The proposed Project location includes the former tank farm site, the street closures sites, the short-term use permit sites (including District-Owned Parcel 028-007 and the eastern half of Lot K where the Overlay is proposed), the former Weyerhaeuser site, and District-owned Uplands Properties planned for incorporation into the Port Master Plan (including the eastern half of District-owned Parcel 025-010-D (Lot K) where part of the Overlay is proposed).

The former tank farm site is generally bounded by Bay Marina Drive on the north, Quay Avenue on the east, 28th Street on the south, and the NCMT on the west. Quay Avenue, 28th Street, and 32nd Street are non-dedicated streets that serve principally as circulation roads for operations associated with NCMT and the surrounding Marine Related Industrial parcels operated by District tenants. Bay Marina Drive is also the primary access road to and from Interstate 5 (I-5) and the Project sites.

The existing four short-term use permit sites are located in National City, generally north, south, and east of the former tank farm and Quay Avenue/28th Street street closures sites. The former Weyerhaeuser site, a new potential real estate agreement site, is generally located east of Tidelands Avenue, north of 32nd Street, and west and southwest of the National Distribution Center.

The District-owned Uplands Properties that are proposed to be incorporated into the Port Master Plan are generally located north of Pier 32 Marina, south of the

National Distribution Center, west of the Sweetwater Marsh National Wildlife Refuge, and east and west of Marina Way.

The Overlay sites are located on two areas—the portion of District-owned Parcel 025-010-D/Lot K east of the mean high tide line (one of the two Uplands Properties), and Port Parcel 028-007.

The former tank farm site is approximately 5.71 acres, the street closure sites comprise approximately 5.09 acres, the existing short-term use permit sites total approximately 47.3 acres, and the former Weyerhaeuser site is approximately 6.14 acres. The Uplands Properties total 11.46 acres. Combined, the overall project site covers approximately 71.24 acres, with a useable area of 59.65 acres.

The PMPA applies to Planning District 5, National City Bayfront, of the certified Port Master Plan. The street closures sites are currently designated with a “Street” land use designation; Port Parcel 028-007 is currently designated with a “Commercial Recreation” land use designation; and the District-owned Uplands Properties that are planned for incorporation into the Port Master Plan as part of the proposed Project are currently designated with a “tourist commercial” land use designation in the City of National City’s Local Coastal Program. Temporary land use authority was granted to the City of National City for the Uplands Properties through a now expired Memorandum of Understanding (MOU) with the District.

## **1.2 PROJECT COMPONENTS**

Implementation of the proposed Project would provide additional space on the former tank farm, street closures, and former Weyerhaeuser sites for Pasha’s marine terminal operations, which includes import, export, handling, and storage of motor vehicles primarily, although operations may also occasionally include other large cargo (generally roll-on/roll-off or breakbulk) transported aboard a Pasha Hawaii Transport Lines vessel. However, the overwhelming amount of cargo imported and exported that is handled on the project site consists of motor vehicles. Moreover, vehicles are a more intensive use than general breakbulk and larger roll-on/roll-off cargo (such as military equipment) because vehicle handling has short dwell times, are relatively small individually and can quickly fill entire open areas several acres in size, and require a significant number of union labors to transport throughout the storage areas. Also, some vehicle maintenance and repair activities take place that are not present with other cargo types. Therefore, the project components and operations focus on maximum vehicle throughput from the proposed additional storage capacity.

### *Former Tank Farm Component*

The former tank farm site would be graded and paved. Approximately 22,500 cubic yards of excess dirt from grading the site may be used as fill on the adjacent Quay Avenue and 28th Street to match the surrounding grade. Alternatively, due to timing of the PMPA for the street closures, the excess dirt may be hauled offsite, as was conservatively analyzed in the EIR. The site would then be striped, followed by

installation of pole-mounted and perimeter light fixtures and security fencing. The proposed Project would also include improvements to the onsite drainage, such as bioswales to treat the surface drainage, new stormwater inlets, and modification of existing stormwater inlets. Minor demolition activities would include removal of fencing, curbs, gutters, and asphalt. Implementation of this Project component would not include the construction of any buildings, and the site would remain designated as Marine Related Industrial by the Port Master Plan. Construction is anticipated to begin in 2016 and would be completed within 7 weeks. The former tank farm site is currently in Pasha's Terminal Operating Agreement, which expires in 2020 with options to extend the term until 2040. Implementation of this component will require a Coastal Development Permit from the District.

#### *Street Closures Component*

The Project also proposes closure of Quay Avenue between Bay Marina Drive and 28th Street, 28th Street west of Quay Avenue, and 32nd Street west of Tidelands Avenue. The streets are between active terminal areas and, due to tenant consolidation and reconfiguration, are no longer necessary for access in this area of the NCMT. The streets have always been principally used for NCMT and adjacent marine related industrial operations. However, some marine terminal employees utilize these roadways for parking their personal vehicles during business hours. The roads proposed for closure are non-dedicated District streets.

Some of the excess soil from grading on the tank farm may be diverted as export and used to raise the elevation of the portions of Quay Avenue and 28th Street that are proposed to be closed. Quay Avenue and 28th Street would be repaved. Alternatively, as noted above, due to timing of the PMPA for the street closures, the excess dirt may be hauled offsite, as was conservatively analyzed in the EIR. Approximately 1,200 cubic yards of demolished concrete and asphalt from the roadways would be exported off site to an approved facility for recycling. The railroad tracks on the west side of Quay Avenue and the existing above-ground SDG&E distribution lines (i.e., utility poles) would remain in place and be incorporated into the paved area. A minimum 10-foot clearance from the centerline of the railroad tracks would remain. Maintaining the railroad tracks would also require paving the rail area with asphalt per Burlington Northern Santa Fe (BNSF) Railway Company Design Guidelines for Industrial Track Projects.

Closure of 32nd Street would require minor demolition and construction activities including the removal of the median, curbs, and gutter; relocation of the backflow valve; minor grading, repaving, and striping; and relocation of the guard shack to the east. Specific activities would include the removal of approximately 1,300 linear feet of curbs and gutters and approximately 2,200 square feet of median, and approximately 6,100 square feet of grading.

Implementation of this project component would not include the construction of any buildings; however, proposed land use changes from the "Street" designation to the "Marine Related Industrial" designation at these locations would require a PMPA as described below. Use of these street closure sites would involve potential new real



estate agreement(s), which are anticipated to be for terms of up to 5 years; however, to provide a more conservative analysis, the EIR assumed that Pasha would use the street closure sites for the duration of the Terminal Operating Agreement (with extensions) – until 2040. The allowable use for these sites is proposed to be import, export, handling, and storage of motor vehicles and cargo.

#### *Short-Term Use Permit Sites Component*

The Project also includes the potential renewal of four short-term use permits, which all expired in 2015 and are now held on a holdover pursuant to the terms of the short-term use permits. These lots are currently in use by Pasha, and potential renewal of the use permits would continue the existing uses and operations as described in the permits (District Document Nos 58513, 58510, 59461, and 59525, available at the Office of the District located at 3165 Pacific Highway San Diego, CA 92101 and incorporated herein by reference). Any proposed renewals of the existing short-term use permits would take effect following expiration or termination of the existing short-term use permits and would likely include a term of no more than 5 years. Furthermore, as discussed below, the Project and associated PMPA propose the Overlay at two sites (the eastern half of District-owned Parcel 025-010-D (Lot K) and District-Owned Parcel 028-007) for a *maximum* of 7 years, at which point the sites would revert back to the “Commercial Recreation” land use designation only. The term of the renewals of the short-term use permits for these sites would be coterminous with this 7-year time period or could be terminated by the District upon delivery of a 30-day written notice. However, to provide a more conservative analysis, the EIR assumed that Pasha would use the existing short-term use permit sites for the duration of the existing Terminal Operating Agreement with extensions – until 2040. Any renewals of the existing short-term use permits would not change Pasha’s uses on the sites, but an increase in throughput is anticipated; therefore, the analysis in the EIR assumed a worst case scenario of the maximum practical throughput. No buildings or improvements are proposed on the short-term use permit sites.

#### *Former Weyerhaeuser Site Component*

The Project includes a potential new real estate agreement (i.e., a Tideland Use and Occupancy Permit or a lease) for the approximately 6.14-acre former Weyerhaeuser site. This site is paved and contains two buildings, which may be demolished as part of the proposed Project; one is an approximately 1,800-square-foot 1-story office building and the other is an approximately 20,000-square-foot shed structure. This potential new real estate agreement is anticipated to be for a term of up to 5 years; however, to provide a more conservative analysis, the EIR assumed that Pasha would use the former Weyerhaeuser site for the duration of the existing Terminal Operating Agreement with extensions – until 2040. The allowable use for this site is proposed to be import, export, handling, and storage of motor vehicles and cargo.

#### *Port Master Plan Amendment*

There are multiple actions related to the PMPA. The proposed PMPA would change the associated Port Master Plan maps, text, and tables to include the

following changes in land use designations.

#### Incorporation of District-Owned Uplands into the Port Master Plan

A PMPA is required to incorporate two District-owned Uplands Properties into the Port Master Plan. Both Uplands Properties are located north of the marina— the eastern portion of Lot K (District-Owned Parcel 025-010-D) is west of Marina Way; Port Parcel 027-047 is east of Marina Way. The Uplands Properties were acquired by the District in 1994 and pursuant to a now-expired MOU, in 1998 were incorporated into the City of National City's Harbor District Specific Area Plan (Harbor District Plan) that is part of the City's Local Coastal Program (LCP) and are designated as Tourist Commercial.

In 1997, the City's Community Development Commission (CDC) and the District entered into a Memorandum of Understanding (Original MOU). The term of the Original MOU expired on June 30, 1999. The Original MOU specified that the District would undertake a Port Master Plan update for tidelands located within the City and the CDC would conduct a Master Plan of the area between I-5 and Tidelands, which included the District-acquired Uplands Properties. The two plans were intended to be coordinated. Accordingly, in 1998, the City amended the Harbor District Plan and incorporated the Upland Properties into the plan. In response to questions posed by the California Coastal Commission during the amendment process, the City asserted that the City and the District agreed "that during the term of the MOU, [the Upland Properties] will remain in National City's planning and regulatory jurisdiction." Moreover, the certified Harbor District Plan states that the portion of Lot K that is part of the Uplands Properties remained in the City's LCP jurisdiction pursuant to the terms of the Original MOU.

On January 18, 2000, the District and CDC entered into an Amended and Restated Memorandum of Understanding (MOU), with an expiration date of November 30, 2001. Pursuant to the terms of the MOU, it superseded the Original MOU. The MOU specified that the District would undertake a PMPA of all property it owns or has real property interest in within the City limits collectively and all properties to be purchased and conveyed to the District that were not currently within the Port Master Plan. This included the Uplands Parcels. The CDC agreed to conduct a master plan for the areas it contemplated to develop excluding any District-owned land. Because the portion of Lot K that is part of the Uplands Properties had not yet been incorporated into the Port Master Plan as the MOU contemplated, the MOU specified that the District could use the land for maritime operations subject to being issued a Coastal Development Permit and other entitlements from the City. The MOU was amended on July 31, 2001. The amendment extended the term until November 31, 2003, but the provisions described above did not change. A second amendment to the MOU, which extended the term until August 31, 2005, was executed on March 3, 2004. The MOU expired on August 31, 2005.

Consistent with the regulatory construct of the Port Act and the California Coastal Act, the PMPA includes incorporation of the Uplands Properties into the PMPA. The incorporation of the two Uplands Properties into the Port Master Plan would

apply Port Master Plan land use designations to District-owned properties similar to the land use designation in the City's LCP. Both Uplands Properties would be designated as Commercial Recreation.

#### Marine Related Industrial Overlay

As part of the PMPA, the project proposes the Overlay for the eastern portion of District-Owned Parcel 025-010-D (Lot K), as well for Port Parcel 028-007. Both of these areas are currently used by Pasha for vehicle storage on site through District short-term use permits. The Overlay would be placed temporarily on the two sites to clarify the continued use of the properties by Pasha or another operator as maritime related uses, and the sites would revert back to the Commercial Recreation use designation, the earlier of 7 years from the time the PMPA addressing the Overlay is finalized or one or more development projects, consistent with the Commercial Recreation designation, are proposed and approved by the Board of Port Commissioners through the approval of a Coastal Development Permit (CDP). The Overlay would accommodate current maritime operations and is consistent with the existing uses on the two sites. At the time the revised NOP was issued for scoping input (August 2015), no commercial developments were proposed or approved for the sites.

As a separate project with independent utility, the District and City are collectively studying a land use plan for the Overlay parcels and adjacent areas, commonly known as the "Balanced Land Use Plan." The Balanced Land Use Plan is not a part of the proposed Project and is in its preliminary stages. The Board of Port Commissioners directed staff on April 14, 2016, two weeks prior to circulation of the Draft EIR for the proposed Project, to proceed with CEQA review. If and when the District and the California Coastal Commission approve/certify a PMPA for the Balanced Land Use Plan, in their sole and absolute discretion, after appropriate CEQA analysis is conducted, it may supersede the Overlay; provided, however, the Balanced Land Use Plan is not a reasonably foreseeable consequence of the proposed Project, and the proposed Project does not compel or even envision the approval of the Balanced Land Use Plan. Moreover, it should be noted that the proposed PMPA and the Balanced Land Use Plan have different project proponents. The 7-year Overlay represents a worst-case scenario. Note, that EIR covers other options for the Board. For example, the Board of Port Commissioners could adopt a shorter term for the Overlay with options to extend not exceeding 7 years. Also, note that CEQA would not foreclose a potential decision of the Board of Port Commissioners to postpone the submittal to the California Coastal Commission the portion of the PMPA that incorporates District-owned Uplands Properties into the Port Master Plan and/or established the Overlay. Either of these options may be made in the Board's sole and absolute discretion.

#### Redesignation of Streets to Marine Related Industrial

A PMPA would also be required to convert Quay Avenue between Bay Marina Drive to the north and 28th Street to the south, 28th Street west of Quay Avenue, and 32nd Street west of Tidelands Avenue from their current land use designation of Street to a land use designation of Marine Related Industrial. Quay Avenue

south of 28th Street, 28th Street east of Quay Avenue, and 32nd Street east of Tidelands Avenue are not part of the proposed Project and would remain open as District roadways.

Implementation of the improvements to the street closures sites would require a coastal development permit(s) from the District. The Coastal Development Permit(s) to close the streets could not be issued until after certification of the PMPA by the California Coastal Commission.

#### Supersedes the City's Harbor District Plan and Zoning

During the public review period, the City of National City commented that the proposed PMPA related to the Uplands Properties and Overlay would require amendments to its Harbor District Plan and zoning code. In response, language was added to the PMPA stating that the PMPA superseded any conflicting local planning documents or associated zoning.

This project change is consistent with Port Act Section 19, which provides that the Port Master Plan shall supersede, without any local agency action necessary, any and all local zoning and land use plans that have been amended since 1962 or adopted thereafter. The City of National City has amended its zoning code several times since 1962. A comprehensive zoning code amendment was adopted in 2012. Additionally, the Local Coastal Program was adopted in 1998 and the Local Implementing Plan was adopted in 1994. An update to the City's General Plan was adopted in 2011. This project change does not require recirculation of the EIR pursuant to CEQA Guideline 15088.5 because it does not deprive the public of meaningful opportunity to comment upon a substantial adverse environmental effect of the project, or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that Pasha has declined to implement. Additionally, it will not result in any new or more severe impacts from the project and is only a restatement of current law.

#### Buffer Area – Parcel 027-047

The California Coastal Commission submitted a comment letter on the Draft EIR and one of its comments was related to the habitat located on District-Owned Parcel 027-047. The comment requested similar language that is in the City's Harbor District Plan, which establishes a habitat buffer along Paradise Marsh, be added to the PMPA. Accordingly, language was added to the PMPA requiring any future commercial development proposal on this site to establish a habitat buffer area of at least a 100-foot width from the edge of any delineated wetlands, if they exist. A reduced width buffer is allowed where it can be demonstrated that existing physical constraints preclude the 100-foot buffer and that the reduced buffer is adequate to protect any wetland resources from adverse impacts. This project change does not require recirculation of the EIR pursuant to CEQA Guideline 15088.5 because it does not deprive the public of meaningful opportunity to comment upon a substantial adverse environmental effect of the project, or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that Pasha has declined to implement. Additionally, it will not result in

any new or more severe impacts from the project and is only a continuation of the existing regulatory confides for the site.

The Project is described in greater detail in the Final EIR, Chapter 3.0 (Project Description).

### **1.3 PROJECT OBJECTIVES**

The proposed Project objectives include the following:

1. Implement a project that allows the District's tenant to meet current and anticipated future market demand for imports and exports in an effort to ensure the District remains competitive in the already highly competitive marketplace of water-dependent commerce.
2. Implement a project that provides tangible economic benefits to the District and the greater San Diego region to help ensure continued prosperity for the District and region.
3. Implement a project that helps to minimize the need for new marine terminals within the District's jurisdiction by maximizing the operating efficiency of the NCMT and surrounding areas, thereby helping to minimize environmental impacts across the region while ensuring waterborne commerce continues to thrive within the San Diego Bay.
4. Implement the District's mission to permit land uses consistent with the Public Trust and the Coastal Act, specifically water-dependent uses and marine-dependent commerce, fisheries, navigation, ecological preservation, and recreation.
5. Incorporate District properties into the Port Master Plan that are not currently regulated by the Port Master Plan to ensure consistency with the Public Trust Doctrine and Port Act and allow for flexibility of land uses to facilitate meeting current and future needs.
6. Be consistent with the District's Climate Action Plan, Clean Air Program, and Jurisdictional Runoff Management Program, to ensure that the proposed Project does not adversely affect the District's ability to attain its long-range environmental and sustainability goals.

## **2.0 ENVIRONMENTAL PROCEDURES**

### **2.1 LEAD AGENCY**

Pursuant to CEQA Guidelines §15367, the Port District is the "lead agency" for the purpose of preparing the environmental review required by CEQA and the Board of Port Commissioners will be the certifying body for the EIR. The environmental review prepared by the Port District will be used by the Board of Port Commissioners and the California Coastal Commission in their respective

decisions regarding the following actions associated with the proposed Project. Additionally, the Port District will make the following discretionary approvals associated with the Project:

- Certification of the Final EIR
- Adoption of the Mitigation Monitoring and Reporting Program
- Adoption of the Findings of Fact and Statement of Overriding Considerations
- Issuance of Coastal Development Permits and approval of the Project
- Approval of Concept Approval
- Approval of Real Estate Agreements (Tideland Use and Occupancy Permit, Temporary Use Permit, or lease)

California Coastal Commission may also certify the PMPA or a portion thereof. Other public agencies that may have an interest in the project or resources affected by the project include the City of National City. Although no discretionary permits are required from the City of National City for the proposed Project, the City may desire to amend its LCP to remove the District-owned Uplands Properties for clarification purposes.

## **2.2 ENVIRONMENTAL IMPACT REPORT**

Pursuant to CEQA Guidelines §15080, et seq., the Port District prepared an EIR to analyze the potential impacts of the Project on the environment. The Final EIR consists of three volumes, which contain all of the information required by CEQA Guidelines §15132, including the Draft EIR and the appendices to the Draft EIR.

## **2.3 PUBLIC PARTICIPATION**

Environmental review of the Project began on December 12, 2014, with the publication of a Notice of Preparation (NOP) of the EIR and a 30-day public review period. The Port District held a Public Scoping meeting on December 18, 2014. Subsequent to this scoping period, the project proponent modified the project application to include closure and repaving of a portion of 32nd Street and use of Port Parcel 027-029 (former Weyerhaeuser site). In addition, in response to comments received during the scoping period, the District included the Uplands Properties, as part of the PMPA, as well as the Marine Related Industrial Overlay at Port Parcel 028-007 and the portion of Lot K located east of the mean high tide line. In response to a request by the City of National City to hold another round of scoping for the EIR, the District elected to conduct a second scoping period, including a second public scoping meeting. The revised NOP of the EIR was published on August 20, 2015. Comments were initially accepted until September 21, 2015, but interested parties requested an extended scoping period.

Consequently, the District extended the deadline to September 28, 2015. Another scoping meeting was held on September 9, 2015.

The Draft EIR was completed and made available for public review on April 28, 2016. The 46-day public review period required by CEQA began on April 29, 2015, and ended on June 13, 2016. Ten interested parties submitted written comments on the Draft EIR. No comments on the Draft EIR were received by individual members of the public. These comments and the District's written responses to them are included in the Final EIR as required by CEQA Guidelines Sections 15088 and 15132. The Final EIR, including an Errata and Revisions, was completed and the District's responses to comments were made available for review. A public hearing concerning certification of the Final EIR was held by the Board of Port Commissioners of the District on September 8, 2016, at which interested agencies, organizations and persons were given an opportunity to comment on the Final EIR and the Project.

## **2.4 RECORD OF PROCEEDINGS**

For purposes of CEQA and the findings set forth below, the administrative record of the District's decision concerning certification of the Final EIR for the Project shall include the following:

- The Notice of Preparation (December 2014), Revised Notice of Preparation (August 2015), and all other public notices issued by the Port District;
- The Draft EIR (April 2016);
- The Final EIR (August 2016);
- The appendices to the Draft EIR;
- All documents and other materials listed as references and/or incorporated by reference in the Draft EIR and Final EIR, including, but not limited to, the materials identified in the Draft EIR, Chapter 8 (List of Preparers and Agencies Consulted) and Chapter 9 (References);
- The Mitigation Monitoring and Reporting Program for the Project;
- All reports, applications, memoranda, maps, letters, and other documents prepared by the Port District's staff and consultants for the Project that are public records;
- All documents, comments or other materials submitted by interested persons and public agencies in connection with the Draft EIR and the Final EIR;
- Matters of common knowledge to the Board of Port Commissioners and the Port District, including, but not limited, to the certified Port Master Plan;
- All findings and resolutions adopted by Board of Port Commissioners in connection with the Project (including these findings), and all documents cited or referred to therein;

- The minutes, tape recordings and verbatim transcripts, if any, of the public hearing held on September 8, 2016 concerning the Final EIR and the Project;
- Any documentary or other evidence submitted to the Port District at such information sessions, public meetings, and public hearings concerning the Final EIR and the Project; and
- Any other materials required to be in the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

The custodian of the documents and other materials comprising the administrative record of the Port District's decision concerning certification of the Final EIR is the District Clerk. The location of the administrative record is the District's office at 3165 Pacific Highway, San Diego, California 92101. (Public Resources Code § 21081.6(a)(2); CEQA Guidelines § 15091(e).)

The Board of Port Commissioners has relied on all of the documents listed above in reaching its decision on the Project, even if not every document was formally presented to the Board of Port Commissioners as part of the Port District files generated in connection with the Project. Without exception, any documents set forth above not found in the Project files fall into one of two categories. Many of them reflect prior planning or legislative decisions of which the Port District was aware in approving the Project. Other documents influenced the expert advice provided to Port staff or consultants, who then provided advice to the Board of Port Commissioners. For that reason, such documents form part of the underlying factual basis for the Board of Port Commissioners' decisions relating to the approval of the Project.

### **3.0 FINDINGS UNDER CEQA**

#### **3.1 PURPOSE AND TERMINOLOGY**

Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." Section 21002 also states that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects."

Public Resources Code section 21002 is implemented, in part, through the requirement that agencies adopt written findings before approving projects. (See Cal. Pub. Resources Code § 21081 (a); CEQA Guidelines § 15091 (a).) A "finding"



is a written statement made by the District, which explains how it dealt with each significant impact and alternative identified in the Final EIR. Each finding contains an ultimate conclusion regarding each significant impact, substantial evidence supporting the conclusion, and an explanation regarding how the substantial evidence supports the conclusion. For each significant effect identified in the Final EIR, the District is required by CEQA to make a written finding reaching one or more of the following conclusions:

- (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effect identified in the Final EIR;
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency; or
- (3) Specific legal, economic, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR (CEQA Guidelines §15091(a)).

Public Resources Code section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” CEQA Guidelines section 15364 adds another factor: “legal” considerations. (See also *Citizens of Goleta Valley v. Board of Supervisors* (Goleta II) (1990) 52 Cal.3d 553, 565.)

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417.) “[F]easibility under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (Id.; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.)

CEQA also requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that will otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (CEQA Guidelines §§ 15091 (a), (b).)

The CEQA Guidelines do not define the difference between “avoiding” a significant environmental effect and merely “substantially lessening” such an effect. The District must therefore glean the meaning of these terms from the other contexts in which the terms are used. Public Resources Code section 21081, on which CEQA Guidelines section 15091 is based, uses the term “mitigate” rather than

“substantially lessen.” The CEQA Guidelines therefore equate “mitigating” with “substantially lessening.” Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” (Pub. Resources Code § 21002.) For purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level.

With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or a feasible environmentally superior alternative, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines §§ 15093, 15043 (b); see also Pub. Resources Code § 21081 (b).) The California Supreme Court has stated, “[t]he wisdom of approving...any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (Goleta II, 52 Cal.3d at p. 576.)

A statement of overriding considerations is required for this Project because despite implementation of all feasible mitigation measures, a significant post-2020 Greenhouse Gas (GHG) Emissions impact cannot be mitigated to a less than significant level.

These findings set forth the reasons, and the evidence in support of, the District’s determinations.

### **3.2 LEGAL EFFECT**

To the extent these findings conclude mitigation measures identified in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the Port District hereby binds itself and any other responsible parties, including Pasha Automotive Services, as the Project Applicant and Proponent, and their successors in interest, to implement those mitigation measures. These findings are not merely informational, but constitute a binding set of obligations upon the Port District and responsible parties, which will take effect if and when the Port District adopts a resolution certifying the Final EIR and the Port District and/or the responsible agencies adopt resolution(s) approving the Project.

### **3.3 MITIGATION MONITORING AND REPORTING PROGRAM**

In adopting these findings, the Port District also adopts a mitigation monitoring and reporting program pursuant to Public Resources Code §21081.6. This program is designed to ensure the Project complies with the feasible mitigation measures identified below during implementation of the Project. The program is set forth in the Final EIR, "National City Marine Terminal Tank Farm Paving and Street Closures Project & Port Master Plan Amendment Mitigation Monitoring and Reporting Program," which is adopted by the Port District concurrently with these findings and is incorporated herein by this reference.

### **3.4 CERTIFICATION OF THE FINAL EIR**

Pursuant to CEQA Guidelines Section 15090, the Board of Port Commissioners further finds and certifies that:

- (1) The Final EIR has been completed in compliance with CEQA.
- (2) The Final EIR has been presented to the Board of Port Commissioners, which constitutes the decision-making body of the lead agency, and the Board has reviewed and considered the information contained in the Final EIR prior to approving the Project.
- (3) The Final EIR reflects the Port District's independent judgment and analysis.

### **4.0 FINDINGS REGARDING DIRECT SIGNIFICANT EFFECTS**

The Project will result in direct significant environmental effects with respect to Air Quality and Health Risk; GHG Emissions; Hazards and Hazardous Materials; Noise; and Parking. These significant environmental effects, and the mitigation measures identified to avoid or substantially lessen them, are discussed in detail in Chapter 3 (Errata and Revisions) of Volume 1 (Final EIR); and Volume 2 (Draft EIR), Sections 4.1 (Air Quality and Health Risk), 4.2 (Greenhouse Gas Emissions, Climate Change, and Energy Use), 4.3 (Hazards and Hazardous Materials), 4.6 (Noise and Vibration), and 4.7 (Transportation, Circulation, and Parking). A summary of significant impacts and mitigation measures for the Project is set forth in Volume 1 (Final EIR), Chapter 2 (Summary).

Set forth below are the findings regarding the potential direct significant effects of the Project. The findings incorporate by reference the discussion of potential significant impacts and mitigation measures contained in the Final EIR (see Final EIR; Volume 2 [Draft EIR], Chapter 4).

The measures described throughout these findings are summaries of the mitigation measures in the Final EIR and MMRP, and their titles are the same as the corresponding mitigation measure identified in the Final EIR and MMRP.

## 4.1 AIR QUALITY AND HEALTH RISK

### ***Impact-AQ-1: New Land Use Designations Not Accounted for in the Regional Air Quality Strategies and State Implementation Plan***

**Potentially Significant Impact:** The EIR identifies a potential significant impact related to Air Quality and Health Risk in that the Project would re-designate “Streets” to “Marine Related Industrial” land uses and would add a temporary Marine Related Industrial Overlay onto two parcels that are not currently designated as Marine Related Industrial. As these two land use changes were not known at the time the Regional Air Quality Strategy (RAQS) and State Implementation Plan (SIP) were last updated, this would result in a potential conflict with the applicable state and regional air quality plan (**Impact-AQ-1**). Detailed information and analysis regarding this potential significant impact is provided in Attachment 2 (Draft EIR), Section 4.1 (Air Quality and Health Risk) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant environmental effect to Air Quality and Health Risk (New Land Use Designations Not Accounted for in the Regional Air Quality Strategies and State Implementation Plan) as identified in the EIR.

**Facts in Support of Finding:** The potential significant impact to Air Quality and Health Risk (**Impact-AQ-1**) can be mitigated to a level below significance by the District through implementation of mitigation measure **MM-AQ-1**, which is to update the RAQS and SIP with amended growth projections. Implementation of this mitigation measure will ensure the administrative process to update growth assumptions is completed, thus, ensuring the RAQS and SIP adequately consider the marine related operations at the street closures sites and the Overlay properties.

The mitigation measure is set forth within Volume 1 (Final EIR), Chapter 5 (Mitigation Monitoring and Reporting Program), and Volume 2 (Draft EIR), Section 4.1 (Air Quality and Health Risk) of the EIR, with clarifications (if applicable) within Chapter 3 (Errata and Revisions) of the Final EIR and will reduce potential air quality management plan conflicts to a less than significant level.

### ***Impact-AQ-2: Emissions in Excess of NO<sub>x</sub> Thresholds During Operations***

**Potentially Significant Impact:** The EIR identifies a potential significant impact to Air Quality and Health Risk in that there is the potential for project operational emissions to exceed the San Diego County screening-level thresholds for nitrogen oxides (NO<sub>x</sub>) at maximum capacity. While the incremental contribution to health effects from NO<sub>x</sub> cannot be traced solely to the proposed Project, the contribution of project-related emissions is considered significant because the Project would

exceed thresholds that have been set by SDAPCD to attain the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS), the purpose of which is to provide for the protection of public health (**Impact-AQ-2**). Detailed information and analysis regarding this potential significant impact is provided in Volume 2 (Draft EIR), Section 4.1 (Air Quality and Health Risk) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant environmental effect to Air Quality and Health Risk (Emissions in Excess of NOx Thresholds During Operations) as identified in the EIR.

**Facts in Support of Finding:** The potential significant impact to Air Quality and Health Risk (**Impact-AQ-2**) can be mitigated to a level below significance by the Project Applicant through implementation of mitigation measures **MM-AQ-2, MM-AQ-3, MM-AQ-4, and MM-AQ-5**, which include implementation of diesel-reduction measures during construction and operations, compliance with the District's Climate Action Plan measures, implementation of a vessel speed reduction program beyond District's Climate Action Plan 80 percent compliance, and replacement of a gasoline/diesel passenger van with electric passenger van. Implementation of these measures will reduce operations-related NOx emissions to a level below San Diego County significance threshold levels and thus the project would not violate an air quality standard or contribute substantially to an existing or projected air quality standard during operation.

The mitigation measures are set forth within Volume 1 (Final EIR), Chapter 5, Mitigation Monitoring and Reporting Program, and Volume 2 (Draft EIR), Section 4.1 (Air Quality and Health Risk) of the EIR, with clarifications (if applicable) within Chapter 3 (Errata and Revisions) of the Final EIR and will reduce operations-related NOx impacts to a less than significant level.

## **4.2 GREENHOUSE GAS EMISSIONS, CLIMATE CHANGE, AND ENERGY USE**

### ***Impact-GHG-1: Project GHG Emissions through 2020***

**Potentially Significant Impact:** The EIR identifies a potentially significant impact to GHG emissions in that there is a potential for the combined GHG emissions associated with Project construction and operation to be inconsistent with the Port District's Climate Action Plan (CAP) maritime reduction target of 33% by 2020<sup>1</sup>

---

<sup>1</sup> The District's Climate Action Plan uses a business as usual approach, which was upheld by the California Supreme Court in *Center for Biological Diversity v. California Department of Fish and Wildlife* (November 30, 2015, Case No. 217763), but unlike the business as usual analysis done by the lead agency in the *Center for Biological Diversity* case, the District's Climate Action Plan is tailored specific to the District's geographical jurisdiction and specifies reduction goals by sectors

before mitigation. Additionally, by falling short of the CAP's maritime reduction target, there is the potential for the Project to only partially comply with plans, policies and regulatory programs outlined in the Assembly Bill (AB) 32 Scoping Plan and adopted by the California Air Resources Board ("ARB") or other California agencies for the purpose of reducing the emission of GHGs as well as those plans and strategies to reduce emissions from goods movement activities (**Impact-GHG-1**). Detailed information and analysis regarding this potential significant impact is provided in Volume 2, (Draft EIR), Section 4.2 (Greenhouse Gas Emissions, Climate Change, and Energy Use) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant environmental effect to GHG emissions (Project GHG Emissions through 2020) as identified in the EIR.

**Facts in Support of Finding:** The potential significant impact to GHG emissions (**Impact-GHG-1**) can be mitigated to a level less than significant by the Project Applicant through implementation of mitigation measures **MM-GHG-1, MM-GHG-2, MM-GHG-3, MM-GHG-4, and MM-GHG-5**, which include implementation of diesel-reduction measures during construction and operations, compliance with the District's Climate Action Plan measures, implementation of a vessel speed reduction program beyond District's Climate Action Plan 80 percent compliance, replacement of a gasoline/diesel passenger van with electric passenger van, and implementation of a renewable energy project or purchase of equivalent GHG offsets from a California Air Resources Board-approved registry. Implementation of these mitigation measures will reduce the Project's GHG emissions to 33% below business as usual in 2020 and ensure achievement of the CAP's reduction target for District maritime sources – the category that corresponds to the Project – which targets a 33 percent below business as usual for 2020. The mitigation measures also ensure compliance with plans, policies, and regulatory programs outlined in the Assembly Bill 32 Scoping Plan and other related programs designed to reduce GHG emissions from goods movement activities, including the Sustainable Freight Strategy and other ARB activities.

The mitigation measures are set forth within Volume 1 (Final EIR), Chapter 5, Mitigation Monitoring and Reporting Program, and Volume 2 (Draft EIR), Section 4.2 (Greenhouse Gas Emissions, Climate Change, and Energy Use) of the EIR, with clarifications (if applicable) within Chapter 3 (Errata and Revisions) of the Final EIR and will reduce potential GHG emission impacts through 2020 to a less than significant level.

---

and activities in the District to meet the State's reduction goals as set forth in AB 32. The District's Climate Action Plan does not rely on the California Air Resource Board's business as usual targets.

## ***Impact-GHG-2: Project GHG Emissions Beyond 2020***

**Potentially Significant Impact:** The EIR identifies a potentially significant impact related to GHG emissions beyond 2020. Specifically, although the proposed Project GHG emissions demonstrate substantial progress on a downward trajectory and would be consistent with the need for deeper post-2020 reductions consistent with long-term reduction targets promulgated in Executive Orders (EO) B-30-15 (which identifies a reduction target of 40% below 1990 levels by 2030) and EO S-03-05 (which identifies a reduction target of 80% below 1990 levels by 2050), the proposed Project's reduction in GHG emissions during combined project construction and operational activities, before mitigation, may not contribute sufficiently to post-2020 progress toward statewide 2030 and 2050 reduction goals and would not always be in compliance with plans, policies, and regulatory programs adopted by ARB or other California agencies for the post-2020 period for the purpose of reducing GHG emissions given the uncertainty of such targets (**Impact-GHG-2**). Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Draft EIR), Section 4.2 (Greenhouse Gas Emissions, Climate Change, and Energy Use) of the EIR with any subsequent clarifications identified in Chapter 3, Errata and Revisions, of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant environmental effect on GHG emissions (Project GHG Emissions Beyond 2020) as identified in the EIR; provided, however, specific legal, economic, social, technological, or other considerations outweigh the significant and unavoidable impact. While reduction targets for 2030 (48%) and 2040 (66%) were identified based on the EOs' targets and the operational life of the project, there is no available guidance to determine the Project's fair share reduction to meet the EO reduction targets and it is uncertain whether the proposed Project's reductions would represent its fair share of the requisite reach a sufficient reduction target by 2030 and 2040. Therefore, despite the incorporation of mitigation measure **MM-GHG-6**, which will reduce the Project's GHG emissions to 48% below emissions without implementation of mitigation in 2030 and 66% below emissions without implementation of mitigation in 2040, the Project's emissions of GHGs post-2020 is considered significant and unavoidable. Therefore, pursuant to CEQA Guidelines § 15093, the District has balanced the benefits of the Project against its unavoidable environmental risks and has determined that this impact is acceptable for the reasons stated in the Statement of Overriding Considerations below.

**Facts in Support of Finding:** The potential significant impact related to GHG emissions Post-2020 (**Impact-GHG-2**) will be substantially reduced with implementation of mitigation measure **MM-GHG-6**, which would require a renewable energy project or purchase of the equivalent GHG offsets from an ARB-approved registry would substantially reduce Project GHG emissions beyond 2020. However, Impact-GHG-2 would remain significant because it cannot be stated with certainty that the Project would result in reduced emissions that would represent a fair share of the requisite reductions to achieve statewide post-2020 targets.

Consequently, the analysis contained in the EIR determines that the Project may not result in sufficient progress toward long-term local, regional, and statewide reduction targets. Therefore, the Project's contribution of GHG emissions to global climate change in the post-2020 period would be considered significant and unavoidable and a Statement of Overriding Considerations pursuant to CEQA Guidelines §15093 is required.

The mitigation measure is set forth within Volume 1 (Final EIR), Chapter 5, Mitigation Monitoring and Reporting Program, and Volume 2 (Draft EIR), Section 4.2 (Greenhouse Gas Emissions, Climate Change, and Energy Use) of the EIR, with clarifications (if applicable) within Chapter 3 (Errata and Revisions) of the Final EIR. While these mitigation measures would reduce the Project's post-2020 GHG emissions, they would not do so to a less than significant level.

### **4.3 HAZARDS AND HAZARDOUS MATERIALS**

#### ***Impact-HAZ-1: Potential of Encountering Burn Ash from Former National City Dump***

**Potentially Significant Impact:** The EIR identifies a potentially significant impact related to Hazards and Hazardous Materials through the potential to encounter burn ash from the former National City Dump. Specifically, because the exact boundaries of the former National City Dump are unknown, it is possible that during ground-disturbing activities at the tank farm site, street closures sites, or former Weyerhaeuser site, burn ash may be encountered and without proper precautions and a safety and health plan in place, the disturbance of burn ash may result in inhalation or direct contact by construction workers (**Impact-HAZ-1**). Detailed information and analysis regarding this potential significant impact is provided in Volume 2 (Draft EIR), Section 4.3 (Hazards and Hazardous Materials) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant environmental effect to Hazards and Hazardous Materials (Potential of Encountering Burn Ash from Former National City Dump) as identified in the EIR.

**Facts in Support of Finding:** The potential significant impact to Hazards and Hazardous Materials (**Impact-HAZ-1**) can be mitigated to a level below significance by the Project Applicant through implementation of mitigation measure **MM-HAZ-1**, which requires preparation of a site-specific site safety and health plan, prepared in accordance with Code of Federal Regulations 1910.120 Appendix C, and a soil and groundwater management plan, prepared in accordance with California Code of Regulations Title 22 and Title 27, prior to commencement of ground-disturbing activities. Implementation of this mitigation measure would ensure that all soil disturbed or excavated at the site is screened for the presence



of hazardous materials and appropriately characterized and disposed of or reused on site if determined to be suitable for reuse.

This mitigation measure is set forth within Volume 1 (Final EIR), Chapter 5, Mitigation Monitoring and Reporting Program, and Volume 2 (Draft EIR), Section 4.3 (Hazards and Hazardous Materials) of the EIR, with clarifications (as applicable) within Chapter 3 (Errata and Revisions) of the Final EIR and will reduce potential hazards and hazardous materials impacts to a less than significant level.

#### **4.4 NOISE AND VIBRATION**

##### ***Impact-NOI-1: Heavy Truck Idling Near Sensitive Noise Receptors***

**Potentially Significant Impact:** The EIR identifies a potentially significant impact related to noise due to heavy truck idling near sensitive noise receptors. Specifically, trucks from the NCMT and its related operations are known to park and idle along residential streets in the project vicinity, causing a noise nuisance and potentially violating provisions of Chapter 11.34 of the City of National City's municipal code, *Trucking, Idling and Parking Maneuvers near a School or Residence (Impact-NOI-1)*. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Draft EIR), Section 4.6 (Noise and Vibration) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant environmental effect to Noise and Vibration (Heavy Truck Idling Near Sensitive Noise Receptors) as identified in the EIR.

**Facts in Support of Finding:** The potential significant impact to Noise and Vibration (**Impact-NOI-1**) can be mitigated to a level below significance by the Project Applicant through implementation of mitigation measure **MM-NOI-1**, which requires signs to be prominently posted, at all truck entrances and exits serving the various project sites (or otherwise placed strategically for maximum awareness), stating that truck parking and/or idling is prohibited on any residential street or within 100 feet of any school in the City of National City.

This mitigation measure is set forth within Volume 1 (Final EIR), Chapter 5, Mitigation Monitoring and Reporting Program, and Volume 2 (Draft EIR), Section 4.6 (Noise and Vibration) of the EIR, with clarifications (as applicable) within Chapter 3 (Errata and Revisions) of the Final EIR and will reduce potential noise and vibration impacts to a less than significant level.

## 4.5 TRANSPORTATION, CIRCULATION, AND PARKING

### ***Impact-TRA-1: Insufficient On-Terminal Employee Parking***

**Potentially Significant Impact:** The EIR identifies a potential significant impact related to parking. Specifically, parking is currently provided at the I-Lot (immediately north of the tank farm site) on NCMT; however, the current configuration would not provide sufficient parking for all employees across three shifts (**Impact-TRA-1**). Detailed information and analysis regarding this potential significant impact is provided in Volume 2 (Draft EIR), Section 4.7 (Transportation, Circulation, and Parking) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant environmental effect to parking (Insufficient On-Terminal Employee Parking) as identified in the EIR.

**Facts in Support of Finding:** The potential significant impact to parking (**Impact-TRA-1**) can be mitigated to a level below significance by the Project Applicant through implementation of mitigation measure MM-TRA-1, which requires the Project Applicant to restripe the I-Lot to accommodate 455 standard vehicle parking spaces.

This mitigation measure is set forth within Volume 1 (Final EIR), Chapter 5, Mitigation Monitoring and Reporting Program, and Volume 2 (Draft EIR), Section 4.7 (Transportation, Circulation, and Parking) of the EIR, with clarifications (as applicable) within Chapter 3 (Errata and Revisions) of the Final EIR and will reduce potential transportation, circulation, and parking impacts to a less than significant level.

## 5.0 FINDINGS REGARDING CUMULATIVE SIGNIFICANT EFFECTS

CEQA requires a lead agency to evaluate the cumulative impacts of a proposed project (CEQA Guidelines §15130(a)). Cumulative impacts are those which are considered significant when viewed in connection with the impacts of other closely related past, present and reasonably foreseeable future projects (CEQA Guidelines §15355). Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

The EIR analyzes cumulative impacts by compiling a list of past, present and reasonably anticipated future projects producing related or cumulative impacts, including projects outside the agency's jurisdiction (CEQA Guidelines §15130(b)(1)(A)). The list of "past, present and reasonably anticipated future projects" should include related projects which already have been constructed, are presently under construction, are approved but not yet under construction, and are not yet approved but are under environmental review at the time the draft

EIR is prepared (CEQA Guidelines §15130). The list must include not only projects under review by the lead agency, but also those under review by other relevant public agencies.

The EIR considered 11 past, present and reasonably foreseeable projects within the vicinity of the Project in evaluating potential cumulative impacts. A detailed description of these projects is provided in Table 5-2 of Volume 2 (Draft EIR) and a map depicting the location of these projects in relation to the project site is provided on Figure 5-1 in Chapter 5 (Cumulative Impacts) of Volume 2 (Draft EIR) and revised in Volume 1, Chapter 3 (Errata and Revisions) of the Final EIR.

The findings below identify each of the cumulative significant environmental impacts and the mitigation measures adopted to substantially lessen or to avoid them, or the reasons proposed mitigation measures are infeasible due to specific economic, social, or other considerations. The findings incorporate by reference the analysis of cumulative significant impacts contained in the EIR (see Chapter 5 of Volume 2 (Draft EIR)).

## **5.1 AIR QUALITY AND HEALTH RISK**

### ***Impact-C-AQ-1: New Land Use Designations Not Accounted for in the Regional Air Quality Strategies and State Implementation Plan***

**Potentially Significant Impact:** The EIR identifies a potential significant cumulative impact related to Air Quality and Health Risk in that the Project would re-designate “Streets” to “Marine Related Industrial” land uses and would add a temporary Marine Related Industrial Overlay onto two parcels that are not currently designated as Marine Related Industrial. As these two land use changes were not known at the time the Regional Air Quality Strategy (RAQS) and State Implementation Plan (SIP) were last updated, this would result in a potential conflict with the applicable state and regional air quality plan (**Impact-C-AQ-1**). Detailed information and analysis regarding this potential significant impact is provided in Volume 2 (Draft EIR), Chapter 5 (Cumulative Impacts) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant cumulative environmental effect to Air Quality and Health Risk (New Land Use Designations Not Accounted for in the Regional Air Quality Strategies and State Implementation Plan) as identified in the EIR.

**Facts in Support of Finding:** The potential significant cumulative impact to Air Quality and Health Risk (**Impact-C-AQ-1**) can be mitigated to a level below significance by the District through implementation of mitigation measure **MM-AQ-1**, which is to update the RAQS and SIP with amended growth projections. Implementation of this mitigation measure will ensure the administrative process to

update the growth assumptions is completed, thus, ensuring the RAQS and SIP adequately consider the marine related operations at the street closures sites and the Overlay properties.

The mitigation measure is set forth within Attachment 1 (Mitigation Monitoring and Reporting Program), and Attachment 2 (Draft EIR), Chapter 5 (Cumulative Impacts) of the EIR, with clarifications (if applicable) within Chapter 3 (Errata and Revisions) of the Final EIR and will reduce potential cumulative air quality management plan conflicts to a less than significant level.

***Impact-C-AQ-2: Emissions in Excess of NOx Thresholds During Operations***

**Potentially Significant Impact:** The EIR identifies a potential significant cumulative impact to Air Quality and Health Risk in that there is the potential for project operational emissions to exceed the San Diego County screening-level thresholds for NOx at maximum capacity primarily due to vessel, train, and truck activity (**Impact-C-AQ-2**). Detailed information and analysis regarding this potential significant impact is provided in Volume 2 (Draft EIR), Chapter 5 (Cumulative Impacts) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant cumulative environmental effect to Air Quality and Health Risk (Emissions in Excess of NOx Thresholds During Operations) as identified in the EIR.

**Facts in Support of Finding:** The potential significant cumulative impact to Air Quality and Health Risk (**Impact-C-AQ-2**) can be mitigated to a level below significance by the Project Applicant through implementation of mitigation measures **MM-AQ-2, MM-AQ-3, MM-AQ-4, and MM-AQ-5**, which include implementation of diesel-reduction measures during construction and operations, compliance with the District's Climate Action Plan measures, implementation of a vessel speed reduction program beyond District's Climate Action Plan compliance, and replacement of a gasoline/diesel passenger van with electric passenger van. Implementation of these measures will reduce operations-related NOx emissions to a level below San Diego County significance threshold levels and thus the project would not violate an air quality standard or contribute substantially to an existing or projected air quality standard during operation.

The mitigation measure is set forth within Volume 1, Chapter 5 (Mitigation Monitoring and Reporting Program), and Volume 2 (Draft EIR), Chapter 5 (Cumulative Impacts) of the EIR, with clarifications (if applicable) within Chapter 3 (Errata and Revisions) of the Final EIR and will reduce potential cumulative air quality management plan conflicts to a less than significant level.

## 5.2 GREENHOUSE GAS EMISSIONS, CLIMATE CHANGE, AND ENERGY USE

### ***Impact-C-GHG-1: Project GHG Emissions through 2020***

**Potentially Significant Impact:** The EIR identifies a potentially significant cumulative impact to GHG emissions in that there is a potential for GHG emissions associated with Project construction and operation to be inconsistent with the District's CAP maritime target of 33% below business as usual by 2020<sup>1</sup> before mitigation. Additionally, by falling short of the CAP's maritime reduction target, there is the potential for the Project to only partially comply with plans, policies and regulatory programs outlined in the AB 32 Scoping Plan and adopted by the California ARB or other California agencies for the purpose of reducing the emissions of GHGs (**Impact-C-GHG-1**). Detailed information and analysis regarding this potential significant impact is provided in Volume 2 (Draft EIR), Chapter 5 (Cumulative Impacts) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant cumulative environmental effect to GHG emissions (Project GHG Emissions through 2020) as identified in the EIR.

**Facts in Support of Finding:** The potential significant cumulative impact to GHG emissions (**Impact-C-GHG-1**) can be mitigated to a level less than significant by the Project Applicant (and its contractor, as applicable) through implementation of mitigation measures **MM-GHG-1, MM-GHG-2, MM-GHG-3, MM-GHG-4, and MM-GHG-5**, which include implementation of diesel-reduction measures during construction and operations, compliance with the District's Climate Action Plan measures, implementation of a vessel speed reduction program beyond District's Climate Action Plan 80% compliance, replacement of a gasoline/diesel passenger van with electric passenger van, and implementation of a renewable energy project or purchase of equivalent GHG offsets from a California Air Resources Board-approved registry. Implementation of these mitigation measures would reduce the Project's GHG emissions to 33% below business as usual and ensure achievement of the CAP's reduction target for District maritime sources (33% below business as usual in 2020) – the category that corresponds to the Project – and compliance with plans, policies, and regulatory programs outlined in the Assembly Bill 32 Scoping Plan and other related programs designed to reduce GHG emissions from goods movement activities, including the Sustainable Freight Strategy and other ARB activities.

The mitigation measures set forth within Volume 1, Chapter 5 (Mitigation Monitoring and Reporting Program), and Volume 2 (Draft EIR), Chapter 5 (Cumulative Impacts) of the EIR, with clarifications (if applicable) within Chapter 3 (Errata and Revisions) of the Final EIR and will reduce potential GHG emission impacts through 2020 to a less than significant level.

## ***Impact-C-GHG-2: Project GHG Emissions Beyond 2020***

**Potentially Significant Impact:** The EIR identifies a potentially significant impact related to GHG emissions beyond 2020. Specifically, although the proposed Project GHG emissions demonstrate substantial progress on a downward trajectory and would be consistent with the need for deeper post-2020 reductions consistent with long-term reduction targets promulgated in Executive Orders (EO) B-30-15 (which identifies a reduction target of 40% below 1990 levels by 2030) and EO S-03-05 (which identifies a reduction target of 80% below 1990 levels by 2050), the proposed Project's reduction in GHG emissions during combined project construction and operational activities, before mitigation, may not contribute sufficiently to post-2020 progress toward statewide 2030 and 2050 reduction goals and would not always be in compliance with plans, policies, and regulatory programs adopted by ARB or other California agencies for the post-2020 period for the purpose of reducing GHG emissions given the uncertainty of such targets (**Impact-C-GHG-2**). Detailed information and analysis regarding this potential significant impact is provided in Attachment 2 (Draft EIR), Chapter 5 (Cumulative Impacts) of the EIR with any subsequent clarifications identified in Chapter 3 (Errata and Revisions) of the Final EIR.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project that avoid or substantially lessen the significant environmental effect on GHG emissions (Project GHG Emissions Beyond 2020) as identified in the EIR; provided, however, specific legal, economic, social, technological, or other considerations make avoiding the impact infeasible. Specifically, while reduction targets for 2030 (48%) and 2040 (66%) were identified based on the EOs' targets and the operational life of the project, there is no available guidance to determine the Project's fair share reduction to meet the EO reduction targets and it is uncertain whether the proposed Project's reductions would represent its fair share of the requisite reach a sufficient reduction target by 2030 and 2040. Therefore, despite the incorporation of mitigation measure **MM-GHG-6**, which will reduce the Project's GHG emissions to 48% below emissions without implementation of mitigation in 2030 and 66% below emissions without implementation of mitigation in 2040, the Project's emissions of GHGs post-2020 is considered significant and unavoidable. Therefore, pursuant to CEQA Guidelines § 15093, the District has balanced the benefits of the Project against its unavoidable environmental risks and has determined that this impact is acceptable for the reasons stated in the Statement of Overriding Considerations below.

**Facts in Support of Finding:** The potential significant impact related to GHG emissions Post-2020 (**Impact-C-GHG-2**) will be substantially reduced with implementation of mitigation measures **MM-GHG-1, MM-GHG-2, MM-GHG-3, MM-GHG-4, MM-GHG-5, and MM-GHG-6**, which would include implementation of diesel-reduction measures during construction and operations, compliance with the District's Climate Action Plan measures, implementation of a vessel speed reduction program beyond District's Climate Action Plan 80% compliance, replacement of a gasoline/diesel passenger van with electric passenger van, and

implementation of a renewable energy project or purchase of equivalent GHG offsets from a California ARB-approved registry. However, Impact-C-GHG-2 would remain significant because it cannot be stated with certainty that the Project would result in reduced emissions that would represent a fair share of the requisite reductions to achieve statewide post-2020 targets. Consequently, the analysis contained in the EIR determines that the Project may not result in sufficient progress toward long-term local, regional, and statewide reduction targets. Therefore, the Project's contribution of GHG emissions to global climate change in the post-2020 period would be considered significant and unavoidable and a Statement of Overriding Considerations pursuant to CEQA Guidelines §15093 is required.

These mitigation measures are set forth within Volume 1 (Final EIR), Chapter 5 (Mitigation Monitoring and Reporting Program), and Volume 2 (Draft EIR), Chapter 5 (Cumulative Impacts) of the EIR, with clarifications (if applicable) within Chapter 3 (Errata and Revisions) of the Final EIR. While these mitigation measures would reduce the Project's cumulative post-2020 GHG emissions, they would not do so to a less than significant level.

## **6.0 FINDINGS REGARDING PROJECT ALTERNATIVES**

In preparing and adopting findings, a lead agency need not necessarily address the feasibility of both mitigation measures and environmentally superior alternatives when contemplating the approval of a project with significant environmental impacts. Where the significant impacts can be mitigated to a level of insignificance solely by the adoption of mitigation measures, the lead agency has no obligation in drafting its findings to consider the feasibility of environmentally superior alternatives, even if their impacts would be less severe than those of the project as mitigated. Accordingly, in adopting the findings concerning alternatives for the proposed Project, the District considers only those significant environmental impacts that cannot be avoided or substantially lessened through mitigation.

Where a project will result in some unavoidable significant environmental impacts even after application of all feasible mitigation measures identified in an EIR, the lead agency must evaluate the project alternatives identified in the EIR. Under such circumstances, the lead agency must consider the feasibility of alternatives to the project, which could avoid or substantially lessen the unavoidable significant environmental impacts. "Feasible" means capable of being accomplished in a successful manner within a reasonable time, taking into account economic, environmental, legal, social, and technological factors (CEQA Guidelines §15364).

If there are no feasible project alternatives, the lead agency must adopt a Statement of Overriding Considerations with regard to the project pursuant to CEQA Guidelines §15093. The lead agency must consider in detail only those alternatives which could feasibly attain most of the basic objectives of the project; however, the lead agency must consider alternatives capable of eliminating

significant environmental impacts even if these alternatives would impede to some degree the attainment of project objectives (CEQA Guidelines §15126.6(f)).

These findings contrast and compare the alternatives where appropriate in order to demonstrate that the selection of the Project has substantial environmental, planning, fiscal, and other benefits. In rejecting certain alternatives, the District has examined the Project's objectives and weighed the ability of the various alternatives to meet the objectives. The District believes the Project best meets these objectives with the least environmental impacts. The objectives considered by the District are set forth in Section 1.3 above and in Volume 2 (Draft EIR), Section 3.3 (Project Description) of the EIR.

The EIR examined a reasonable range of alternatives to determine whether they could meet the Project's objectives while avoiding or substantially lessening one or more of the Project's significant impacts. These findings also considered the feasibility of each alternative. In determining the feasibility of alternatives, the District considered whether the alternatives could be accomplished in a successful manner within a reasonable period of time in light of economic, environmental, social and technological factors, and whether the District can reasonably acquire, control, or otherwise have access to the alternative sites (CEQA Guidelines §§ 15126(d)(5)(A), 15364).

The EIR concluded that the proposed Project will result in unavoidable significant direct impacts on GHG emissions post-2020 and unavoidable significant cumulative impacts on GHG emissions post-2020 because it cannot be stated with certainty that the Project would result in reduced emissions that would represent a fair share of the requisite reductions to achieve statewide post-2020 targets. Additionally, there is no state-wide guidance document to indicate how to achieve the deep reductions set by Executive Orders S-03-05 and B-30-15 and consequently no known reduction targets beyond 2020 that apply to the Project based on its location and development type. Accordingly, the analysis contained in the EIR determines that the Project may result in sufficient progress toward long-term local, regional, and statewide reduction targets for post-2020 GHG emissions.

The EIR analyzed five alternatives to the Project: (1) Redevelop NCMT Tank Farm Only (No Renewal of Short-Term Use Permits) Alternative, (2) Short-Term Use Permits Only (No NCMT Tank Farm or Street Closures) Alternative, (3) Remove Port Parcel 028-007 from the Project Alternative, (4) No Marine Related Industrial Overlay and No Renewal of Short-term Agreements on Overlay Sites Alternative, and (5) the No Project Alternative. Detailed information and analysis concerning these alternatives are set forth in Volume 2 (Draft EIR), Chapter 7 (Alternatives to the Proposed Project) of the EIR. The following section of these findings summarizes these alternatives and the feasibility of the alternatives as a means to reduce or avoid the unavoidable significant impacts associated with the Project.



## **6.1 REDEVELOP NCMT TANK FARM ONLY (NO RENEWAL OF SHORT-TERM USE PERMITS) ALTERNATIVE**

The Redevelop NCMT Tank Farm Only (No Renewal of Short-Term Use Permits) (hereinafter referred to as "Redevelop NCMT Tank Farm Only Alternative") Alternative would involve redeveloping the NCMT tank farm only, but would not include the street closures, use of the former Weyerhaeuser site, the Marine Related Industrial Overlay for Lot K and Port Parcel 028-007, or an extension of the short-term use permits. Because incorporation of the two upland properties as Commercial Recreation does not affect annual vehicle throughput, this component of the PMPA would still occur, but without the Overlay. This alternative would provide storage for up to 29,446 vehicles, but would actually result in a net decrease in throughput by 67,294 vehicles per year compared to what is currently handled under the existing short-term use permit sites (i.e., 96,740) because the short-term permits would not be renewed under this alternative.

The potential impacts of the Redevelop NCMT Tank Farm Only Alternative are discussed in detail in Volume 2 (Draft EIR), Chapter 7 (Alternatives to the Proposed Project), Section 7.5.1 of the EIR. As the throughput potential is significantly reduced under the Redevelop NCMT Tank Farm Only Alternative, the air quality and GHG impacts would be reduced from those identified for the Project. Under this alternative, NOx and GHG emissions would be less than significant, and the transportation, circulation, and parking impacts identified for the Project would be avoided. The hazards and hazardous materials impact identified for the Project would be similar under this alternative. The noise and vibration impact identified for the Project would be reduced under this alternative. The Redevelop NCMT Tank Farm Only Alternative would not result in any new or greater impacts than the proposed Project, and like the Project, would result in less than significant impacts related to energy, hydrology and water quality, and land use and planning.

The Redevelop NCMT Tank Farm Only Alternative is considered the environmentally superior alternative; however, it would only meet project Objective #6. It would not meet Objective #1 because this alternative would not allow Pasha to meet future market demands if market demand exceeds the available storage area, which would be likely. It would not meet Objective #2 because it would limit economic benefits by substantially reducing the number of vehicles that can be stored at the areas beyond the NCMT. It would also not meet Objective #3 because if market demand does require vehicles beyond the storage capacity of this alternative, the additional vehicles may be imported to alternative locations or, given there are limited alternatives at the Port of San Diego, Pasha may leave the Port altogether for a more accommodating arrangement at a competing port. This alternative would only partially meet project Objective #4 because it would not allow Pasha to continue uses at marine related industrial sites that are consistent with the Public Trust Doctrine and there is no certainty these sites would be used in the near-term if Pasha is unable to use them. This alternative would also not meet Objective #5 because the Marine Related Industrial Overlay, which was proposed to be provided specifically to allow marine related industrial uses for up to 7 years

or until a Commercial Recreation development is approved, would not be incorporated into the PMPA as part of this project, so no marine related industrial uses would be allowed on the Overlay parcels under this alternative and less flexibility would be provided. Therefore, this alternative would not meet the project's basic objectives.

The District finds that all potential significant environmental impacts of the Project will be mitigated by the adoption of the mitigation measures set forth in the Mitigation Monitoring and Reporting Program, except the Project's significant impact on GHG emissions (**Impact-GHG-2: Project GHG Emissions Beyond 2020**) and cumulative significant impacts on GHG emissions (**Impact-C-GHG-2: Project GHG Emissions Beyond 2020**). The Redevelop NCMT Tank Farm Only Alternative would not meet the Project's basic objectives, and hence, is infeasible. Additionally, the benefits of the Project described in the Statement of Overriding Considerations would not be realized by the District and the region. For the potentially significant impacts associated with the proposed Project that cannot be avoided or mitigated to a level below significance, the District adopts the Statement of Overriding Considerations below pursuant to CEQA Guidelines §15093.

## **6.2 SHORT-TERM USE PERMITS ONLY (NO NCMT TANK FARM OR STREET CLOSURES) ALTERNATIVE**

The Short-Term Use Permits Only (No NCMT Tank Farm or Street Closures) (hereinafter referred to as "Short-Term Use Permits Only Alternative") Alternative would involve renewing the short-term use permits only, which would include the PMPA to add the Marine Related Industrial Overlay. Unlike the Project, under this alternative the NCMT tank farm would not be redeveloped and Quay Avenue, 28th Street, and 32nd Street would remain open. Use of the former Weyerhaeuser site would be part of this alternative. The uplands properties would be incorporated into the Port Master Plan as Commercial Recreation; however, only the eastern half of Lot K, through the addition of the Marine Related Industrial Overlay, would affect throughput, as no marine terminal operations are proposed on the Upland Parcel east of Marina Way. The project area would be reduced to approximately 53.44 acres (because the acreage associated with the tank farm and street closures sites is removed under this alternative), with approximately 48.44 acres dedicated to vehicle storage and the remaining 5 acres for maintenance and haul-way operations. Therefore, this alternative would provide for a maximum annual throughput of 218,129 on the short-term permit sites. However, because the existing annual throughput on the short-term permits sites is 96,740 vehicles, the Short-Term Use Permits Only Alternative would result in a net annual throughput increase of 153,065 vehicles (or 73% of the proposed Project).

The potential impacts of the Short-Term Use Permits Only Alternative are discussed in detail in Attachment 2 (Draft EIR), Chapter 7 (Alternatives to the Proposed Project), Section 7.5.2 of the EIR. As the throughput potential is reduced under the Short-Term Use Permits Only Alternative, the air quality and GHG impacts would be reduced from those identified for the Project. Under this

alternative, the NOx and GHG emissions through 2020 would still be significant before mitigation. The NOx emissions could be reduced to below significance with mitigation, and the GHG emissions through 2020 could be mitigated to below a level of significant with less mitigation required than that required for the proposed Project. Under this alternative the hazards and hazardous materials and transportation, circulation, and parking impacts would be reduced from those impacts identified for the Project. The noise and vibration impact identified for the Project would be similar (less than significant with mitigation) under this alternative. The Short-Term Use Permits Only Alternative would not result in any new or greater impacts than the proposed Project, and like the Project, would result in less than significant impacts related to energy, hydrology and water quality, and land use and planning.

As with the Project, the Short-Term Use Permits Only Alternative would not avoid or substantially lessen the significant potential impact on GHG emissions (GHG emissions (**Impact-GHG-2: Project GHG Emissions Beyond 2020**) and cumulative significant impacts on GHG emissions (**Impact-C-GHG-2: Project GHG Emissions Beyond 2020**)).

The Short-Term Use Permits Only Alternative would only meet project Objectives #5 and #6 and would partially meet Objectives #1, #2, and #4, while not meeting Objective #3. This alternative would only partially meet Objective #1 because it would provide a significant amount of storage area for Pasha, but the amount may still be unable to meet future market demands if market demand exceeds the available storage area. It would not fully meet Objective #2 because it would limit economic benefits somewhat by reducing the number of vehicles that can be stored at the underutilized tank farm and street closure sites, which would mean a decrease in throughput at the NCMT. It would also not meet Objective #3 because if market demand does require vehicles beyond the storage capacity of this alternative, the additional vehicles may be imported to alternative locations or, given there are limited alternatives at the Port of San Diego, Pasha may leave the port altogether for a more accommodating arrangement at a competing port. This alternative would only partially meet project Objective #4 because it would not allow Pasha to expand terminal uses that are consistent with the Public Trust Doctrine, and the tank farm site would likely remain underutilized. Therefore, this alternative would not meet the project's basic objectives.

The District finds that all potential significant environmental impacts of the Project will be mitigated by the adoption of the mitigation measures set forth in the Mitigation Monitoring and Reporting Program, except the Project's significant impact on GHG emissions (**Impact-GHG-2: Project GHG Emissions Beyond 2020**) and cumulative significant impacts on GHG emissions (**Impact-C-GHG-2: Project GHG Emissions Beyond 2020**). The Short-Term Use Permits Only Alternative would not meet the Project's basic objectives and hence, is infeasible. The benefits of the Project described in the Statement of Overriding Considerations would also not be realized by the District and the region. For the potentially significant impacts associated with the proposed Project that cannot be avoided or mitigated to a level

below significance, therefore, the District adopts the Statement of Overriding Considerations below pursuant to CEQA Guidelines §15093.

### **6.3 REMOVE PORT PARCEL 028-007 FROM THE PROJECT ALTERNATIVE**

The Remove Port Parcel 027-007 from the Project (hereinafter referred to as "Remove Port Parcel 027-007 Alternative") Alternative was developed based on a scoping comment received. This alternative would include all the project components identified with the Project except it would not add a Marine Related Industrial Overlay to Port Parcel 028-007 (the approximately 3.35-acre parcel located north of the boat launch ramp) and no renewal of the short-term agreement would occur. It would grade and pave the tank farm site and street closures sites, and demolish the two structures at the former Weyerhaeuser site and enter into the new real estate agreement for vehicle storage at the former Weyerhaeuser site. It would also include all of the short-term use permit sites except for Port Parcel 028-007. It would still incorporate the eastern portion of Lot K and Port Parcel 027-047 east of Marina Way into the PMP as Commercial Recreation. This alternative would not allow for a Marine Related Industrial Overlay to be placed on Port Parcel 028-007 (3.35 acres), but the eastern half of Lot K could still have the Overlay on it under this alternative. Thus, throughput would be reduced by 17,276 vehicles per year, which would equal a total throughput of approximately 193,542 vehicles per year under this alternative (or 92% of the proposed Project).

The potential impacts of the Remove Port Parcel 027-007 Alternative are discussed in detail in Attachment 2 (Draft EIR), Chapter 7 (Alternatives to the Proposed Project), Section 7.5.3 of the EIR. As the throughput potential is reduced slightly under the Remove Port Parcel 027-007 Alternative, the air quality and GHG impacts would be slightly reduced from those identified for the Project. Under this alternative, the NOx and GHG emissions through 2020 would still be significant before mitigation, but with slightly less mitigation than required for the Project, the NOx and GHG emissions through 2020 impacts associated with this alternative could be mitigated to a level below significance. Under this alternative the hazards and hazardous materials, noise and vibration, and transportation, circulation, and parking impacts identified for the Project would be similar (less than significant with mitigation). The Remove Port Parcel 027-007 Alternative would not result in any new or greater impacts than the proposed Project, and like the Project, would result in less than significant impacts related to energy, hydrology and water quality, and land use and planning.

As with the Project, the Remove Port Parcel 027-007 Alternative would not avoid or substantially lessen the significant potential impact on GHG emissions (GHG emissions (**Impact-GHG-2**: Project GHG Emissions Beyond 2020) and cumulative significant impacts on GHG emissions (**Impact-C-GHG-2**: Project GHG Emissions Beyond 2020)).

The Remove Port Parcel 027-007 Alternative would generally meet project Objectives #2, #4, and #6, but only partially meet Objective #1 because it may not

allow Pasha to meet future market demands if market demand exceeds the available storage area, which is likely. It would also only partially meet Objective #3 because if market demand does require vehicles beyond the storage capacity of this alternative, the additional vehicles may be imported to alternative locations or, given the limited alternatives at the Port of San Diego, Pasha may leave the port altogether for a more accommodating arrangement at a competing port. Finally, this alternative would only partially meet Objective #5 because it would not provide needed flexibility to keep up with current or future needs. Specifically, it would halt maritime operations on a District parcel surrounded on several sides by similar marine related industrial land uses and effectively place the District parcel in a state of non-use until at some unknown future time a development proposal, consistent with the Commercial Recreation land use designation, is submitted to the District, undergoes environmental review to ensure compliance with CEQA, and is approved by Board of Port Commissioners. Therefore, this alternative would not achieve the project's basic objectives.

The District finds that all potential significant environmental impacts of the Project will be mitigated by the adoption of the mitigation measures set forth in the Mitigation Monitoring and Reporting Program, except the Project's significant impact on GHG emissions (**Impact-GHG-2: Project GHG Emissions Beyond 2020**) and cumulative significant impacts on GHG emissions (**Impact-C-GHG-2: Project GHG Emissions Beyond 2020**). Therefore, the Remove Port Parcel 027-007 Alternative is infeasible because it would not meet the Project's basic objectives, and the benefits of the Project described in the Statement of Overriding Considerations would not be realized by the District and the region. For the potentially significant impacts associated with the proposed Project that cannot be avoided or mitigated to a level below significance, therefore, the District adopts the Statement of Overriding Considerations below pursuant to CEQA Guidelines §15093.

#### **6.4 NO MARINE RELATED INDUSTRIAL OVERLAY AND NO RENEWAL OF SHORT-TERM AGREEMENTS ON OVERLAY SITES ALTERNATIVE**

The No Marine Related Industrial Overlay and No Renewal of Short-Term Agreements on Overlay Sites (hereinafter referred to as "No Overlay Alternative") would include all the project components identified in the Project except it would not add the Marine Related Industrial Overlay to the Port Master Plan. Under this alternative, no overlay would be placed on the eastern half of Lot K or Port Parcel 028-007 (the parcel located north of the boat launch ramp), but the tank farm and street closures sites would still be graded and paved, the two structures on the former Weyerhaeuser site would still be demolished, and a new real estate agreement for vehicle storage would still be proposed. It would also include most of the short-term use permit sites except for Port Parcel 028-007 and the portion of Lot K east of the mean high tide line. Under this alternative, the Uplands Property (the eastern half of Lot K and Port Parcel 027-047 [east of Marina Way]) would still be incorporated into the PMP as Commercial Recreation land uses. This alternative would not allow for maritime uses to continue, even on a short-term temporary

basis, on the eastern half of Lot K or Port Parcel 028-007 and these sites would be placed in a vacant, unused state until an unknown future Commercial Recreation-related project is proposed, approved, and implemented. Thus, throughput would be reduced by 40,379 vehicles per year, which would equal a total throughput of approximately 170,439 vehicles per year under this alternative (or 81% of the proposed Project).

The potential impacts of the No Overlay Alternative are discussed in detail in Attachment 2 (Draft EIR), Chapter 7 (Alternatives to the Proposed Project), Section 7.5.4 of the EIR. As the throughput potential is reduced slightly under the No Overlay Alternative, the air quality and GHG impacts would be slightly reduced from those identified for the Project. Under this alternative, the NOx and GHG emissions through 2020 would still be significant before mitigation, but with slightly less mitigation than required for the Project, the NOx and GHG emissions through 2020 impacts associated with this alternative could be mitigated to below a level of significant. Under this alternative the hazards and hazardous materials, noise and vibration, and transportation, circulation, and parking impacts identified for the Project would be similar (less than significant with mitigation). The No Overlay Alternative would not result in any new or greater impacts than the proposed Project, and like the Project, would result in less than significant impacts related to energy, hydrology and water quality, and land use and planning.

As with the Project, the No Overlay Alternative would not avoid or substantially lessen the potential significant impact on GHG emissions (GHG emissions (**Impact-GHG-2: Project GHG Emissions Beyond 2020**) and cumulative significant impacts on GHG emissions (**Impact-C-GHG-2: Project GHG Emissions Beyond 2020**)).

The No Overlay Alternative would generally meet project Objectives #2, #4, and #6, but only partially meet Objective #1 because it may not allow Pasha to meet future market demands if market demand exceeds the available storage area, which is likely. It would also only partially meet Objective #3 because if market demand does require vehicles beyond the storage capacity of this alternative, the additional vehicles may be imported to alternative locations or, given the limited alternatives at the Port of San Diego, Pasha may leave the port altogether for a more accommodating arrangement at a competing port. Finally, this alternative would only partially meet Objective #5 because it would not provide needed flexibility to keep up with current or future needs. Specifically, it would halt maritime operations on two properties (eastern half of Lot K and Port Parcel 028-007) surrounded on several sides by similar marine related industrial land uses and effectively place these properties in a state of non-use until at some unknown future time a development proposal, consistent with the Commercial Recreation land use designation, is submitted to the District, undergoes environmental review to ensure compliance with CEQA, and is approved by the Board of Port Commissioners. Therefore, this alternative would not achieve the project's basic objectives.

The District finds that all potential significant environmental impacts of the Project will be mitigated by the adoption of the mitigation measures set forth in the Mitigation Monitoring and Reporting Program, except the Project's significant impact on GHG emissions (**Impact-GHG-2: Project GHG Emissions Beyond 2020**) and cumulative significant impacts on GHG emissions (**Impact-C-GHG-2: Project GHG Emissions Beyond 2020**). Therefore, the No Overlay Alternative is infeasible because it would not meet the Project's basic objectives, and the benefits of the Project described in the Statement of Overriding Considerations would not be realized by the District and the region. For the potentially significant impacts associated with the proposed Project that cannot be avoided or mitigated to a level below significance, therefore, the District adopts the Statement of Overriding Considerations below pursuant to CEQA Guidelines §15093.

## **6.5 NO PROJECT ALTERNATIVE**

The No Project Alternative is an alternative required to be evaluated by CEQA (CEQA Guidelines § 15126(d)(2)). The No Project Alternative assumes that the Project will not be implemented and that existing land uses on the project site will remain unchanged and in their existing condition. The No Project Alternative serves as the alternative against which to evaluate the effects of the Project and other project alternatives.

The No Project Alternative would involve no action on the part of the District. The proposed Project would not be constructed, the NCMT tank farm would remain vacant land, the short-term use permits would be allowed to expire, and there would be no real estate agreement for or use of the former Weyerhaeuser site. Quay Avenue, 32nd Street, and 28th Street would also remain open and a PMPA would not be required. As a result of the short-term use permits not being renewed, the annual vehicle throughput for the Pasha facility would decrease by 96,740 vehicles.

The No Project Alternative would avoid all air quality, GHG, hazards and hazardous materials, and transportation, circulation, and parking impacts associated with the proposed Project as under the No Project Alternative, there would be less annual throughput at the Pasha facility. The noise and vibration impacts associated with this alternative would be reduced compared to the noise and vibration impact identified for the Project. The No Project Alternative would not result in any new or greater impacts than the proposed Project, and would not result in any impacts related to energy, hydrology and water quality, and land use and planning as the No Project Alternative would not result in a physical change to the environment.

Although the No Project Alternative reduces the greatest number of significant impacts, CEQA requires that when the environmentally superior alternative is the No Project Alternative, another alternative should be identified, which is the "Redevelop NCMT Tank Farm Only (No Renewal of Short-Term Use Permits)" Alternative, as discussed above in Section 6.1. The District finds that the No Project Alternative would not meet any of the project objectives as it would result in

the NCMT tank farm sit remaining unused, and allowing the short-term use permits to expire would result in multiple sites within the National City Bayfront planning area being underutilized. The District further finds that all potential significant environmental impacts of the Project will be mitigated by the adoption of the mitigation measures set forth in the Mitigation Monitoring and Reporting Program, except the Project's significant impact on GHG emissions (**Impact-GHG-2: Project GHG Emissions Beyond 2020**) and cumulative significant impacts on GHG emissions (**Impact-C-GHG-2: Project GHG Emissions Beyond 2020**). Therefore, the No Project Alternative is infeasible because it would not meet most of the Project's basic objectives, would not provide the District and the region with any of the benefits of the Project described in the Statement of Overriding Considerations. For the potentially significant impacts associated with the proposed Project that cannot be avoided or mitigated to a level below significance, therefore, the District adopts the Statement of Overriding Considerations below pursuant to CEQA Guidelines §15093.

## **7.0 STATEMENT OF OVERRIDING CONSIDERATIONS**

The Project would have significant unavoidable environmental impacts on the following areas, which are described in detail in Volume 2 (Draft EIR), Section 4.2 (Greenhouse Gas Emissions, Climate Change, and Energy Use) and Chapter 5 (Cumulative Impacts), all of which comprise the Final EIR.

- **Impact-GHG-2: Project GHG Emissions Beyond 2020.** Although proposed Project GHG emissions would be on a downward trajectory in the post-2020 period, the proposed Project's reduction in GHG emissions during combined project construction and operational activities, before mitigation, may not contribute sufficiently to post-2020 progress toward statewide 2030 and 2050 reduction targets and would not always be in compliance with plans, policies, and regulatory programs adopted by ARB or other California agencies for post-2020 for the purpose of reducing the emissions of GHGs. This impact would remain significant and unavoidable after mitigation because it cannot be stated with certainty that the Project would result in reduced emissions that would represent a fair share of the requisite reductions to achieve statewide post-2020 targets as set forth in Executive Orders S-03-05 and B-30-15. Additionally, there is no state-wide guidance document to indicate how to achieve the deep reductions set by Executive Orders S-03-05 and B-30-15 and consequently no known reduction targets for beyond 2020 that apply to the Project based on its location and development type.
- **Impact-C-GHG-2: Project GHG Emissions Beyond 2020.** Although proposed Project GHG emissions would be on a downward trajectory in the post-2020 period, the proposed Project's reduction in GHG emissions during combined project construction and operational activities, before mitigation,



may not contribute sufficiently to post-2020 progress toward statewide 2030 and 2050 reduction targets and would be in non-compliance with plans, policies, and regulatory programs adopted by ARB or other California agencies for post-2020 for the purpose of reducing the emissions of GHGs. This impact would remain significant and unavoidable after mitigation because it cannot be stated with certainty that the Project would result in reduced emissions that would represent a fair share of the requisite reductions to achieve statewide post-2020 targets as set forth in Executive Orders S-03-05 and B-30-15. Additionally, there is no state-wide guidance document to indicate how to achieve the deep reductions set by Executive Orders S-03-05 and B-30-15 and consequently no known reduction targets for beyond 2020 that apply to the Project based on its location and development type.

The District has also analyzed a reasonable range of alternatives to the Project, including the Redevelop NCMT Tank Farm Only Alternative, the Short-Term Use Permits Only Alternative, the Remove Port Parcel 027-007 Alternative, the No Overlay Alternative, and the No Project Alternative. Based on the evidence contained in the EIR and presented during the administrative proceedings, the District has determined that none of these alternatives meet the basic objectives of the Project and are feasible, including the environmentally superior alternative described above.

Pursuant to CEQA Guidelines §§ 15043 and 15093, therefore, the District must adopt a Statement of Overriding Considerations in order to approve the Project. A Statement of Overriding Considerations allows a lead agency to determine that specific economic, social, or other expected benefits of a project outweigh its potentially significant unavoidable environmental risks. Although the District has no obligation under CEQA to adopt a Statement of Overriding Considerations for significant impacts that will be mitigated to a level below significance, the District wishes to make clear its view that the benefits of the Project described below are of such importance to the region as to outweigh all significant adverse impacts described in the EIR or suggested by participants in the public review process.

Pursuant to CEQA Guidelines §15093, the District hereby finds that the Project would have the following benefits.

- The Project will advance maritime commerce in accordance with the Public Trust Doctrine, the Port Act, the California Coastal Act by adding extra storage space that can be used for additional annual throughput associated with vehicle import and export operations. These improvements directly promote uses authorized by the Port Act and the Public Trust doctrine, by promoting water-related commerce and navigation. These improvements are also consistent with Section 30708 of the California Coastal Act, which states that all port-related developments shall be located, designed and

constructed so as to give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries and necessary support and access facilities. Moreover, the Project facilitates terminal operations, a coastal dependent use, which pursuant to the California Coastal Act receives a higher priority than other uses such as recreational uses. Finally, most of the improvements implement the District's certified Port Master Plan, which designates most of the Project area as Marine Related Industrial and indicates that most of the Project area can be utilized for backup cargo storage if it "is required because of expansion of the marine terminal." Additionally, the Overlay would allow for the Overlay sites to be temporarily used for marine related industrial operations for the earlier of seven years from finalization of the PMPA or when the Board of Port Commissioners approves a commercial project for the Overlay sites. Thus, the Overlay would allow for temporary, short-term utilization of these sites instead of the sites sitting in a vacant, unused state until a future Commercial Recreation-related project is proposed, approved, and implemented. Therefore, the proposed Project is desirable for water-dependent cargo operations, which will help advance maritime commerce in an appropriate area, as specified in the District's certified Port Master Plan, the Port Act, the California Coastal Act and the Public Trust Doctrine.

- The Project sites are strategically located either immediately adjacent to the NCMT or in close proximity and is designed to meet current and anticipated future market demand for imports and exports of vehicles. The Project would help to minimize the need for new marine terminals within the District's jurisdiction to accommodate market demands by maximizing the area already used by the Project Applicant and instituting operating efficiency of the NCMT and surrounding areas, thereby helping to minimize environmental impacts across the region while ensuring waterborne commerce continues to thrive within the San Diego Bay.
- The Project will increase employment opportunities within the region by providing an additional 211 permanent jobs, many of which would be high-paying unionized jobs. In addition, the short construction period (7 weeks) would introduce temporary employment opportunities. Both the permanent and temporary jobs would provide indirect benefits on surrounding businesses and taxes collected, and would contribute to the economic growth of the District, National City, and the region as a whole.
- The Project will stimulate economic growth for the District, City of National City and the overall region. The Project will be economically sustainable, generate revenue, and will encourage economic growth through the increase throughout.

- The Project would facilitate vehicle imports and exports for the greater Western United States and without the Project, such services may be decreased in a manner that would impact the number of vehicles available for consumers.
- Although it cannot mitigate the Project's post-2020 GHG emissions to a level below significance, the Project will reduce its GHG emissions by 33% in 2020, 48% in 2030, and 66% in 2040 by requiring Pasha to comply with several applicable measures identified in the District's Climate Action Plan and further mitigation measures as specified in the EIR and Mitigation Monitoring and Reporting Program. As a condition of project approval (**MM-GHG-2: Comply with District CAP Measures**), Pasha is required to comply with the District's Vessel Speed Reduction Program (which targets 80% compliance); decrease onsite movements where practicable; prohibit commercial drive through; comply with AB 939; and replace light fixtures with lower energy bulbs. The Project Applicant is also required to implement a vessel speed reduction program, beyond that identified in the District's CAP. This vessel speed reduction program requires that 90% of vessels calling at NCMT after annual vehicle throughput reaches 480,337 vehicles (an increase of 119,065 vehicles over the 2013 vehicle throughput total) reduce their speeds to 12 knots starting at 40 nautical miles from Point Loma (**MM-GHG-3: Vessel Speed Reduction Program Beyond Climate Action Plan**). In addition, the Project Applicant is required to purchase and operate an electric passenger shuttle for yard movements (**MM-GHG-4: Replace Gasoline/Diesel Passenger Van with Electric Passenger Van**), and implement a renewable energy project on the leasehold or other District area, or purchase the equivalent in carbon offsets from an ARB approved carbon registry (**MM-GHG-5: Implement Renewable Energy Project or Purchase Equivalent GHG Offsets by 2020**). Mitigation measure **MM-GHG-5** will be implemented by 2020 and result in a 1,231.8 MTCO<sub>2</sub>e annual reduction until 2040 (the life of the project). Finally, the Project Applicant is required to implement a renewable energy project on the leasehold or other District area, or purchase the equivalent in carbon offsets from an ARB approved carbon registry (**MM-GHG-6: Implement Renewable Energy Project or Purchase Equivalent GHG Offsets beyond 2020**), which will result in an annual reduction of 1,462.2 MTCO<sub>2</sub>e by 2030 and 2,555.4 MTCO<sub>2</sub>e by 2040. In total, Pasha is required to implement GHG reduction measures that will reduce emissions by 1,462.2 MTCO<sub>2</sub>e annually between 2020 and 2030; and 2,555.4 MTCO<sub>2</sub>e annually between 2030 and 2040 (i.e. through the life of the lease). This reduction would not be required without the Project.

The District has weighed the benefits of the Project against its potentially significant unavoidable environmental impacts in determining whether to approve the Project. After balancing the specific economic, legal, social, technological, and other benefits of the Project, the Board of Port Commissioners has determined that the unavoidable, significant environmental impacts of the Project are considered "acceptable" because the specific considerations identified above outweigh the significant unavoidable environmental impacts of the Project. Each of the benefits and the fulfillment of the objectives of the Project, as stated herein, are determined to be a separate and independent basis for overriding the unavoidable significant environmental impacts identified above. For the foregoing reasons, therefore, the District finds that the Project's potentially significant unavoidable environmental impacts are outweighed by the benefits described above.

## Chapter MMRP

# Mitigation Monitoring and Reporting Program

---

### MMRP.1 Purpose

The purpose of this Mitigation Monitoring and Reporting Program (MMRP) is to ensure that the National City Marine Terminal (NCMT) Tank Farm Paving and Street Closures & Port Master Plan Amendment Project (“project” or “proposed project”) implements environmental mitigation, as required by the Final Environmental Impact Report (EIR) for the proposed project. Those mitigation measures have been integrated into this MMRP. The MMRP provides a mechanism for monitoring the mitigation measures in compliance with the EIR, and general guidelines for the use and implementation of the monitoring program are described below.

This MMRP is written in accordance with California Public Resources Code 21081.6 and Section 15097 of the California Environmental Quality Act (CEQA) Guidelines. California Public Resources Code Section 21081.6 requires the Lead Agency, for each project that is subject to CEQA, to adopt a reporting or monitoring program for changes made to the project, or conditions of approval, adopted in order to mitigate or avoid significant effects on the environment and to monitor performance of the mitigation measures included in any environmental document to ensure that implementation takes place. The San Diego Unified Port District (District) is the designated Lead Agency for the MMRP. The Lead Agency is responsible for review of all monitoring reports, enforcement actions, and document disposition. The Lead Agency will rely on information provided by a monitor as accurate and up to date and will field check mitigation measure status as required.

The District may modify how it will implement a mitigation measure, as long as the alternative means of implementing the mitigation still achieve the same or greater impact reduction. Copies of the measures shall be distributed to the participants of the monitoring effort to ensure that all parties involved have a clear understanding of the mitigation monitoring measures adopted.

### MMRP.2 Format

Mitigation measures applicable to the project include avoiding certain impacts altogether, minimizing impacts by limiting the degree or magnitude of the action and its implementation, and/or requiring supplemental structural controls. Within this document, approval mitigation measures are organized and referenced by subject category. Each of the mitigation measures has a numerical reference. The following items are identified for each mitigation measure.

- Mitigation Language and Numbering
- Mitigation Timing
- Methods for Monitoring and Reporting
- Responsible Parties

## **MMRP.3 Mitigation Language and Numbering**

Provides the language of the mitigation measure in its entirety.

## **MMRP.4 Mitigation Timing**

The mitigation measures required for the project will be implemented at various times before construction, during construction, prior to project completion, or during project operation.

## **MMRP.5 Methods for Monitoring and Reporting**

The MMRP includes the procedures for documenting and reporting mitigation implementation efforts. With the exception of mitigation measure MM-AQ-1, which is a measure to be implemented by the District, the project proponent, Pasha Automotive Services, is responsible for implementation of all mitigation measures. The District, however, has enforcement authority if the mitigation measures are not implemented, and in some circumstances, approval authority on which of the mitigation options are implemented.

## **MMRP.6 Responsible Parties**

For each mitigation measure, the party responsible for implementation, monitoring and reporting, and verifying successful completion of the mitigation measure is identified.

**Table 1. Mitigation Monitoring and Reporting Program**

Mitigation Measures	Timing and Methods	Responsible Parties
<b>Air Quality</b>		
<p><b>MM-AQ-1:</b> Update the Regional Air Quality Strategies (RAQS) and State Implementation Plan (SIP) with New Growth Projections. Prior to the San Diego Air Pollution Control District’s (SDAPCD’s) next triennial review of the RAQS, the District shall coordinate with the SDAPCD to amend the growth assumptions using the Port Master Plan Amendment. This includes changing the designation of Streets to Marine Related Industrial and adding a Marine Related Industrial Overlay to two parcels within the proposed project site.</p>	<p><b>Timing:</b> Prior to the SDAPCD’s triennial review of the RAQS.</p> <p><b>Method:</b> Update the RAQS and SIP with New Growth Projections in compliance with the Port Master Plan Amendment.</p>	<p><b>Implementation:</b> District</p> <p><b>Monitoring and Reporting:</b> District</p> <p><b>Verification:</b> District</p>
<p><b>MM-AQ-2:</b> Implement Diesel-Reduction Measures During Construction and Operations. The project proponent shall implement the following measures during project construction and operations.</p> <ul style="list-style-type: none"> <li>• The project proponent shall limit all construction equipment, drayage, and delivery truck idling times by shutting down equipment when not in use and reducing the maximum idling time to less than 3 minutes. The project proponent shall install clear signage regarding the limitation on idling time at the delivery driveway and loading areas and shall submit quarterly reports of violators to the San Diego Unified Port District. This measure shall be enforced by Pasha supervisors, and repeat violators shall be subject to penalties pursuant to California airborne toxics control measure 13 California Code of Regulations Section 2485. The project proponent shall submit evidence of the use of diesel reduction measures to the San Diego Unified Port District through annual reporting with the first report due one year from the date of project completion and each report due exactly one year after, noting all violations with relevant identifying information of the vehicles and drivers in violation of these measures.</li> <li>• The project proponent shall verify that all construction equipment is maintained and properly tuned in accordance with manufacturers’ specifications. Prior to the commencement of construction activities, the project proponent shall verify that all</li> </ul>	<p><b>Timing:</b> During project construction and operations.</p> <p><b>Method:</b> Implement specific diesel-reduction measures.</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> District, Project Proponent</p> <p><b>Verification:</b> District</p>

Mitigation Measures	Timing and Methods	Responsible Parties
<p>equipment has been checked by a certified mechanic and determined to be running in proper condition prior to admittance into any Pasha leasehold. The project proponent shall submit a report by the certified mechanic of the condition of the construction equipment to the San Diego Unified Port District prior to construction.</p>	<p><b>Timing:</b> Opening day of first project component to be implemented.</p>	<p><b>Responsible Parties:</b> Project Proponent</p>
<p><b>MM-AQ-3:</b> Comply with San Diego Unified Port District Climate Action Plan Measures. Effective opening day, the project proponent shall implement the following measures to be consistent with the Climate Action Plan.</p> <ul style="list-style-type: none"> <li>• Vessels shall comply with the San Diego Unified Port District’s voluntary vessel speed reduction program, which targets 80% compliance.</li> <li>• The project proponent shall decrease onsite movements where practicable.</li> <li>• No drive-through shall be implemented.</li> <li>• Comply with Assembly Bill 939 by recycling at least 50% of solid waste. This measure shall be applied during construction and operation of the proposed project.</li> <li>• Light fixtures shall be replaced with lower energy bulbs such as fluorescent, Light-Emitting Diodes (LEDs), or Compact Fluorescent Lights (CFLs).</li> </ul>	<p><b>Method:</b> Implement specific measures in order to achieve compliance with the District’s CAP.</p>	<p><b>Monitoring and Reporting:</b> District, Project Proponent</p> <p><b>Verification:</b> District</p>
<p><b>MM-AQ-4:</b> Every quarter following approval of the first real estate agreement or issuance of the first Coastal Development Permit associated with the project, whichever occurs first, the project proponent shall provide a report of the annual vehicle throughput to-date, and the projected total throughput for the following 6 months to the District’s Planning &amp; Green Port Department. Prior to the annual vehicle throughput reaching 480,337 vehicles, which is an increase of 119,065 vehicles over the 2013 vehicle throughput total (361,372 vehicles), the project proponent shall implement vessel speed reduction measures to reduce the project’s net-new nitrogen oxide emissions. The program shall require that 90% of the [Pasha Automotive Services customer] vessels calling at National City Marine Terminal reduce their speeds to 12 knots starting at 40 nautical miles from Point Loma within the San Diego Air Basin. To be compliant with that speed limit, the vessel’s weighted average speed shall be 12</p>	<p><b>Timing:</b> Submit vehicle throughput report every quarter following approval of the first real estate agreement or issuance of the first Coastal Development Permit associated with the project, whichever occurs first. Prior to annual vehicle throughput reaching 480,337 vehicles, implement vessel speed reduction measures, monitor and record vessel speeds and maintain monthly records, and submit compliance report annually to the District indicating the monthly vessel totals and compliance percentage for each quarter.</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> District, Project Proponent</p> <p><b>Verification:</b> District</p>
<p>National City Marine Terminal Tank Farm Paving and Street Closures Project &amp; Port Master Plan Amendment Volume 1: Final Environmental Impact Report</p>	<p>MMRP-4</p>	<p>August 2016 ICF 172.14</p>



Mitigation Measures	Timing and Methods	Responsible Parties
<p>knots or less from the 40 nautical mile latitude and longitude positions on each respective route to/from Point Loma.</p> <p>Implementation of this vessel speed reduction program will be included in all new real estate agreements and Coastal Development Permit(s) associated with this project. The Project Applicant will record each inbound and outbound vessel move for compliance, and monthly records will be maintained. An annual report will be submitted to the District indicating the monthly vessel totals, and compliance percentage for the quarter. Evidence of implementation and compliance with this mitigation measure shall be provided to the District's Planning &amp; Green Port Department on an annual basis through 2040 (the end year of Pasha's Terminal Operating Agreement). The District will verify compliance through analysis of Automatic Identification System (AIS) data or by requesting a vessel's Electronic Chart Display Identification System (ECDIS) log from the captain.</p>	<p>measures to reduce the project's net-new nitrogen oxide emissions. Monitor and record vessel speeds and maintain monthly records. Provide evidence of implementation and compliance with this mitigation measure.</p>	
<p><b>MM-AQ-5:</b> Replace Gasoline/Diesel Passenger Van with Electric Passenger Van. Prior to January 1, 2020, the project proponent shall purchase and operate an electric passenger shuttle to be used for yard movement associated with vehicle storage operations.</p>	<p><b>Timing:</b> Prior to January 1, 2020.</p> <p><b>Method:</b> Purchase and operate an electric passenger shuttle to be used for yard movement associated with vehicle storage operations.</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> Project Proponent, District</p> <p><b>Verification:</b> District</p>
<p><b>Greenhouse Gas Emissions, Climate Change, and Energy Use</b></p>		
<p><b>MM-GHG-1: Implement Diesel-Reduction Measures During Construction and Operations.</b> The project proponent shall implement the following measures during project construction and operations.</p> <ol style="list-style-type: none"> <li>i. The project proponent shall limit all construction equipment, drayage, and delivery truck idling times by shutting down equipment when not in use and reducing the maximum idling time to less than 3 minutes. The project proponent shall install clear signage regarding the limitation on idling time at the delivery driveway and loading areas and shall submit quarterly reports of violators to the San Diego Unified Port District. This measure shall be enforced by Pasha supervisors, and repeat</li> </ol>	<p><b>Timing:</b> During project construction and operations.</p> <p><b>Method:</b> Implement diesel-reduction measures during construction and operations.</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> Project Proponent, District</p> <p><b>Verification:</b> District</p>

Mitigation Measures	Timing and Methods	Responsible Parties
<p>violators shall be subject to penalties pursuant to California airborne toxics control measure 13 California Code of Regulations Section 2485. The project proponent shall submit evidence of the use of diesel reduction measures to the San Diego Unified Port District through annual reporting with the first report due 1 year from the date of project completion and each report due exactly 1 year after, noting all violations with relevant identifying information of the vehicles and drivers in violation of these measures.</p> <p>ii. The project proponent shall verify that all construction equipment is maintained and properly tuned in accordance with manufacturers' specifications. Prior to the commencement of construction activities, the project proponent shall verify that all equipment has been checked by a certified mechanic and determined to be running in proper condition prior to admittance into any Pasha leasehold. The project proponent shall submit a report by the certified mechanic of the condition of the construction equipment to the San Diego Unified Port District prior to construction.</p>		
<p><b>MM-GHG-2: Comply with San Diego Unified Port District Climate Action Plan Measures.</b> Effective opening day, the project proponent shall implement the following measures to be consistent with the Climate Action Plan.</p> <ul style="list-style-type: none"> <li>• Vessels shall comply with the San Diego Unified Port District's voluntary vessel speed reduction program, which targets 80% compliance.</li> <li>• The project proponent shall decrease onsite movements where practicable.</li> <li>• No drive-through shall be allowed.</li> <li>• Assembly Bill 939 shall be complied with by recycling at least 50% of solid waste. This measure shall be applied during construction and operation of the proposed project.</li> <li>• Light fixtures at the project site shall be replaced with lower energy bulbs such as fluorescent, LEDs, or CFLs.</li> </ul>	<p><b>Timing:</b> Opening Day of first project component to be implemented.</p> <p><b>Method:</b> Implement specific measures in order to achieve compliance with the District's CAP.</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> District, Project Proponent</p> <p><b>Verification:</b> District</p>

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>MM-GHG-3: Implement Vessel Speed Reduction Program Beyond Climate Action Plan Compliance.</b> Every quarter following approval of the first real estate agreement or issuance of the first Coastal Development Permit associated with the project, whichever occurs first, the project proponent shall provide a report of the annual vehicle throughput to date, and the projected total throughput for the following 6 months to the San Diego Unified Port District’s Planning &amp; Green Port Department. Prior to the annual vehicle throughput reaching 480,337 vehicles, which is an increase of 119,065 vehicles over the 2013 vehicle throughput total (361,372 vehicles), the project proponent shall implement vessel speed reduction measures to reduce the project’s net-new greenhouse gas emissions. The program shall require that 90% of the [Pasha Automotive Services customer] vessels calling at the National City Marine Terminal reduce their speeds to 12 knots starting at 40 nautical miles from Point Loma within the San Diego Air Basin. To be compliant with that speed limit, the vessel’s weighted average speed shall be 12 knots or less from the 40 nautical mile latitude and longitude positions on each respective route to/from Point Loma.</p> <p>Implementation of this vessel speed reduction program will be included in all new real estate agreements and Coastal Development Permit(s) associated with this project. The Project Applicant will record each inbound and outbound vessel move for compliance, and monthly records will be maintained. An annual report will be submitted to the District indicating the monthly vessel totals, and compliance percentage for the quarter. Evidence of implementation and compliance with this mitigation measure shall be provided to the San Diego Unified Port District’s Planning &amp; Green Port Department on an annual basis through 2040 (the end year of Pasha’s Terminal Operating Agreement). The District will verify compliance through analysis of Automatic Identification System (AIS) data or by requesting a vessel’s Electronic Chart Display Identification System (ECDIS) log from the captain.</p>	<p><b>Timing:</b> Submit vehicle throughput report every quarter following approval of the first real estate agreement or issuance of the first Coastal Development Permit associated with the project, whichever occurs first. Prior to annual vehicle throughput reaching 480,337 vehicles, implement vessel speed reduction measures, monitor and record vessel speeds and maintain monthly records, and submit compliance report annually to the District indicating the monthly vessel totals, and compliance percentage for each quarter.</p> <p><b>Method:</b> Implement vessel speed reduction measures to reduce the project’s net-new nitrogen oxide emissions. Monitor and record vessel speeds and maintain monthly records. Provide evidence of implementation and compliance with this mitigation measure.</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> District, Project Proponent</p> <p><b>Verification:</b> District</p>

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>MM-GHG-4: Replace Gasoline/Diesel Passenger Van with Electric Passenger Van.</b> Prior to January 1, 2020, the project proponent shall purchase and operate an electric passenger shuttle to be used for yard movement associated with vehicle storage operations.</p>	<p><b>Timing:</b> Prior to January 1, 2020.</p> <p><b>Method:</b> Purchase and operate an electric passenger shuttle to be used for yard movement.</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> Project Proponent</p> <p><b>Verification:</b> District</p>
<p><b>MM-GHG-5: Implement a Renewable Energy Project or Purchase the Equivalent Greenhouse Gas Offsets from a California Air Resources Board Approved Registry.</b> The project proponent shall incorporate renewable energy into the leasehold or other areas within the San Diego Unified Port District or purchase greenhouse gas reduction credits as specified herein to achieve requisite reductions to meet the 2020 reduction target. This mitigation measure shall achieve at least 4,351 megawatt-hours per year (MWh/year) of renewable energy or the project proponent may purchase the equivalent amount of greenhouse gas offsets—an amount of 6,159 metric tons of carbon dioxide equivalent (MTCO<sub>2e</sub>). This requirement would result in an annual reduction of 1,231.8 MTCO<sub>2e</sub> by 2020 and running through the life of the project.</p> <p>In order to achieve 2020 annual reduction target of 1,231.8 MTCO<sub>2e</sub>, the project proponent shall install and operate a renewable energy project that would achieve at least 4,351 MWh/year of renewable energy. Otherwise, the project proponent shall purchase the equivalent amount of greenhouse gas offsets, which is 6,159 MTCO<sub>2e</sub>. The renewable energy project may be submitted to the San Diego Unified Port District as late as January 1, 2018 (no later, but may be submitted sooner) in order to consider the latest advancements in energy technology and future regulatory requirements and must be operational by January 1, 2020.</p> <p>Because it is unknown how “solar ready” the available rooftop areas are within the leasehold, once at the design phase, the renewable energy project may be determined infeasible. Should this determination of infeasibility be made by the San Diego Unified Port District after considering evidence submitted by the project proponent related to any structural limitations (i.e., the rooftops cannot support a renewable energy system), then two additional</p>	<p><b>Timing:</b> Submit to the San Diego Unified Port District as late as January 1, 2018 (no later, but may be submitted sooner) and must be operational by January 1, 2020. Alternatively, purchase of credits by January 1, 2020.</p> <p><b>Method:</b> (1) install and operate a renewable energy project that achieves at least 4,351 MWh/year of renewable energy to offset 1,232 MTCO<sub>2e</sub> per year</p> <p>Or</p> <p>(2) purchase the equivalent amount of greenhouse gas offsets, which is 6,159 MTCO<sub>2e</sub></p> <p>Or</p> <p>(3) build the renewable energy project off site (i.e., at a location not within the proponent leaseholds but within the San Diego Unified Port District’s jurisdiction that achieves a 1,232 MTCO<sub>2e</sub> annual reduction.</p> <p>While onsite renewable is preferred, if it is found infeasible by the District, a</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> Project Proponent, District</p> <p><b>Verification:</b> District</p>

Mitigation Measures	Timing and Methods	Responsible Parties
<p>options are available. The San Diego Unified Port District shall either require the renewable energy project to be built off site (i.e., at a location not within the proponent leaseholds but within the San Diego Unified Port District’s jurisdiction) or shall require the proponent to purchase the equivalent amount of greenhouse gas offsets from sources listed on the American Carbon Registry and/or the Climate Action Reserve (or any other such registry approved by the California Air Resources Board). The selected option or a combination must achieve a total annual reduction of 1,231.8 MTCO<sub>2e</sub>, which would amount to 6,159 MTCO<sub>2e</sub> over 5 years (relative to the projected San Diego Gas and Electric power mix in 2020).</p>	<p>combination of onsite, offsite, or purchase of credits may be implemented to achieve the overall reduction requirements for 2020.</p>	
<p><b>MM-GHG-6: Implement a Renewable Energy Project or Purchase the Equivalent Greenhouse Gas Offsets from a California Air Resources Board Approved Registry.</b> The project proponent shall incorporate renewable energy into the leasehold or other areas within the San Diego Unified Port District or purchase greenhouse gas reduction credits as specified herein to achieve requisite reductions to meet the 2030 and 2040 reduction targets. This mitigation measure shall combine with MM-GHG-5 to achieve at least 12,095 megawatt-hours per year (MWh/year) of renewable energy or the project proponent may purchase the equivalent amount of greenhouse gas offsets—an initial amount of 14,262 metric tons of carbon dioxide equivalent (MTCO<sub>2e</sub>) by 2030 and a final amount of 25,554 MTCO<sub>2e</sub> by 2040. This requirement would result in an annual reduction of 1,462.2 MTCO<sub>2e</sub> by 2030 and 2,555.4 MTCO<sub>2e</sub> by 2040.</p> <p><i>2030 Reduction Requirement.</i> In order to achieve 2030 annual reduction target of 1,462.2 MTCO<sub>2e</sub>, the project proponent shall install and operate a renewable energy project that, combined with MM-GHG-5, would achieve at least 6,750 MWh/year of renewable energy (i.e., First Phase). Otherwise, the project proponent shall purchase the equivalent amount of greenhouse gas offsets, which is 7,131 MTCO<sub>2e</sub> by January 1, 2025. The First Phase of the renewable energy project may be submitted to the San Diego Unified Port District as late as January 1, 2023 (but no later) in order to consider the latest advancements in energy technology and future regulatory requirements, but may be submitted sooner and must be operational by January 1, 2025.</p>	<p><b>Timing (for 2030 GHG Reduction):</b>                      Submittal of the renewable energy project by January 1, 2023, and operational by January 1, 2025. Alternatively, purchase of credits by January 1, 2025.</p> <p><b>Method (for 2030 GHG Reduction):</b> (1) install and operate a renewable energy project that, combined with MM-GHG-5, would achieve at least 6,750 MWh/year of renewable energy to offset 1,462 MTCO<sub>2e</sub> per year</p> <p>Or</p> <p>(2) purchase the equivalent amount of greenhouse gas offsets, which is 7,131 MTCO<sub>2e</sub></p> <p>Or</p> <p>(3) build the renewable energy project off site (i.e., at a location not within the proponent leaseholds but within the San Diego Unified Port District’s jurisdiction)</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> District, Project Proponent</p> <p><b>Verification:</b> District</p>

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>2040 Reduction Requirement.</b> In order to achieve 2040 annual reduction target of 2,555.4 MTCO<sub>2e</sub>, the project proponent shall install and operate a renewable energy project that, combined with MM-GHG-5 and the First Phase, would achieve at least 12,095 MWh/year of renewable energy (i.e., Second Phase). Otherwise, the project proponent shall purchase the equivalent amount of greenhouse gas offsets, which is 25,554 MTCO<sub>2e</sub> by January 1, 2030. The Second Phase of the renewable energy project may be submitted to the San Diego Unified Port District as late as December 31, 2028 (but no later) in order to consider the latest advancements in energy technology and future regulatory requirements, but may be submitted sooner and must be operational by January 1, 2030.</p> <p>Because it is unknown how “solar ready” the available rooftop areas are within the leasehold, once at the design phase, the renewable energy project may be determined infeasible. Should this determination of infeasibility be made by the San Diego Unified Port District after considering evidence submitted by the project proponent related to any structural limitations (i.e., the rooftops cannot support a renewable energy system), then two additional options are available. The San Diego Unified Port District shall either require the renewable energy project to be built off site (i.e., at a location not within the proponent leaseholds but within the San Diego Unified Port District’s jurisdiction) or shall require the proponent to purchase the equivalent amount of greenhouse gas offsets from sources listed on the American Carbon Registry and/or the Climate Action Reserve (or any other such registry approved by the California Air Resources Board). The selected option or a combination of the above-mentioned options must achieve a total annual reduction of 1,426.2 MTCO<sub>2e</sub> beginning on January 1, 2025 and lasting until December 31, 2029. Beginning on January 1, 2030, the annual reductions must increase to 2,555.4 MTCO<sub>2e</sub> until the end of the project life in 2040. The aggregated annual reductions between 2025 and 2030 would amount to 7,131 MTCO<sub>2e</sub> (relative to the projected San Diego Gas and Electric power mix in 2030) and would increase to an aggregated amount of 25,554 MTCO<sub>2e</sub> between 2030 and 2040 (relative to the projected San Diego Gas and Electric power mix in 2040).</p>	<p>that achieves a 1,462 MTCO<sub>2e</sub> annual reduction.</p> <p>While onsite renewable is preferred, if it is found infeasible by the District, a combination of onsite, offsite, or purchase of credits may be implemented to achieve the overall reduction requirements for 2030.</p> <p><b>Timing (for 2040 GHG Reductions):</b>                      Submittal of the renewable energy project by December 31, 2028, and operational by January 1, 2030. Alternatively, purchase of credits by January 1, 2030.</p> <p><b>Method (for 2040 GHG Reduction):</b> (1) install and operate a renewable energy project that, combined with MM-GHG-5 and the First Phase, would achieve at least 12,095 MWh/year of renewable energy to offset 2,555 MTCO<sub>2e</sub> per year</p> <p>Or</p> <p>(2) Purchase the equivalent amount of greenhouse gas offsets, which is 25,554 MTCO<sub>2e</sub></p> <p>Or</p> <p>(3) build the renewable energy project off site (i.e., at a location not within the proponent leaseholds but within the San Diego Unified Port District’s jurisdiction) that achieves a 2,555 MTCO<sub>2e</sub> annual</p>	

Mitigation Measures	Timing and Methods	Responsible Parties
	<p>reduction.</p> <p>While onsite renewable is preferred, if it is found infeasible by the District, a combination of onsite, offsite, or purchase of credits may be implemented to achieve the overall reduction requirements for 2040.</p>	
<b>Hazards and Hazardous Materials</b>		
<p><b>MM-HAZ-1: Prepare a Site-Specific Site Safety and Health Plan to Address Potential Burn Ash Presence and Other Contaminants.</b> Prior to the commencement of ground-disturbing activities, a site-specific site safety and health plan (prepared in accordance with CFR 1910.120 Appendix C) and a soil and groundwater management plan (prepared in accordance with CCR Title 22 and Title 27) is required to ensure that all soil disturbed or excavated at the site is screened for the presence of hazardous materials and appropriately characterized and disposed of or reused on site if determined to be suitable for reuse. As part of the site-specific safety and health plan, air monitoring shall be required to ensure fugitive emissions from any grading activities will not pose a risk to human health. These plans would be submitted to the District’s Planning &amp; Green Port Department, and approval would be required prior to the commencement of ground-disturbing activities. The plans shall specify that in the event that indicators of burn ash material are encountered during ground-disturbing activities, work shall cease and the San Diego County Department of Environmental Health’s Local Enforcement Agency shall be notified immediately and prior to any continuation of ground or soil work.</p>	<p><b>Timing:</b> Prior to any ground-disturbing activities.</p> <p><b>Method:</b> Prepare and implement a site-specific safety and health plan as well as a soil and groundwater management plan to be consistent with CFR 1910.120 and CCR Title 22 and Title 27, respectively.</p>	<p><b>Implementation:</b> Project proponent</p> <p><b>Monitoring and Reporting:</b> Qualified agent, approved by the District, Project Proponent</p> <p><b>Verification:</b> District</p>
<b>Noise-Vibration</b>		
<p><b>MM-NOI-1: Notify Trucks from NCMT and Related Operations that Idling on Residential Streets is Illegal.</b> Signs shall be prominently posted, at all truck entrances and exits serving the various project sites (or otherwise placed strategically for maximum awareness), stating that truck parking and/or idling is prohibited on any residential street or within 100 feet of any school in the City of National City. Such prohibition shall also be included as part of any</p>	<p><b>Timing:</b> Prior to opening day of first project component.</p> <p><b>Method:</b> Post signs at all truck entrances and exits serving the various project sites.</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> District, Project Proponent</p> <p><b>Verification:</b> District</p>

Mitigation Measures	Timing and Methods	Responsible Parties
<p>future agreements (e.g., short-term use permit) or Coastal Development Permits related to the proposed project.</p>		
<b>Transportation and Traffic</b>		
<p><b>MM-TRA-1. Reconfigure I-Lot to Accommodate 455 Striped Parking Spaces.</b> Concurrent with construction on any project component or issuance of a short-term agreement/new real estate agreement for the former Weyerhaeuser site, whichever is earlier, the project proponent shall restripe I-Lot to accommodate 455 standard vehicle parking spaces. Once completed, evidence indicating the completion of the striping shall be provided by the contractor or Project Applicant to the District, and the District shall be permitted to confirm the parking area is being used as designed and consistent with this mitigation measure. Should the I-Lot be used for anything other than employee parking, such as vehicle/cargo storage, the project proponent shall present a parking study, created by a qualified transportation planner or engineer, to the District showing that such uses are not resulting in a shortage of employee parking within the National City Marine Terminal boundaries and no employees are parking outside the terminal as a consequence.</p>	<p><b>Timing:</b> Concurrent with the construction on any project component, or issuance of a short-term agreement/new real estate agreement for the former Weyerhaeuser site, whichever occurs first.</p> <p><b>Method:</b> Restripe I-Lot to accommodate 455 standard vehicle parking spaces</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> District, Project Proponent</p> <p><b>Verification:</b> District</p>