

RESOLUTION 2016-141

RESOLUTION TO ADOPT AMENDMENT TO PORT MASTER PLAN FOR THE NATIONAL CITY MARINE TERMINAL TANK FARM PAVING AND STREET CLOSURES PROJECT AND DIRECT FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, the District has an adopted Port Master Plan (PMP) which has been certified by the California Coastal Commission; and

WHEREAS, Pasha Automotive Services (Pasha) currently operates the National City Marine Terminal (NCMT) under a Terminal Operating Agreement (TOA) with the District, as well as eight adjacent parcels under short-term agreements with the District and is the project proponent and applicant; and

WHEREAS, as part of the project, a Port Master Plan Amendment (PMPA) is necessary to allow for (1) the redesignation of approximately five acres of portions of Quay Avenue, 28th Street, and 32nd Street from "Street" use to "Marine Related Industrial" use, which would facilitate the closure of those streets (Street Closure Component), (2) the incorporation of the eastern portion of District-Owned Parcel 025-010-D (also known as Lot K) and District-Owned Parcel 027-047 and designate those properties as Commercial Recreation use (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 (3) the creation of an overlay on District-Owned Parcel 028-007 and the eastern portion of District-Owned Parcel 025-010-D to facilitate the continuation of 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, the Street Closure Component is located in the Lumber Yards Subarea of Planning District 5, National City Bayfront, and District-Owned Parcel 028-007 of the Overlay Component is located in the Launching Ramp Subarea of Planning District 5, National City Bayfront, both of which are delineated on Precise Plan Map Figure 15 of the certified Port Master Plan (PMP); and

WHEREAS, PMPA would update the maps, text and tables of Planning District 5, National City Bayfront to reflect the Street Closure Component, the Uplands Properties Component and the Overlay Component; and

WHEREAS, the City of National City and the District have collaboratively engaged in ongoing discussions regarding the Overlay Component and District staff believes that continued discussion would be beneficial; and

WHEREAS, accordingly, District staff recommends that at this time, the BPC authorize staff to submit the Street Closure Component of the PMPA to the California Coastal Commission (CCC) for its consideration and return to the Board of Port Commissioners (BPC) in approximately 12-18 months with an update on discussions with the City and land uses for properties that would be subject to the Overlay Component, including an update on that certain Balanced Land Use Plan and the Environmental Impact Report (EIR) for the Balanced Land Use Plan, which if approved in its current form, would supersede the Overlay Component; and

WHEREAS, staff and the BPC understand that when District staff returns with the foregoing described update the BPC may authorize submittal of the Uplands Properties Component and the Overlay Component to the CCC for its consideration and certification, direct staff to return to the BPC at a later date with a further update, rescind its approval of the of the Uplands Properties Component and the Overlay Component or take another action; and

WHEREAS, said PMP was prepared, adopted and certified pursuant to the Port District Act, the California Coastal Act and other applicable laws; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) statutes and guidelines, the PMPA was analyzed in the EIR entitled "National City Marine Terminal Tank Farm Paving and Street Closures Project & Port Master Plan Amendment" (UPD #EIR-2014-188, SCH# 2014121046) and pursuant to Resolution No. 2016-140, on September 8, 2016, the BPC adopted the Final EIR and a Statement of Overriding Considerations, and made certain findings as particularly stated in said Resolution; and

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

- That the Port Master Plan Amendment (PMPA) pertaining to the National City Marine Terminal Tank Farm Paving and Street Closures Project, which includes the Street Closure Component, the Uplands Properties Component and the Overlay Component, on file in the office of the District Clerk as Document No. 65641, is approved;


- That the Executive Director or her designated representative is hereby authorized and directed to transmit the Street Closure Component of said Port Master Plan Amendment, together with all relevant factual information, the 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), the adopted CEQA Findings of Fact for the EIR, including the Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program (MMRP) to the California Coastal Commission (CCC) for its review, approval and certification pursuant to Public Resources Code Section 30714;
- That the Executive Director or her designated representative is not authorized, at this time, to transmit the Uplands Properties Component or the Overlay Component to the CCC for its review, approval and certification pursuant to Public Resources Code Section 30714, but District staff shall return to the BPC in 12-18 months with an update on discussions with the City of National City and the land uses for the Uplands Properties and the properties that would be subject to the Overlay Component, including an update on that certain Balanced Land Use Plan and the EIR for the Balanced Land Use Plan, which if approved in its current configuration, would supersede the Overlay Component and the BPC may give further direction at that time; and
- That staff shall return to the Board immediately or soon thereafter for authorization to submit the Uplands Properties Component and Overlay Component of the PMPA to the CCC if a change of circumstances occurs such that Pasha may not legally operate on the parcels that would be subject to the Overlay or portions thereof; and
- That the Executive Director or her designated representative is hereby authorized to amend the Port Master Plan application prior to the California Coastal Commission's certification; provided, however, that the PMPA, as certified by the California Coastal Commission, shall be presented to the BPC for its final approval at a subsequent date.

BE IT FURTHER RESOLVED that as a condition of the PMPA 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 approval of the PMPA, the EIR, the adopted CEQA Findings of Fact for the EIR, including the Statement of Overriding Considerations and the MMRP.

BE IT FURTHER RESOLVED that consistent with Public Resources Code Sections 30714 and 30716, and California Code of Regulations Title 14, Section

13632(e), the PMPA shall not be effective until: (a) the California Coastal Commission certifies the PMPA; (b) the BPC adopts the PMPA as certified by the California Coastal Commission; and (c) the California Coastal Commission has received notice of such BPC action and accepts the same as consistent with its certification.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL



By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8th 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)