

RESOLUTION 2016-179

RESOLUTION COMMENCING ENVIRONMENTAL REVIEW FOR THE POND 20 SITE, INCLUDING THE ESTABLISHMENT OF THE MITIGATION BANK AND ASSIGNMENT OF LAND USE DESIGNATIONS FOR THE ADJACENT DEVELOPMENT PARCELS

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, the Board of Port Commissioners (BPC) adopted BPC Policy No. 110 establishing a procedure for the administration of contracts and the purchasing of supplies, materials, and equipment and establishing a policy governing the processing and administration of contracts; and

WHEREAS, Pond 20 is a 95.13 acre undeveloped parcel of land located at the south end of San Diego Bay and it is within the City of San Diego's (San Diego) Otay Mesa-Nestor Community; and

WHEREAS, in July 2015, the BPC directed staff to develop a Request for Proposals (RFP) for a mitigation bank and to continue to analyze the development of a mitigation bank on approximately 80 acres of Pond 20; and

WHEREAS, based on due diligence efforts over the course of the past year, staff recommends that the BPC authorize the preparation of design documents for a mitigation banking prospectus and submittal of that prospectus to the ACOE, and authorize commencement of environmental review, pursuant to California Environmental Quality Act (CEQA), for the establishment of a mitigation bank on Pond 20 site and assignment of land use designations for the adjacent development parcels; and

WHEREAS, the BPC's approvals and direction to staff do not constitute an "approval" of a "project" pursuant to CEQA Guidelines Sections 15387 and 15352; and

WHEREAS, the approvals and direction to staff will not result in any direct or indirect physical changes to the environment; and

WHEREAS, CEQA requires that the District adequately assess the environmental impacts of its projects and full CEQA analysis and certification of a Port Master Plan Amendment with the California Coastal Commission will be

completed prior to the approval of any entitlements, concept approval, or agreements necessary for the establishment of the mitigation bank and assignment of land use designations for the adjacent development parcels; and

WHEREAS, at the sole and absolute discretion of the BPC, it may adopt any and all feasible mitigation measures, alternatives to the project, including a no project alternative, a statement of overriding consideration, if applicable, and approve or disapprove the project and any permits or entitlements necessary for the same; and

WHEREAS, based on the totality of the circumstances and the entire record, the BPC's approvals do not commit the District to a definite course of action prior to CEQA review being conducted and therefore, no further CEQA review is required; and

WHEREAS, the proposed BPC actions and direction to staff allows for the District to implement its obligations under the Port Act and/or other laws and consequently, the proposed BPC action and direction to staff are consistent with the Public Trust Doctrine; and

WHEREAS, the proposed BPC action and direction to staff do not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit (CDP) Regulations because it will not result in, without limitation, a physical change, change in use or increase the intensity of uses and therefore issuance of CDP is not required; and

WHEREAS, if the Project moves forward, the BPC will consider approval of the Project and improvements after the certification of a Port Master Plan Amendment with the California Coastal Commission, and subsequently appropriate documentation under District's CDP Regulations, have been completed and authorized by the BPC, if necessary; and

WHEREAS, the BPC's direction in no way limits the exercise of the District's discretion under the District's CDP Regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby authorizes the commencement of environmental review for the Pond 20 site, including the establishment of the mitigation bank and assignment of land use designations for the adjacent development parcels.

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 November, 2016, by the following vote:

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

NAYS: None.

EXCUSED: Moore.

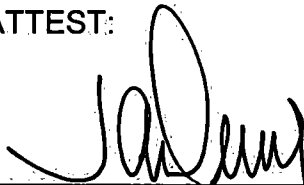
ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)