

RESOLUTION 2016-51

**ADOPT RESOLUTION AUTHORIZING ISSUANCE
OF A NON-APPEALABLE COASTAL
DEVELOPMENT PERMIT TO ADD A NEW RATE
RANGE AND MODIFY HOURS AND DAYS OF
OPERATION FOR PARKING METERS LOCATED
AT EMBARCADERO MARINA PARK NORTH AND
EMBARCADERO MARINA PARK SOUTH**

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

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

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

WHEREAS, there are 520 District-owned metered spaces on the North Embarcadero, Tuna Harbor and Ruocco Park areas and 180 in Embarcadero Marina Park North (EMPN) and Embarcadero Marina Park South (EMPS); and

WHEREAS, these spaces provide convenient public access to San Diego Bay (Bay) and nearby destinations and amenities; and

WHEREAS, in May 2014, the BPC approved, through the adoption of District Ordinance No. 2761 and Resolution No. 2014-71, a pilot program for the 186 metered spaces in the Tuna Harbor Parking lot, which included a parking meter rate increase (from \$1.25 to \$1.75 per hour), later hours of enforcement (from 8:00 a.m. to 6:00 p.m. to 10:00 a.m. to 8:00 p.m.), and expanded enforcement (from Monday to Saturday to seven days per week including Sunday); and

WHEREAS, the pilot program was adopted to better manage these metered spaces, increase turnover and public access to the Bay, and respond to District tenants and stakeholders regarding a perceived lack of parking; and

WHEREAS, in September 2014, the BPC expanded the Pilot Program through District Ordinance No. 2774 and Resolution No. 2014-164, to include parking meters in the North Embarcadero and Ruocco Park areas; and

WHEREAS, in September 2014, 175 Smart Meters in the North Embarcadero were installed on a trial basis for the purpose of data collection regarding parking demand and patterns, and to evaluate the purchase and installation of Smart Meters in a greater area on a permanent basis; and

WHEREAS, after analysis of the findings from the Parking Meter Pilot Program and Trial Program for the North Embarcadero, Tuna Harbor and Ruocco Park public parking areas, and the BPC's approval for staff to purchase an additional 180 Smart Meters to update the current meters in EMPN and EMPS at the February 9, 2016 BPC meeting; and

WHEREAS, modifications to the rates, hours and days of operation for the meters in EMPN and EMPS to match the Embarcadero's rates, hours and days of enforcement is recommended; and

WHEREAS, adoption of the rate range of \$1.00 - \$2.50 per hour, the hours of enforcement (10:00 a.m. to 8:00 p.m.) and enforcement on Sundays for the EMPN and EMPS public parking areas to match the current 520 Smart Meters along the Embarcadero via amendment to San Diego Port District (UPD) Code, Article 8, Port Code Sections 8.10 and 8.14, by including EMPN and EMPS under these noted Code Sections is recommended; and

WHEREAS, the proposed meter modifications does not change the operational characteristics of the District-owned 1,478 free parking spaces from Shelter Island, along Spanish Landing/Harbor Island and down to Grape Street, which are currently free of charge and not affected by this amendment; and

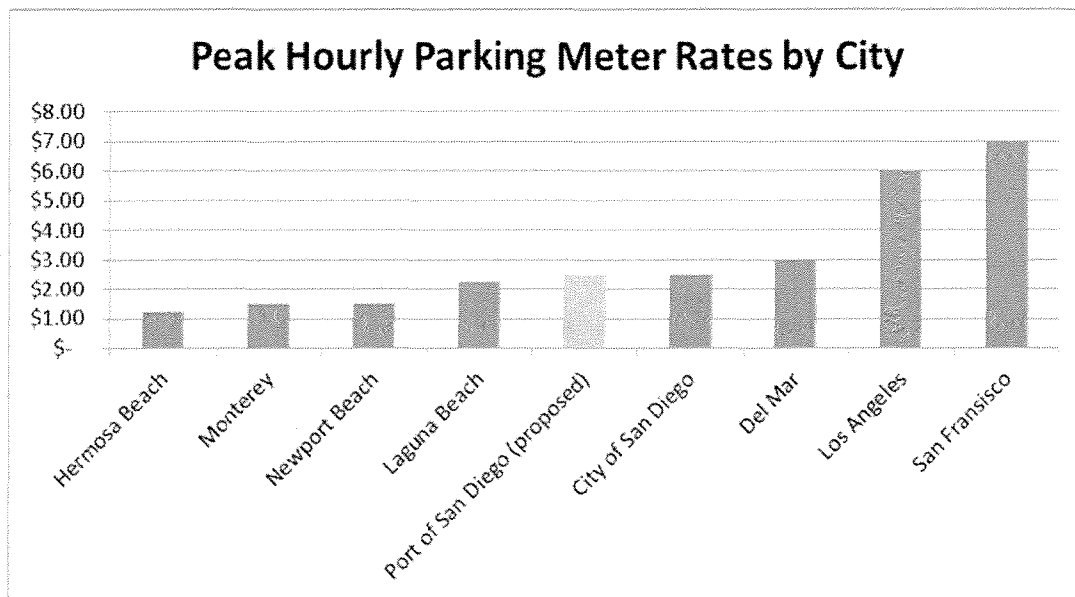
WHEREAS, installing 180 Smart Meters in EMPN and EMPS is justified to improve the functionality of the meters for the public, increase turnover and improve public access to these two parks that are often overflow parking for nearby retail and restaurants; and

WHEREAS, by matching the rate range of the other Embarcadero meters at \$1.00 to \$2.50 per hour, based on demand and similar parking rates in other Coastal Zone areas, this allows the District to best manage this parking asset and improve the customer experience with Smart Meters that provide various payment options; and

WHEREAS, adjusting the hours of enforcement from 8:00 a.m. to 6:00 p.m. to the Embarcadero meter enforcement hours of 10:00 a.m. to 8:00 p.m., matches the demand periods for these meters, which align with retail and restaurant operation hours; and

WHEREAS, in researching other California coastal cities, most enforce meters seven days a week, as weekends remain the time of highest demand; and

WHEREAS, the proposed peak rate is the same as the peak meter rate in the City of San Diego and in the middle of the range compared to other select California coastal cities as shown in the chart below; and



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

WHEREAS, the metered parking is located in the Coastal Zone on District parking lots and adjacent thereto; and

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

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

WHEREAS, the Project complies with all District policies, requirements, regulations, the Port Master Plan and the Coastal Act; and

WHEREAS, the Project constitutes “development” pursuant to Section 30106 of the California Public Resources Code because, among other things, it constitutes although negligible, a change in intensity of use and includes the installation of smart meters; and

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

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

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

WHEREAS, while a Coastal Act exclusion may have been appropriate for the Project consistent with past approvals for the establishment of other metered parking programs (see Clerk Document Nos. 61680 and 62218, available at the Office of the District Clerk and incorporated herein by reference), the District has determined that a Non-Appealable CDP for the Project should be issued to ensure public access conditions in the permit are implemented; and

WHEREAS, the BPC considered the Non-Appealable CDP at the April 14, 2016 BPC meeting, which includes conditions, incorporated by reference herein, that ensures the Project’s consistency with the California Coastal Act and the certified Port Master Plan; and

WHEREAS, on April 14, 2016, prior to taking this action and pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code Section 21000, et seq., and its implementing regulations, 14 California Code of Regulations Section 15000, et seq. (CEQA Guidelines) and the District’s CEQA Guidelines, the BPC adopted a Statutory Exemption pursuant to CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) and a Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) and Sections 2.h and/or 3.a of the District’s Guidelines by Resolution 2016-50; and

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

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

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

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

2. The Project, in general, consists of:

a. Amending current UPD Code Sections 8.10 and 8.14 to include EMPN and EMPS meters in the set range of rates from \$1.00 to \$2.50 per hour, enforcement hours from 10:00 a.m. to 8:00 p.m. and enforcement seven days per week to include Sundays.

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

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

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

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

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

limits, and days/hours of enforcement that will encourage parking turnover during high demand period.

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

6. Based on the entire record available to the BPC and the findings set forth in this Resolution, the Executive Director or his designated representative is hereby authorized and directed to issue a Non-Appealable CDP for the Project, entitled "Parking Meters at Embarcadero Marina Park North and Embarcadero Marina Park South – New Rate Range, Modification to Hours and Days of Operation and Installation of Smart Meters." Said Non-Appealable CDP shall require compliance with all the conditions set forth in the Non-Appealable CDP.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: 
Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 14th day of April 2016, by the following vote:

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

NAYS: None.

EXCUSED: Castellanos.

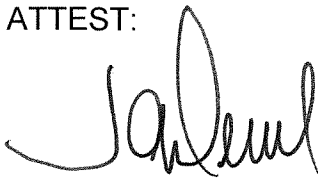
ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)