

RESOLUTION 2016-52

RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT TO AUTHORIZE THE AMENDMENT TO MARKET-BASED PARKING RATE RANGES AT TIDELANDS PUBLIC PARKING LOT AND GARAGES

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, the District owns, among others, two parking garages and a lot: Convention Center Public Parking Garage (underground at the Convention Center), Convention Center (adjacent to Hilton) Public Parking Garage, and B Street Pier Public Parking Lot (collectively, Garages); and

WHEREAS, the proposed project (Project) is to establish new flexible market-based parking rates at the Garages to better match parking demand and increase turnover and therefore, increase public access and to shift demand to less popular parking lots and garages in conjunction with a shuttle operation; and

WHEREAS, the Project includes an Amendment to Article 8, Section 8.21 of the Port Code to allow for new flexible rate ranges at the Garages; and

WHEREAS, as stated in Article 8, Section 8.21 and approved by the BPC in May 2015, the Executive Director of the District would have the ability to change rates up to the BPC-approved maximum rate at each respective location; and

WHEREAS, the new rate ranges for the Garages would enable the District to adjust rates to allow for affordable parking on tidelands at or slightly below the market rates of nearby downtown lots and garages; and

WHEREAS, during periods of high demand or special events, rates in the Garages could be adjusted upward to encourage parking turnover and better public access to the Bay; and

WHEREAS, the intent of the program is to increase public access to the Bay by establishing a symbiotic relationship between the lot/garages and the meters; and

WHEREAS, a stakeholder outreach meeting was held on March 22, 2016 and the response was generally positive; and

WHEREAS, in 2009, the District conducted a North Embarcadero Visionary Plan (NEVP) Parking Management Plan and the Project would further the goals and measures in that plan; and

WHEREAS, as a condition of the California Coastal Commission (CCC) approved NEVP Phase 1 CDP (CDP A-6-PSD-11-006), the District was required to prepare and submit for approval a Parking Management and Transit Opportunity Plan (PMTOP); and

WHEREAS, the CCC approved the PMTOP, dated October 2011, satisfying the condition, while the Project is not subject to the PMTOP, it would not conflict with the same; and

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

WHEREAS, the District Parking Lots and Garages are also located in the Coastal Zone; 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 constitutes "development" pursuant to Section 30106 of the California Public Resources Code because, among other things, it constitutes a change in intensity of use; 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, consistent with the Coastal Act and Regulations, on March 8, 1985, a Non-Appealable CDP was issued for the Underground Convention Center Parking Garage (see District Document Nos. 17936, available in the Office of the District Clerk and incorporated by reference herein) and on November 4, 2003, a Non-Appealable CDP was issued for the Convention Center Parking Garage located adjacent to the Hilton Hotel (see District Document Nos. 46744, available in the Office of the District Clerk and incorporated by reference herein); 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 rates on B Street Pier and amendment to parking rates at Lane Field (see Clerk Document No. 61018, 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 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. Amendment to Article 8, Section 8.21 of the Port Code to allow for new flexible rate ranges at the B Street Pier Public Parking Lot, Convention Center Public Parking Garage (underground at the Convention Center) Convention Center (adjacent to the Hilton) Public Parking Garage.

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 is designation within the limits of the Project as 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 flexible and reasonable rates at the B Street Pier Public Parking Lot, Convention Center Public Parking Garage (underground at the Convention Center) Convention Center (adjacent to the Hilton) Public Parking Garage.

5. Pursuant to California Public Resources Code Section 30106, the Project constitutes "development" because, among other things, it constitutes a change in intensity of use. 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, as conditioned in the Non-Appealable CDP, 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 her designated representative is hereby authorized and directed to issue a Non-Appealable CDP for the Project, entitled "New Market-Based Rates at Tidelands Public Parking Lot and Garages." 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:

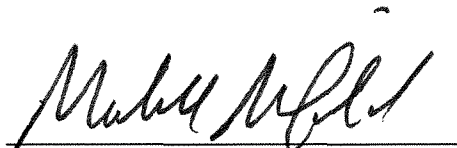
AYES: Bonelli, Malcolm, Merrifield, Moore, Nelson and Valderrama.

NAYS: None.

EXCUSED: Castellanos.

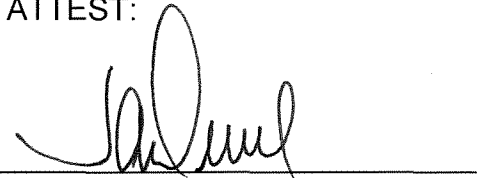
ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk