

RESOLUTION 2016-97

RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT TO CITY OF CORONADO FOR THE THIRD, FOURTH AND I AVENUE STORM DRAIN REHABILITATION PROJECT

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 City of Coronado (City), as the project proponent, proposes storm drain improvements running the length of I Avenue from Fourth Street to San Diego Bay in Coronado (Project); and

WHEREAS, the City will own, operate and maintain the storm drain, outfall and associated improvements and the purpose of the Project is to mitigate flooding near the intersection of Fourth Street and Alameda Boulevard that occurs during storm events; and

WHEREAS, the Project includes both landside and waterside components, with the majority of the landside components being located within the City's jurisdiction and a small portion of the landside and all waterside components being located within the District's jurisdiction; and

WHEREAS, the Project proposes installation of new inlets, construction of a new storm drain system, upsizing of an existing storm drain outfall, installation of a rock energy dissipater, and other related improvements; and

WHEREAS, the components of the Project located within the District's jurisdiction include an approximately 25-foot-long section of the new storm drain, an upsized 48-inch storm drain outfall, anchor collar, an 8-foot-long grouted rip-rap bedding, a 16-foot-long rock energy dissipater, and a 268-square-foot proposed rock rubble mitigation area; and

WHEREAS, the components of the Project located within the Coastal Development Permit (CDP) jurisdiction of the District are located within the First Street Shoreline subarea of Planning District 6, Coronado Bayfront, which is delineated on Precise Plan Map Figure 17 of the certified Port Master Plan (PMP); and

WHEREAS, the PMP land and water use designation within the limits of the Project site within the District's jurisdiction is "Open Bay"; and

WHEREAS, the portion of the Project within the District's jurisdiction conforms to the certified PMP and facilitates the land and water use designation of "Open Bay" by making storm drain improvements to mitigate an existing flooding problem in a manner that maintains the open water areas clear of obstructions; and

WHEREAS, utilities are an allowable use in all PMP land and water use designations; and

WHEREAS, the Project would not change the use of the site nor would it interrupt or expand the existing conforming use of the site; and

WHEREAS, the portion of the Project within the District's jurisdiction is located between the sea (as defined in the California Coastal Act) and the first inland continuous public road paralleling the sea; and

WHEREAS, the portion of the Project within the District's jurisdiction constituted "development" pursuant to Section 30106 of the California Public Resources Code because, among other things, it will result in the placement and erection of a structure and requires a CDP; and

WHEREAS, in accordance with the California Coastal Act and the District's CDP Regulations, the Project is considered "Non-Appealable" because it does not qualify as an "Excluded," "Appealable," or "Emergency" development; and

WHEREAS, accordingly, a non-appealable CDP from the District is required to construct, operate, and maintain the components of the Project located within the District's jurisdiction; and

WHEREAS, the portion of the Project within the District's jurisdiction is fully consistent with Public Resources Code Sections 30604(c), 30210-30224, and all applicable California Coastal Act policies; and

WHEREAS, the portion of the Project within the District's jurisdiction would not affect or otherwise interfere with public access or recreational opportunities; and

WHEREAS, the portion of the Project within the District's jurisdiction conforms to the planned land and water use designation and Precise Plan text and is thus consistent with the certified PMP; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), an Initial Study (IS) and Mitigated Negative Declaration (MND), entitled "Third, Fourth, and I Avenue Storm Drain Rehabilitation Project" (State

Clearinghouse No. 2015101070) was prepared by the City, as the CEQA Lead Agency, for the Project; and

WHEREAS, in accordance with CEQA, a Final MND, appropriate CEQA findings and a Mitigation, Monitoring and Reporting Program (MMRP) was adopted by the City Council of the City on February 2, 2016; and

WHEREAS, pursuant to CEQA Guidelines Section 15381, the District is a CEQA Responsible Agency because portions of the Project are being carried out by the City within the District's jurisdiction; and

WHEREAS, pursuant to 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 Board of Port Commissioners (BPC) adopted the findings of the IS/MND, adopted the MMRP, and authorized staff to file the Notice of Determination on June 15, 2016 by Resolution No. 2016-95; and

WHEREAS, special conditions are incorporated into the non-appealable CDP to ensure compliance with the applicable mitigation measures, as required by the MMRP included in the MND prepared for the Project; and

WHEREAS, on February 2, 2016, the City Council approved a CDP for the components of the Project located within the City's jurisdiction; and

WHEREAS, the Project complies with all District policies and requirements; and

WHEREAS, staff determined that the Project and non-appealable CDP is consistent with the PMP; and

WHEREAS, the BPC has concluded that the Project conforms to the PMP; and

WHEREAS, an application has been prepared for a Non-Appealable CDP to implement the portion of the Project within the District's jurisdiction; and

WHEREAS, the BPC finds that said application and attachments contain correct and accurate statements of fact; and

WHEREAS, the BPC considered the Non-Appealable CDP at the June 15, 2016 BPC meeting; 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 IS/MND and the MMRP, the draft Non-Appealable CDP for the portion of

the Project within the District's jurisdiction, 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 portion of the Project within the District's jurisdiction, in general, consists of:

- a. an approximately 25-foot-long section of the new storm drain;
- b. an upsized 48-inch storm drain outfall;
- c. an anchor collar;
- d. an 8-foot-long grouted rip-rap bedding;
- e. a 16-foot-long rock energy dissipater; and
- f. a 268-square-foot proposed rock rubble mitigation area.

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. There is no substantial evidence that the Project would have a significant environmental effect on the environment with implementation of the mitigation measures as required by the MMRP included in the MND prepared for the Project; and

c. There is no substantial evidence that the Project will have a significant unmitigated effect on the environment; and

d. The Project shall implement the mitigation measures identified MMRP included in the MND; and

e. The IS/MND and MMRP is complete and adequate; and

f. The IS/MND and MMRP 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 for the portion of the Project within the District's jurisdiction.

4. Pursuant to California Public Resources Code Section 21152 and CEQA Guidelines Section 15075, the District Clerk caused a Notice of Determination to be filed with the Clerk of the County of San Diego and the State Office of Planning and Research.

5. Pursuant to California Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15074(c), 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.

6. The components of the Project located within the jurisdiction of the District are located within the First Street Shoreline subarea of Planning District 6, Coronado Bayfront, which is delineated on Precise Plan Map Figure 17 of the certified Port Master Plan (PMP), and the land and water use designation within the limits of the Project site is "Open Bay."

7. The components of the Project located within the jurisdiction of the District are located between the sea (as defined in the California Coastal Act) and the first inland continuous public road paralleling the sea. In accordance with the California Coastal Act and the District's CDP Regulations, the Project is considered "Non-Appealable" because it does not qualify as an "Excluded," "Appealable," or "Emergency" development.

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

a. The portion of the Project within the District's jurisdiction conforms to the planned land and water use designation and Precise Plan text and is thus consistent with the certified PMP; and

b. The portion of the Project within the District's jurisdiction is consistent with California Public Resources Code Sections 30604(c), 30210-30224, and all applicable California Coastal Act policies, and the Coastal Act public access and recreation policies referenced therein.

9. 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 portion of the Project, entitled "Third, Fourth, and I Avenue Storm Drain Rehabilitation Project", within the District's jurisdiction. Said Non-Appealable CDP shall require compliance with all the conditions set forth in the Non-Appealable CDP, including, but not limited to, the mitigation measures in the

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Mitigation Monitoring and Reporting Program; provided, however, as a condition of this approval, City of Coronado 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 this Non-Appealable CDP or other project entitlements or permits. Said indemnity and hold harmless condition is independent of any agreements by and between City of Coronado and the District.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: Assistant/Deputy

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PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 15th day of June 2016, by the following vote:

AYES: Castellanos, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: Malcolm.

ABSENT: None.

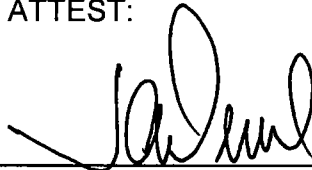
ABSTAIN: None.

RECUSED: Bonelli.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)