

RESOLUTION 2017-136

RESOLUTION ADOPTING THE NATIONAL CITY STREET CLOSURES PORT MASTER PLAN AMENDMENT, AS CERTIFIED BY THE CALIFORNIA COASTAL COMMISSION, AND DIRECTING THE FILING OF NOTICE OF SAID ADOPTION WITH THE CALIFORNIA COASTAL COMMISSION

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, Pasha Automotive Services (Pasha), as the project applicant/proponent, has proposed the closure of Quay Avenue between Bay Marina Drive and 28th Street, 28th Street west of Quay Avenue, and 32nd Street west of Tidelands Avenue (Street Closures) and associated development including minor demolition, removal of the median, curbs, and gutter; relocation of a backflow valve; minor grading, repaving, and striping; relocation of the guard shack further east on 32nd Street, as well as operation of the area for marine terminal operations and related industrial operations (collectively, Project); and

WHEREAS, the streets that are subject to the Street Closures are principally devoted for internal circulation within the District boundaries and do not service areas outside of District boundaries but rather, internally service the terminal and surrounding marine terminal area; and

WHEREAS, due to tenant consolidation and reconfiguration, the streets that are subject to the Street Closures are no longer necessary for circulation and the Project would result in approximately 5 acres of marine related industrial operations; and

WHEREAS, the Project requires a Port Master Plan Amendment (PMPA) to change the land use designation of the Project site from "Street" to "Marine Related Industrial"; and

WHEREAS, pursuant to California Public Resources Code Sections 30714 and 30716 and Title 14, Section 13632(e) of the California Code of Regulations, in order for the PMPA to be fully certified the following must occur (1) approval of the PMPA by the Board of Port Commissioners (BPC); (2) certification of the PMPA by the California Coastal Commission (CCC); (3) BPC adoption of the PMPA, as certified by the CCC; and (4) CCC acceptance of the BPC's adoption of the PMPA as consistent with its certification; and

WHEREAS, on September 8, 2016, the BPC, as Lead Agency under the California Environmental Quality Act (CEQA): (1) certified a Final Environmental Impact Report (EIR) entitled "National City Marine Terminal Tank Farm Paving and Street Closures Project & [National City Street Closures] PMPA" EIR (UPD #EIR-2014-188; SCH #2014121046), adopted Findings of Fact and a Statement of Overriding Considerations, and adopted a Mitigation Monitoring Reporting Program (MMRP) for the Project, which among other things analyzed the Project and associated PMPA and Coastal Development Permit (CDP); (2) conducted a public hearing and approved the PMPA; and (3) directed District staff to file the PMPA with the CCC for certification; and

WHEREAS, District staff subsequently filed the PMPA application with the CCC, and on August 9, 2017, the CCC held a public hearing and unanimously approved certification of the PMPA, as submitted, finding the PMPA to be consistent with Chapter 8 of the California Coastal Act; and

WHEREAS, in accordance with CEQA and its implementing guidelines, the Project and proposed PMPA were analyzed in the Final EIR, as certified by the BPC and the BPC has determined that the PMPA and Project are adequately documented, described, disclosed, and analyzed in the EIR, and no further CEQA review is required; and

WHEREAS, a duly noticed public hearing was held on September 12, 2017, before the BPC, at which the BPC received public testimony, reviewed and considered all testimony and materials made available to the BPC regarding the Project and adoption of the PMPA, as certified by the CCC; and

WHEREAS, having reviewed and considered all testimony and materials made available to the Board, including but not limited to the Final EIR, the staff reports and all the testimony and evidence in the record of the proceedings with respect to the Project and PMPA, as certified by the CCC, the BPC took the actions hereinafter set forth.

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

That the BPC finds that the PMPA, as certified by the CCC and as adopted by the BPC, as certified by the CCC was fully analyzed and is within the scope of in the Final EIR consistent with CEQA. The National City Street Closures Port Master Plan Amendment, on file in the Office of the District Clerk as Document No. 65967 is adopted, as certified by the CCC, and that the Executive Director or his/her designated representative is hereby authorized and directed to transmit this Resolution, together with the Final EIR and all relevant other documents to the CCC for its acceptance; provided, however as a condition of this approval, Pasha Automotive Services 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. Said indemnity and hold harmless condition is independent of any agreements by and between Pasha Automotive Services and the District.

BE IT FURTHER RESOLVED, consistent with Public Resources Code Sections 30714 and 30716, and California Code of Regulations Title 14, Section 13632(e), the subject Port Master Plan Amendment shall not be effective until the CCC has received this Resolution, the Final EIR, and all relevant other documents and accepts the BPC's adoption as consistent with its certification.

BE IT FURTHER RESOLVED, the BPC also hereby finds that the Project would facilitate improvements necessary for the promotion and accommodation of a maritime operation. The proposed BPC's action complies with Section 87 of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operations of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed BPC actions are consistent with the Public Trust Doctrine.

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 12th day of September 2017, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Valderrama, and Zucchet

NAYS: None.

EXCUSED: Moore

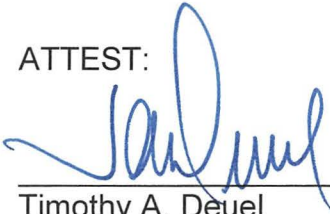
ABSENT: None.

ABSTAIN: None.



Robert Valderrama, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk



(Seal)