

RESOLUTION 2018-068

RESOLUTION ADOPTING THE SECOND ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE "CHULA VISTA BAYFRONT MASTER PLAN PROJECT" AND AUTHORIZING STAFF TO FILE A NOTICE OF DETERMINATION

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, Sun Communities, Inc. as the project applicant and proponent, proposes to construct and operate the Chula Vista Bayfront (CVB) recreational vehicle (RV) park, a low-scale, low profile, and lower-cost RV resort consisting of 255 lower-cost overnight accommodations (approximately 139 RV stalls and 116 park model units, which count as and exceed the replacement of 237 lower cost overnight accommodation mobile vehicle stalls in the CVB) with associated improvements on parcel S-1; grading in parcels S-2 and S-3; the extension of E Street; construction of a 400-foot-wide landscape buffer within a portion of parcel SP-1; and the realignment of Gunpowder Point Drive within parcels SP-1 and SP-3 to allow continued access to the Living Coast Discovery Center (collectively, "Project"); and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000, et seq., and its implementing regulations, 14 California Code of Regulations Section 15000, et seq. ("CEQA Guidelines"), the Board of Port Commissioners (BPC) adopted Resolution No. 2010-78 in May 2010 which certified a Final Environmental Impact Report (Final EIR) (SCH No. 2005081077/UPD # 83356-EIR-658; District Clerk Document No. 56562) and adopted Findings of Fact, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program; and

WHEREAS, on August 13, 2013, the BPC adopted Resolution 2013-138, which approved the First Addendum to the Final EIR concerning design changes to H Street; and

WHEREAS, pursuant to the California Coastal Act, in May 2010, the BPC also adopted Resolution No. 2010-79 which approved the CVBMP PMPA and directed staff to submit the PMPA to the California Coastal Commission (CCC) - for its review and certification; and

WHEREAS, during the CCC certification process for the CVBMP PMPA, the District and CCC, decided to relocate an existing RV park to Parcel S-1, a

site that at the time was designated for a future hotel in the District's approved PMPA; and

WHEREAS, specifically, upon the District's request, its application to the CCC for the PMPA was amended to revise the uses on parcel S-1 from hotel to low-scale, low-intensity uses consisting of a recreational vehicle park and/or campground with retail, restaurant, or meeting space associated with these uses (Relocated RV Park) and the Relocated RV Park was moved from Phase IV to Phase I of the CVBMP's implementation; and

WHEREAS, additionally, the District's amended application for the PMPA included Chula Vista Bayfront Development Policies (Development Policies) (District Clerk Document No. 59407) and a Public Access Plan (PAP) (District Clerk Document No. 59408), both of which were incorporated by reference into the PMPA; and

WHEREAS, the Development Policies consist of detailed and specific planning and development objectives and policies for the Chula Vista planning district covering environmental protection, energy conservation, views and aesthetics, public transit, pedestrian orientation, and visitor serving requirements and the PAP includes a description of the proposed circulation improvements including the roadways, the Bayshore Bikeway, public transit improvements, shuttle, and parking requirements; and

WHEREAS, on August 9, 2012, the CCC certified the CVBMP PMPA, including the Relocated RV Park, Development Policies, and PAP (collectively, Revised Project); and

WHEREAS, since the Revised Project in the certified PMPA occurred subsequent to the BPC's certification of the Final EIR and the BPC is considering subsequent discretionary approvals – concept approval and an Appealable Coastal Development Permit (CDP) – for the Relocated RV Park, an updated environmental analysis is necessary in accordance with CEQA; and

WHEREAS, pursuant to CEQA Guidelines Section 15168(c), the District examined the Revised Project in light of the Final EIR to determine whether an additional environmental document must be prepared and found that pursuant to CEQA Guidelines Section 15162, no new effects could occur and no new mitigation measures would be required, and the Revised Project is within the scope of the project covered by the Final EIR and no new environmental document is required; and

WHEREAS, pursuant to CEQA Guidelines Section 15164, the District has prepared a Second Addendum to the Final EIR, which analyzed the Revised Project and applicable mitigation measures, including those for Phase I of the CVBMP implementations (rather, than Phase IV), and the Second Addendum

was appropriate because only minor changes or additions are necessary for the Final EIR to apply to the Revised Project, and none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR, or in CEQA Guidelines Section 15163 calling for preparation of a supplemental EIR, have occurred; and

WHEREAS, the District has filed the Second Addendum and the Final EIR with the Office of the District Clerk (Clerk) and pursuant to CEQA, the District previously prepared a Mitigation Monitoring and Reporting Program also filed with the Clerk (District Clerk Document No. 56555); and

WHEREAS, the Clerk has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and affidavit of mailing on file with the Clerk; and

WHEREAS, all materials with regard to the Revised Project were made available to the BPC for its review and consideration of the Revised Project including, but not limited to, the following:

1. The Second Addendum and appendices, if any;
2. The Final EIR and appendices;
3. The Agenda Sheet, dated April 10, 2018;
4. The Findings of Fact and Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program, dated May 2010 and appended to Resolution 2010-78 as Exhibits "A" and "B", respectively; and
5. All documents and records filed in this proceeding by interested parties.

WHEREAS, a duly noticed public hearing was held on April 10, 2018, before the BPC, at which the BPC received public testimony, reviewed and considered all testimony and materials made available to the BPC regarding the Revised Project, and gave direction to District staff regarding the Revised Project; and

WHEREAS, having reviewed and considered all testimony and materials made available to the BPC, including but not limited to the Second Addendum and the Final EIR, the staff reports and all the testimony and evidence in the record of the proceedings with respect to the Revised Project, 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:

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 BPC finds and determines that the applicable provisions of CEQA, the CEQA Guidelines and the District Guidelines have been duly observed in conjunction with said hearing and the considerations of this matter and all of the previous proceedings related thereto.

3. The BPC finds and determines, on the basis of the whole record before the BPC, that:

- a. The Final EIR is complete and adequate in scope and is of continuing informational value with respect to the Revised Project;
- b. Some minor changes or additions to the Final EIR are necessary and the preparation of a Second Addendum to the Final EIR pursuant to CEQA Guidelines Section 15164 for the Revised Project is adequate and appropriate;
- c. None of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR have occurred;
- d. None of the conditions described in CEQA Guidelines Section 15163 calling for preparation of a supplemental EIR, have occurred;
- e. No additional environmental review is required because the Revised Project implements all applicable mitigation measures, is within the scope of the Final EIR and will not result in any new or more severe significant impacts or require mitigation measures not previously identified in the Final EIR;
- f. The BPC has fully reviewed and considered the information in the Second Addendum and the Final EIR prior to making a decision to approve the Revised Project;
- g. The Second Addendum is complete and adequate in scope and has been completed in compliance with CEQA and the CEQA Guidelines and the District Guidelines for implementation thereof;

- h. The Revised Project implements the Mitigation Monitoring and Reporting Program (MMRP) and no additional mitigation measures or alternatives are required; and
- i. The Second Addendum and the Final EIR reflect the District's independent judgment and analysis.
- j. The Project is consistent with the Public Trust Doctrine, as the Project complies with Section 87 of the Port Act which allows for all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed actions are consistent with the Public Trust Doctrine.

5. The Second Addendum to the Final EIR is hereby adopted in relation to the subject of this Resolution.

6. The Revised Project is approved and, pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, the BPC hereby makes and adopts the findings with respect to each such significant environmental effect as set forth in the Findings of Fact, appended to Resolution 2010-78 as Exhibit "A" and made a part hereof by this reference, and declares that it considered the evidence described in connection with each such finding.

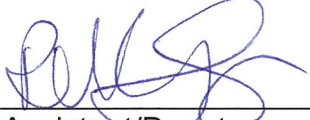
8. Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d), the BPC hereby adopts and approves the MMRP, which is appended to Resolution 2010-78 as Exhibit "B" and is made a part hereof by this reference, with respect to the significant environmental effects of the original CVBMP PMPA and related projects, and hereby makes and adopts the provisions of the Mitigation Monitoring and Reporting Program applicable to the Revised Project as conditions of approval for the Revised Project.

9. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15094, the District Clerk shall cause a Notice of Determination to be filed with the Clerk of the County of San Diego and the State Office of Planning and Research.

10. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e), the location and custodian of the documents and other materials which constitute the record of proceedings on which this Resolution is based is the Office of the District Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

11. As a condition of this approval, Sun Communities, Inc. shall indemnify and hold the San Diego Unified Port District (District) harmless against all third-party legal challenges, claims, lawsuits, proceedings and the like, including reimbursement of all attorneys' fees, costs and expenses incurred by the District related to the approval of the Second Addendum. Said condition is independent of any agreement between the District and Sun Communities, Inc.

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 10th day of April 2018, by the following vote:

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

NAYS: None.

EXCUSED: Zucchet

ABSENT: None.

ABSTAIN: None.



Rafael Castellanos, Chairman
Board of Port Commissioners

ATTEST:



Donna Morales
District Clerk



(Seal)