

## **RESOLUTION 2020-041**

### **RESOLUTION AUTHORIZING ISSUANCE OF NON-APPEALABLE COASTAL DEVELOPMENT PERMIT FOR CHULA VISTA BAYFRONT SWEETWATER PARK 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 District, as the project proponent and applicant (Applicant), proposes the development, operation and maintenance of a “signature park,” referred to as Sweetwater Park (Park), and associated habitat restoration, grading, landscaping, parking areas, and public amenities, including a multi-purpose shade structure, wildlife viewing facilities, walking and biking paths; play areas, and associated wayfinding signage (Project), on the Chula Vista Bayfront (CVB); and

**WHEREAS**, the CVB Master Plan (CVBMP), which is part of the Port Master Plan (PMP), envisions a bayfront connected through an extensive open space system, including the Park in the Sweetwater District; and

**WHEREAS**, the PMP designates parcel S-2 in the Sweetwater District for the Park, a 21-acre signature park; and

**WHEREAS**, the PMP envisions the Park as a meadow-type open space that would showcase the unique natural assets of San Diego Bay, encouraging passive recreation, such as walking and cycling, while limiting bright lights, noise, and large organized gatherings that may be disruptive to the adjacent Sweetwater Marsh National Wildlife Refuge (NWR); and

**WHEREAS**, the Park would form the northerly portion of a planned continuous open space system or “greenbelt,” and would provide a direct linkage from the Living Coast Discovery Center and Costa Vista RV Resort in the north and to the RIDA Gaylord Resort Hotel and Convention Center (RHCC) on the H-3 Parcel and the proposed Harbor Park in the south; and

**WHEREAS**, since August 2018, staff from the District and the City of Chula Vista (City) have worked with the District’s design consultant, KTU+A, to prepare a schematic design for the Project based on the design parameters established by the guiding documents; and

**WHEREAS**, on September 16, 2019, District staff and KTU+A provided a presentation and update on the 50% schematic design to the Board of Port

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Commissioners (BPC) and feedback from that meeting, along with feedback received from the significant stakeholder outreach effort has been incorporated into the 100% schematic design; and

**WHEREAS**, the District and the City held a series of public workshops regarding the draft design concepts for the Project on September 27, 2018 and March 20 and November 18, 2019, which in total drew in excess of 400 attendees and the submission of over 1,700 completed surveys; and

**WHEREAS**, the Project was presented to the Wildlife Advisory Group (WAG) during publicly noticed meetings on January 23, April 18, and May 29, 2019, where the WAG provided feedback related to sustainability measures regarding the proposed turf area, including a reduction in size and use of no-mow vegetation, and suggesting that restoration of the surrounding habitat should be prioritized over Park amenities; and

**WHEREAS**, the Bayfront Cultural and Design Committee (BCDC) held publicly noticed meetings at the City's offices on April 18, 2019 and January 6, 2020 to consider the proposed design for the Park; and

**WHEREAS**, the Accessibility Advisory Committee (AAC) met at a publicly noticed meeting on August 28, 2019 at which the District and the District's design team provided an overview of the Project that included the accessible pathways and parking and the AAC raised concerns about the multi-use nature of the pathways; and

**WHEREAS**, the applicable comments from the WAG, BCDC and AAC where incorporated into the Project design; and

**WHEREAS**, for the purpose of this approval, the Project is located on four parcels identified as Parcels SP-1, SP-3, S-2, and HP-1(N) in the CVB Sweetwater District of Planning District 7, which is delineated on Precise Plan Map Figure 19 of the PMP; and

**WHEREAS**, the only structures in the Park would consist of an approximately 300 square foot restroom building, a shade pavilion for small informal group gatherings, and three wildlife viewing blinds along the western perimeter; and

**WHEREAS**, the Park also includes a natural adventure play area consisting of boulders, logs, and rock-climbing structures would be incorporated into a simulated dune area to provide a unique, all-ages play experience; and

**WHEREAS**, a multi-use meadow would be located in the heart of the Park, consisting of no-mow native bunching grasses to provide an area for passive and un-structured play; and

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**WHEREAS**, wayfinding signage would be placed at the north entry into the Park near the parking lot, and at the south entry in transition from the envisioned Harbor Park; and

**WHEREAS**, pedestrian circulation within the Park would be facilitated by a network of accessible walkways and paths consisting of 8-foot-wide to 12-foot-wide concrete walkways; 4-foot-wide to 12-foot-wide stabilized decomposed granite (DG) paths, as well as a 6-foot-wide low boardwalk that would traverse the dune play and adventure area; and

**WHEREAS**, pathways would also connect Park users to three elevated overlook points along the western edge of the Park providing users with visual access to the Bay across the Buffers and NWR; and

**WHEREAS**, a new entry driveway would be constructed from the RV Park entry drive providing the primary vehicular as well as pedestrian access from E Street and pedestrian connection between the RV Park and the Park; and

**WHEREAS**, the Project would include 100 parking spaces to serve the Living Coast Discovery Center visitors, approximately 60 spaces along the eastern perimeter of the Park adjacent to the future E Street extension right-of-way, and approximately 156 spaces located at the north end of the Park to serve Park visitors, thereby meeting the 216-parking space requirement of the Development Policies; and

**WHEREAS**, the Project would include improvement of the inner 200 feet of the required Buffers which includes removal of non-native invasive plant species and revegetation with approximately 2.4 acres of Maritime Succulent Scrub and 4.4 acres of Coastal Sage Scrub along with supporting irrigation systems as well as an environmental fence to protect the outer “no-touch” 200-foot-wide buffer; and

**WHEREAS**, construction of the Project is scheduled to commence in Summer/Fall 2022 in a single phase over an estimated 12-18 months; and

**WHEREAS**, City will process a separate but related CDP for a portion of the Project that is located within the City’s jurisdiction (southern portion of parcels S-2 and SP-1); and

**WHEREAS**, Section 30106 of the California Coastal Act defines “development” as, among other things, the placement or erection of any solid material on land, grading, and the change in the density or intensity of use of land, and consequently, the Project, is considered “development,” requiring Coastal Development Permits (individually, CDP and collectively, CDPs); and

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**WHEREAS**, the Project constitutes non-appealable development under Section 7.d.(3) of the CDP Regulations; and

**WHEREAS**, pursuant to Coastal Act Section 30715 and Sections 7.d.(3) and (4) of the CDP Regulations, parks and environmental buffers are not appealable development and hence, do not require an appealable CDP; and

**WHEREAS**, the Project is located between the sea (as defined in the Coastal Act) and the first inland continuous road paralleling the sea, and the Project is fully consistent with Public Resources Code Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein; and

**WHEREAS**, the Project will enhance public access and public recreation by providing bayside recreation space, while limiting public access to certain areas of the shoreline to protect fragile coastal resources, as required by the certified PMP and CVBMP Development Policies and Public Access Program (PAP); and

**WHEREAS**, the Project conforms to the land use designations of "Open Space," "Park Plaza," and "Promenade" for parcels SP-1, SP-3, S-2, and HP-1(N), and the Sweetwater District Precise Plan text and is therefore, consistent with the certified PMP which includes, by reference, the Development Policies, the PAP, and the Natural Resources Management Plan (NRMP) (Clerk Document No. 65065); and

**WHEREAS**, the Project is required to comply with all applicable mitigation measures that are specified in the FEIR MMRP and all applicable policies and implementation measures in the Development Policies, PAP, NRMP, and the CVB Settlement Agreement; and

**WHEREAS**, special provisions (i.e., conditions) are part of the CDP to ensure conformance with all applicable mitigation measures, policies, and implementation measures; and

**WHEREAS**, the Project is consistent with the PMP and the applicable California Coastal Act policies related to sea level rise (SLR) because it is designed to accommodate SLR risk through the year 2120, with periodic maintenance and repairs to prolong the usable life of the park; and

**WHEREAS**, the Project would provide mitigation to permanent impacts on Diegan Coastal Sage scrub in excess of the mitigation requirements identified within the FEIR, the ratios for impacts to vegetation communities as provided in the MMRP, and as required by Mitigation Measure 4.8-6(H); and

**WHEREAS**, the proposed BPC action, including without limitation, a resolution authorizing issuance of a non-appealable CDP for construction of the

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Park, Buffers, and associated improvements, was adequately covered in the FEIR for the CVBMP (UPD #83356-EIR-658; SCH #2005081077; Clerk Document No. 56562), certified by the District on May 18, 2010 (Resolution No. 2010-78), the Addendum to the FEIR, which was adopted by the Board on August 13, 2013 (Resolution No. 2013-138), and the Second Addendum to the FEIR, which was adopted by the Board on April 10, 2018 (Resolution No. 2018-0069); and

**WHEREAS**, the proposed BPC action is not a separate “project” for CEQA purposes but is a subsequent discretionary approval related to a previously approved project (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036); and

**WHEREAS**, the “non-appealable” category of development is supported by the record, including the plain language of Section 30715, the PMP (inclusive of Port Master Plan Amendment -No. 6-PSD-MAJ-41-11) , the District’s CDP Regulations and the characteristics of the Project; and

**WHEREAS**, the Project requires a non-appealable CDP and an application has been prepared for a non-appealable CDP to implement the Project; and

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

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

**WHEREAS**, the BPC considered the non-appealable CDP at the April 14, 2020 BPC meeting; and

**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. In general, the Project consists of the development, operation and maintenance of a “signature park”, referred to as Sweetwater Park, and associated habitat restoration, grading, landscaping, parking areas, and public amenities, including a multi-purpose shade structure, wildlife viewing facilities, walking and biking paths, play areas, and associated wayfinding signage, on the CVB.

3. The Project conforms to the land use designations of “Open Space,” “Park Plaza,” and “Promenade” for parcels SP-1, SP-3, S-2, and HP-1(N), and the Sweetwater District Precise Plan text and is therefore consistent with the certified

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PMP which includes, by reference, the Development Policies, the PAP, and the NRMP.

4. Pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR and Addendums, the BPC finds that the project does not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the FEIR and Addenda due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the FEIR and Addendums, (b) identifies significant impacts would not be more severe than those analyzed in the FEIR and Addenda, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, and (d) no changes to mitigation measures or alternatives have been identified or are required.

5. As conditioned, the BPC further finds that the Project is consistent with the certified PMP and Chapters 3 and 8 of the Coastal Act.

6. The BPC also hereby finds that the Project will enhance public access and public recreation by providing bayside recreation space, while limiting public access to certain areas of the shoreline to protect fragile coastal resources, as required by the certified PMP and CVBMP Development Policies and PAP.

7. The BPC's action complies with Section 87 of the Port Act which allows for public recreation uses and purposes, and the construction, maintenance, and operation of parks, public recreation facilities, and appliances incidental, necessary, or convenient for the promotion and accommodation of such uses. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed action is consistent with the Public Trust Doctrine.

8. 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 to issue a non-appealable CDP for the Chula Vista Bayfront Sweetwater Park Project.

APPROVED AS TO FORM AND LEGALITY:  
GENERAL COUNSEL

*Rebecca Harrington*

By: Assistant/Deputy

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PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 14<sup>th</sup> day of April 2020, by the following vote:

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

NAYS: None.

EXCUSED: None.

ABSENT: None.

ABSTAIN: None.

*Ann Moore*

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Ann Y. Moore, Chair  
Board of Port Commissioners

ATTEST:

*Donna Morales*

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Donna Morales  
District Clerk

