

RESOLUTION 2019-020

RESOLUTION DIRECTING STAFF TO NEGOTIATE AN AMENDMENT WITH SUNROAD HIE HOTEL PARTNERS, L.P. (SUNROAD) TO THE EXCLUSIVE NEGOTIATING AGREEMENT BETWEEN THE DISTRICT AND SUNROAD (SUNROAD ENA) FOR THE 7-ACRE ELBOW PARCEL ON EAST HARBOR ISLAND (ELBOW PARCEL) THAT REQUIRES SUNROAD TO SUBMIT IN 120 DAYS FROM THE EFFECTIVE DATE OF THE AMENDMENT TO THE SUNROAD ENA A REVISED SECOND SUBMITTAL PURSUANT TO SECTION 5(b) OF THE SUNROAD ENA WITH THE FOLLOWING CHANGES:

(I) DELETION OF THE REQUIREMENT IN SECTION 5(b)(i)(5) THAT THE PROPOSED DEVELOPMENT BE IN CONFORMANCE WITH THE SUNROAD HARBOR ISLAND HOTEL PROJECT & EAST HARBOR ISLAND SUBAREA PMPA REVISED FINAL ENVIRONMENTAL IMPACT REPORT, THE MITIGATION MONITORING AND REPORTING PROGRAM, AND FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS ADOPTED BY THE BOARD OF PORT COMMISSIONERS (BPC) ON MARCH 4, 2014 (COLLECTIVELY, 2013 EIR); AND

(II) ADDITION OF THE FOLLOWING CRITERIA IN SECTION 5(b):

- a) PROPOSED DEVELOPMENT WILL BE A HOTEL DEVELOPMENT WITH 450 TO 500 ROOMS BUILT IN ONE PHASE; AND**
- b) PROPOSED DEVELOPMENT HAS ONE OR TWO HOTEL BUILDINGS THAT CONTRAST EACH OTHER IN SCALE AND MASSING; AND**
- c) INTEGRATE PARKING FOR THE PROPOSED DEVELOPMENT INTO THE ELBOW PARCEL INTERIOR BY MINIMIZING ITS VISIBILITY FROM HARBOR ISLAND DRIVE; AND**
- d) PROPOSED DEVELOPMENT INCORPORATES TEMPORARY AND PERMANENT MINI DESTINATION AREAS THROUGHOUT THE ELBOW PARCEL THAT DRAWS THE PUBLIC TO AND THROUGH THE ELBOW PARCEL BY CREATING ACTIVATING USES, INCLUDING ON THE GROUND LEVEL; AND**

- e) **THE OPERATOR FOR THE HOTEL COMPONENT FOR THE PROPOSED DEVELOPMENT WILL BE AN UPSCALE HOTEL BRAND SIMILAR IN QUALITY AND AMENITIES TO AC HOTELS BY MARRIOTT, ELEMENT, ALOFT, HYATT PLACE, HYATT HOUSE, HILTON HOTELS & RESORTS, CURIO – A COLLECTION BY HILTON, TAPESTRY COLLECTION BY HILTON, OR SWISSOTEL; AND**
- f) **THE PROPOSED DEVELOPMENT INCORPORATES ANY OTHER CRITERIA RECEIVED FROM THE BPC AS PART OF FEEDBACK**

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 1 (Port Act); and

WHEREAS, at the July 14, 2015 Board of Port Commissioners (BPC) meeting, the BPC directed staff to issue a request for Statements of Interest, Qualifications and Vision (SOIQV) for the redevelopment of approximately 48 acres within the East Basin Industrial Subarea of Planning District 2; and

WHEREAS, at its October 6, 2015 meeting, the BPC directed staff to include an approximately 7-acre parcel of land north of the East Basin Industrial Subarea known as the “Elbow Parcel” (Elbow Parcel) resulting in a total approximately 55-acre redevelopment site on East Harbor Island (Site) for the SOIQV; and

WHEREAS, at the September 8, 2016 BPC meeting, the BPC divided development of the Site with the Sunroad ENA covering the Elbow Parcel and the OliverMcMillan Harbor Island, LLC Exclusive Negotiating Agreement (OM ENA) covering the remaining 48 acres of the 55-acre Site; and

WHEREAS, staff entered into the Sunroad ENA and OM ENA in Spring 2017; and

WHEREAS, the Sunroad ENA was for an initial term of nine months in large part due to Sunroad stating that it had a shovel-ready project that did not require a Port Master Plan Amendment (PMPA) and was ready to build; and

WHEREAS, staff has extended the Sunroad ENA seven times for a total of 420 days; and

WHEREAS, the negotiating period under the Sunroad ENA, originally scheduled to expire December 31, 2017, has been extended to February 24,

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2019; and

WHEREAS, the Port Master Plan (PMP) designates the Elbow Parcel for development of “a high quality hotel of approximately 500 rooms...sited to be responsive to views of San Diego Bay, the airport, and the downtown San Diego skyline. Maximum building heights establish consistency with aircraft approach paths. The hotel complex includes restaurant, cocktail lounge, meeting and conference space, recreational facilities, including piers, and ancillary uses” (PMP, page 53); and

WHEREAS, development of the Elbow Parcel is listed on the appealable project list as a “HOTEL COMPLEX: up to 500 rooms, restaurant, cocktail lounge, meeting and conference space; parking; landscape” (PMP, page 57); and

WHEREAS, Sunroad had two submittals under Section 5 of the Sunroad ENA with the (1) First Submittal requiring a preliminary project description, a preliminary site plan, and a preliminary development cost estimate and pro forma financial analysis; and (2) Second Submittal requiring a detailed project description, a detailed site plan, elevations, renderings, detailed development cost estimates and pro forma financial analysis; and

WHEREAS, based on the First and Second Submittals, Sunroad proposes a two-phased, dual-branded, 500 room hotel with the first phase comprised of 325 rooms and the second phase comprised of 175 rooms; and

WHEREAS, the BPC has provided feedback to Sunroad at multiple meetings since the Sunroad ENA commenced and Sunroad has continued to meet with staff to revise its proposed development to be consistent with the requirements under the Sunroad ENA; and

WHEREAS, staff has expressed its concerns to Sunroad that Sunroad's proposed development may not be consistent with the PMP because it includes multiple phases; and

WHEREAS, Sunroad's proposed development does not address all of the BPC's and staff's concerns discussed to date; and

WHEREAS, it is up to the BPC to interpret the language of the PMP and whether the proposed development may or may not be consistent with the PMP; and

WHEREAS, staff believes there is a path to achieving the mutual goals of the District and Sunroad through an amendment of the Sunroad ENA that deletes the requirement in Section 5(b)(i)(5) that the proposed development conform to the Sunroad Harbor Island Hotel Project & East Harbor Island Subarea PMPA

Revised Final Environmental Impact Report on file with the Office of the District Clerk bearing Document No. 61775, the Mitigation Monitoring and Reporting Program from the aforementioned Final Environmental Impact Report on file in the Office of the District Clerk bearing Document No. 61775, and Findings of Fact and Statement of Overriding Considerations adopted by the BPC pursuant to Resolution No. 2014-52 (collectively, the 2013 EIR) and incorporates certain criteria recommended by staff (detailed below) to address comments from the BPC and staff; and

WHEREAS, staff recommends Sunroad submit a hotel development with 450 to 500 rooms built in one phase for staff's and BPC's consideration; and

WHEREAS, staff recommends reducing the number of hotel buildings to one or two from three to address comments received from the BPC that the bulk of the three buildings spread across the Elbow Parcel has the effect of walling off the Bay; and

WHEREAS, staff recommends a better parking design that integrates with the Elbow Parcel and does not create an uninviting visual barrier to further reduce the walling off effect allowing the public to feel more welcome to cross through the Elbow Parcel; and

WHEREAS, staff recommends creating temporary and permanent mini destination areas throughout the Elbow Parcel to draw the public to and through the Elbow Parcel by creating pedestrian-oriented amenities and activating uses, including on the ground level; and

WHEREAS, staff recommends that Sunroad propose a proposed development for staff's and BPC's consideration that uses an upscale hotel brand such AC Hotels by Marriott, Element, Aloft, Hyatt Place, Hyatt House, Hilton Hotels & Resorts, Curio- a Collection by Hilton, Tapestry Collection by Hilton, or Swissotel; and

WHEREAS, staff recommends that Sunroad propose a proposed development for staff's and BPC's consideration that incorporates any other feedback received from the BPC during the February 12, 2019 BPC meeting; and

WHEREAS, staff recommends that the requirement in Section 5(b)(i)(5) that the proposed development be in conformance with the 2013 EIR be deleted since the 2013 EIR analyzed only 325 hotel rooms on the Elbow Parcel at a program level, analyzing the reasonable worst-case scenario at that time, and staff is proposing that the Sunroad ENA be amended to allow Sunroad to build a 450 to 500 room hotel on the Elbow Parcel, rather than the 325 rooms studied in the 2013 EIR; and

WHEREAS, at the February 12, 2019 BPC meeting, staff requested that

the BPC provide feedback to staff on the redevelopment of the Elbow Parcel and direct staff to negotiate an amendment with Sunroad to the Sunroad ENA that requires Sunroad to submit in 120 days from the effective date of the amendment to the Sunroad ENA a revised Second Submittal pursuant to the proposed revised Section 5(b) of the Sunroad ENA which includes the staff recommended deletion of Section 5(b)(i)(5) and the additions to Section 5(b) detailed above; and

WHEREAS, the BPC provided feedback to staff on the redevelopment of the Elbow Parcel and directed staff to amend the Sunroad ENA to require Sunroad to deliver in 120 days from the effective date of the amendment to the Sunroad ENA, an economic feasibility analysis to determine whether one or two hotel building(s) with 450 to 500 rooms is commercially feasible; and

WHEREAS, on a parallel track, the BPC directed District staff and Sunroad to work with California Coastal Commission (Coastal) staff to get a better understanding of Coastal staff's response to having two hotel buildings for the proposed development; and

WHEREAS, the BPC provided feedback to staff on the redevelopment of the Elbow Parcel and directed staff to amend the Sunroad ENA to require Sunroad to provide a bayside public promenade on the Elbow Parcel that will be completed concurrent with the hotel development to provide a continuous waterfront accessway and be sited in a manner that does not obstruct pedestrian flow; and

WHEREAS, the BPC provided feedback to staff on the redevelopment of the Elbow Parcel and directed staff to amend the Sunroad ENA to require that Sunroad provide financial participation in the Port shuttle system based on a fair share formula determined by the District; and

WHEREAS, the BPC provided feedback to staff on the redevelopment of the Elbow Parcel and directed staff to amend the Sunroad ENA to require that Sunroad site hotel building(s) to not block any view corridors designated on Sunroad's plans for the proposed development; and

WHEREAS, the BPC provided feedback to staff on the redevelopment of the Elbow Parcel and encouraged Sunroad to address a water mobility component as part of its proposed development;

WHEREAS, any and all feedback from the BPC will not be binding on the District, and the BPC reserves its sole and absolute discretion to approve or disapprove any project description for the Elbow Parcel, adopt all feasible mitigation measures, any project alternative, including the no project alternative and a Statement of Overriding Considerations, if applicable, in the future.

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

The BPC finds that its direction to staff on the redevelopment of East Harbor Island does not constitute an “approval” or a “project” under the California Environmental Quality Act (CEQA); the proposed BPC action complies with Section 87 of the Port Act and is consistent with the Public Trust Doctrine; and, the BPC action does not allow for “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit (CDP) Regulations.

THEREFORE, BE IT FURTHER RESOLVED, that the Executive Director or her designated representative is hereby directed to negotiate an amendment with Sunroad HIE Hotel Partners, L.P. (Sunroad) to the Exclusive Negotiating Agreement between the District and Sunroad (Sunroad ENA) for the development of the 7-acre Elbow Parcel on East Harbor Island (Elbow Parcel) that requires Sunroad to submit in 120 days from the effective date of the amendment to the Sunroad ENA a revised Second Submittal pursuant to Section 5(b) of the Sunroad ENA with the following changes:

(I) Deletion of the requirement in Section 5(b)(i)(5) that the proposed development be in conformance with the Sunroad Harbor Island Hotel Project & East Harbor Island Subarea PMPA Revised Final Environmental Impact Report on file with the Office of the District Clerk bearing Document No. 61775, the Mitigation Monitoring and Reporting Program from the aforementioned Final Environmental Impact Report on file in the Office of the District Clerk bearing Document No. 61775, and Findings of Fact and Statement of Overriding Considerations adopted by the BPC pursuant to Resolution No. 2014-52 (collectively, 2013 EIR); and,

(II) Addition of the following criteria in Section 5(b):

- a) Proposed development will be a hotel development with 450 to 500 rooms built in one phase; and
- b) Proposed development has one or two hotel buildings that contrast each other in scale and massing; and
- c) Integrate parking for the proposed development into the Elbow Parcel interior by minimizing its visibility from Harbor Island Drive; and
- d) Proposed development incorporates temporary and permanent mini destination areas throughout the Elbow Parcel that draws the public to and through the Elbow Parcel by creating activating uses, including on the ground level; and
- e) The operator for the hotel component of the proposed development will be an upscale hotel brand similar in quality and amenities to AC Hotels by Marriott, Element, Aloft, Hyatt Place, Hyatt House, Hilton Hotels &

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Resorts, Curio - A Collection by Hilton, Tapestry Collection by Hilton, or Swissotel; and

- f) In 120 days from the effective date of the amendment to the Sunroad ENA, Sunroad shall deliver to the District an economic feasibility analysis to determine whether one or two hotel building(s) with 450 to 500 rooms is commercially feasible. On a parallel track, District staff and Sunroad will work with California Coastal Commission (Coastal) staff to get a better understanding of Coastal staff's response to having two hotel buildings for the proposed development; and
- g) Proposed development will have a bayside public promenade on the Elbow Parcel that will be completed concurrent with the hotel development to provide a continuous waterfront accessway and be sited in a manner that does not obstruct pedestrian flow; and
- h) Sunroad will provide financial participation in the Port shuttle system based on a fair share formula determined by the District; and
- i) Sunroad will site hotel building(s) to not block any view corridors designated on Sunroad's plans for the proposed development; and
- j) While not part of the motion, the sense of the BPC was to encourage Sunroad to address a water mobility component as part of its proposed development.

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 February, 2019, by the following vote:

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

NAYS: None.

EXCUSED: Merrifield

ABSENT: None.

ABSTAIN: None.

RECUSED: Castellanos



Garry J. Bonelli, Chairman
Board of Port Commissioners

ATTEST:



Donna Morales
District Clerk

(Seal)