

Partnership Agreement for a
Conflict Prevention and Resolution Protocol

The San Diego Unified Port District & The California Coastal Commission



November 2020

Executive Summary

This document contains recommendations to increase and improve coordination and communication between the San Diego Unified Port District (District) and the California Coastal Commission (Commission).

The steps proposed in this document are designed to:

- Serve the missions of both agencies; and
- Ensure effective interagency collaboration in the delivery of public services to the people of California.

This document reflects a good faith effort by the agencies to move forward, improve understanding, and address important issues of mutual benefit and value. It must be noted that nothing in this document changes or supersedes official policy, guidance, or regulations of either agency. At the same time, successful implementation of this framework may result in updated policies and guidance to better reflect desired outcomes for improved partnering.

Pursuant to its vision and mission, the District is an innovative, global seaport courageously supporting commerce, community and the environment. The District will protect the Tidelands Trust resources by providing economic vitality and community benefit through a balanced approach to the maritime industry, tourism, water and land recreation, environmental stewardship and public safety.

The Commission's mission and commitment is to protect and enhance California's coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination.

The District and the Commission have a long history of working together to protect natural resources and to provide a thriving waterfront on public tidelands and access to California's coastline. This Partnership Agreement, published in 2020, describes and outlines how both agencies will improve coordination and elevate as necessary to prevent or resolve conflicts effectively and efficiently.

In 2020, Commission leadership was invited by Board of Port Commissioners (BPC) Chair Ann Moore to participate in two BPC Retreats to share perspectives on coastal zone priorities, sensibilities, and sensitivities with the BPC to inform and advance alignment between the agencies. The first meeting was held in January and a second in July with participation by Commission Chairman Steve Padilla at both meetings and Commission Executive Director John Ainsworth attended the second meeting. Participants from both agencies agreed that it would be worthwhile to invest in improved coordination and communication. With an eye on continuous improvement, both agencies discussed a variety of challenges, goals, and opportunities for improved coordination and communication at these meetings. One unanimous outcome from the meetings was to develop a way to proactively elevate issues to prevent and resolve conflicts between the agencies. The "Plan for Improved Agency Partnering," dated December 21, 2016 between the California Department of Transportation and Commission was provided by Commission leadership as an example and best practice and was used as an important reference in developing this document.

One of the biggest themes from the discussions was that earlier coordination, particularly in planning phases, could better guide future Port Master Plan amendments and coastal development permit projects consistent with coastal policies and thereby serve the goals of both agencies. The centerpiece of this document is a Conflict Prevention and Resolution Protocol (Protocol) that supports timely elevation of critical planning or coastal development permit issues related to the Port's highest priority plans and projects.

First, and among the most challenging of issues, is improved coordination and guidance as the Port advances Port Master Plan amendments, including its integrated Port Master Plan Update (PMPU) and other related legacy issues. The PMPU is the first comprehensive update to the Port Master Plan, since it was originally certified by the Commission in 1981. Additionally, the Port is concurrently advancing several other high-profile development projects, with associated Port Master Plan amendments and coastal development permits that would benefit from early input, guidance and the opportunity to elevate high priority issues.

A Protocol is established through this document as an additional way to improve working relationships and to ensure that a clear process is in place for when disagreements between the agencies prove difficult to resolve. Generally, the two agencies are able to come to agreement on projects and plans, even when the issues are complex and multi-dimensional. A core principle is to strive for staff-to-staff problem solving and minimize the number of conflicts requiring elevation. However, when elevation to higher levels is necessary to resolve a problem, the Protocol provides a clear, concise and progressive process that identifies who should be involved at each step.

This document contains recommendations to increase and improve coordination and communication, elevate priority permitting or planning items or items where unresolvable disputes have arisen at lower staff levels, continue to meet to monitor progress on these items, and set the tone for positive and constructive communication throughout all levels of both agencies. The Partnership Agreement in this document proposes a plan to solidify the commitments of both agencies to further improving our relationships as we move forward in carrying out our important statewide mandates.

Partnership Agreement for a Conflict Prevention and Resolution Protocol

Between

THE SAN DIEGO UNIFIED PORT DISTRICT

and

THE CALIFORNIA COASTAL COMMISSION

Preamble

We, the undersigned, support the ongoing Partnership between the San Diego Unified Port District (District) and the California Coastal Commission (Commission), hereinafter “Agency Partners,” on port-related, coastal issues and commit to furthering the process as outlined by the Conflict Prevention and Resolution Protocol.

Purpose and Objective

The purpose of this Partnership Agreement (Agreement) is to express leadership support for concerted, cooperative, effective, and collaborative work between the Agency Partners as they carry out their respective missions. Recognizing the correlation between healthy, accessible coastal resources/ecosystems and enhancing California’s economy and livability, the Agency Partners commit to planning and investment for long term sustainability.

Key objectives include achieving a higher-level understanding of each agency's statutory mandates and responsibilities and a better alignment of planning activities and decision making. This is intended to produce a more effective approach to satisfying Coastal Act requirements in the development of public tidelands entrusted to the District. This Agreement also supports implementation of each agency’s strategic plan and responsibilities.

Commitments

In the spirit of cooperation, and with the mutual understanding that this is a flexible working agreement between our respective agencies, and recognizing that commitments can only be carried out if adequate staffing resources are available, we hereby commit to the following:

1. Accept the Conflict Prevention and Resolution Protocol as a process to guide collaboration on planning and coastal development permit review.
2. Promote the integration of port, coastal, and environmental planning through participation in related activities (e.g. Port Master Plan Amendments and high-profile coastal development permit projects).

3. Provide clear leadership and guidance to integrate planning and coastal development permit review work by:
 - Agreeing to convene our executive management on an annual basis to share updates on progress under the Protocol, provide direction on next steps for the special initiatives, and offer suggestions regarding opportunities for future collaboration on issues of mutual concern.
 - Informing and involving all functional unit staff within each agency of the work and commitments.
 - Assign a lead person, within their respective agencies, who will ensure that the Protocol is appropriately integrated into the District's and the Commission's Partnership Agreement and be available for overall support and implementation of the Protocol.
4. Commit to quarterly staff meetings to discuss developing items and ensure early consultation on planning and regulatory matters within timelines that provide adequate time for Port and Commission staff to address significant issues.
5. Agree to the extent possible to resolve or narrow areas of disagreement before a planning or permit item is scheduled for a hearing before the Port Commission or the Coastal Commission.
5. Coordinate and collaborate on internal and external training and outreach to agency staff and respective stakeholders to support the purpose and objective of this partnership.
6. Consider new opportunities to improve agency procedures and practices to address process-based issues to enhance implementation of the Port Master Plan and Coastal Act.

Conflict Resolution

Objectives

Support collaborative work efforts to address issues consistent with State laws and resolve potential conflicts as early as possible. Minimize unproductive time, costs, and project delays associated with unresolved conflict.

1. Support problem solving at the lowest possible step and minimize the number of conflicts requiring elevation.
2. Identify a path for resolving policy-related conflicts in a timely manner to avoid lengthy disputes and seek positive direction to move forward.

Conflict Prevention

If issues arise amongst Port and Commission staff working on plans and permits, principles based on clear communication, respectful problem-solving, and commitment to resolution can help minimize conflict. Successful resolution can also speed processes and minimize exposure of both agencies to potential lawsuits.

Principles

The following principles should be applied in the resolution of disputes:

- The successful delivery of context-sensitive, Port plans and projects that ensure protection of resources, public trust lands, public access/recreation, Port assets and functions are primary goals of both agencies.
- Staff and/or agencies will focus on their common goals rather than differences.
- Win/win solutions to conflicts that are consistent with legal requirements should be sought.
- Timely, open and honest communication is essential to avoid and resolve conflicts
- Decisions should be sought and conflicts should be resolved through staff-to-staff engagement (Step 1 in the elevation process) as much as possible.

Strategies

General strategies for addressing and resolving disputes include:

- Give appropriate and prompt attention to disputes as they arise to avoid unnecessary escalation of problems.
- Acknowledge the conflict in neutral and non-accusatory terms.
- Identify areas of common ground and shared goals.
- Share collected data/information related to the conflict between parties.
- Attempt to answer any factual questions about the issue from either party.
- Review the applicable regulatory and statutory requirements and standards of review that apply to the situation.
- Listen carefully to each party's concerns and the basis for their position.
- Explore, evaluate and be open to alternatives and creative solutions,
- Discuss solutions that have been successful in past similar situations.
- Determine if an innovative solution for the present situation can meet the concerns of both parties.

Resolution Process

This progressive process seeks resolution at the lowest possible level and aims to prevent conflicts from languishing. If necessary, this process allows for elevation through subsequent steps to achieve final resolution on priority or legacy actions involving critical planning or coastal development permit issues. The full scope of this process (steps 1 through 4) is most appropriate for emerging critical planning or coastal development permit issues. Legacy critical planning or coastal development permit issues that predate this Protocol should be elevated to step 2 to support expediting resolution.

Step 1: Work at a staff-to-staff level to identify potential solutions and options for resolving issues using the commitments outlined for conflict resolution (see above).

Step 2: Elevate to the designated Port District Executive (e.g., Vice President): Commission District Managing Director.

Step 3: Elevate to the Port District President/CEO: Commission District Director.

Step 4: Elevate to Board of Port Commissioner's Ad Hoc Committee or Board designee, if applicable: District President/CEO and Commission Executive Director.

IN WITNESS THEREOF, the parties hereto have executed this Partnership Agreement as of October 27, 2020:

By:



RANDA J. CONIGLIO, PRESIDENT/CEO
SAN DIEGO UNIFIED PORT DISTRICT



JOHN AINSWORTH, EXECUTIVE DIRECTOR
CALIFORNIA COASTAL COMMISSION