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Title: INFORMATIONAL PRESENTATION AND UPDATE ON A PARTNERSHIP AGREEMENT FOR A CONFLICT PREVENTION AND RESOLUTION PROTOCOL BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND THE CALIFORNIA COASTAL COMMISSION

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Attachments: 1. 13. 2020-0389 Attachment A

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DATE: November 10, 2020

SUBJECT:

INFORMATIONAL PRESENTATION AND UPDATE ON A PARTNERSHIP AGREEMENT FOR A CONFLICT PREVENTION AND RESOLUTION PROTOCOL BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND THE CALIFORNIA COASTAL COMMISSION

EXECUTIVE SUMMARY:

This agenda item is an informational presentation that will provide an update and overview on the Partnership Agreement for a Conflict Prevention and Resolution Protocol (Agreement) between the San Diego Unified Port District (District) and the California Coastal Commission (Commission). The Agreement was created to increase and improve coordination and communication between the two agencies (Agencies). The Agreement is the result of two discussions between District and Commission leadership at two separate Board of Commissioner (BPC) workshops earlier this year and is modeled after a section in a similar agreement between the Commission and the California Department of Transportation (Caltrans).

The Agreement reflects a good faith effort by the Agencies to move forward, improve understanding, and address important issues of mutual benefit and value. The focus of the Agreement supports guiding Port Master Plan amendments and Coastal Development Permits (CDP) through early coordination, as well as the timely elevation of critical planning or CDP issues on the District's highest priority plans and projects. It must be noted that nothing in the Agreement 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.

RECOMMENDATION:

Receive the informational presentation and update on a Partnership Agreement for a Conflict Prevention and Resolution Protocol between the San Diego Unified Port District and the California Coastal Commission.

FISCAL IMPACT:

This proposed Board action has no fiscal impact.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.

DISCUSSION:

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 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 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 Caltrans 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 CDPs 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.

Additionally, the Agreement outlines commitments from the Agencies, conflict resolution objectives, conflict prevention principles and strategies, and a four-step conflict resolution process.

For more details, please see Partnership Agreement for a Conflict Prevention and Resolution Protocol between the San Diego Unified Port District and the California Coastal Commission (Attachment A).

General Counsel's Comments:

The Office of the General Counsel has reviewed this agenda sheet and attachments as presented to it and approve the same as to form and legality.

Environmental Review:

The Board presentation without limitation, on an Agreement for conflict prevention and resolution protocol between the District and the Commission, does not constitute an "approval" or a "project" under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of Board's direction that requires the District or the Board's discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a "no project alternative" or adopting a Statement of Overriding Consideration, if required. The current Board direction in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

In addition, this Board item 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 project is consistent with the Public Trust Doctrine.

The Board presentation 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 because they will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District's CDP Regulations. Future development, as defined in Section 30106 of

the Coastal Act, will remain subject to its own independent review pursuant to the District's certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The prospective Board's action in no way limits the exercise of the District's discretion under the District's CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachment(s):

Attachment A: Partnership Agreement for a Conflict Prevention and Resolution Protocol