



## Legislation Details (With Text)

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**Title:** RESOLUTION AUTHORIZING THE DISTRICT TO ENTER INTO A “MEMORANDUM OF UNDERSTANDING REGARDING MAJOR REGIONAL PROJECTS” WITH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS, SAN DIEGO County Regional AIRPORT AUTHORITY, AND CITY OF SAN DIEGO

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Date	Ver.	Action By	Action	Result
2/11/2020	1	Board of Port Commissioners	adopted	Pass

**DATE:** February 11, 2020

**SUBJECT:**

RESOLUTION AUTHORIZING THE DISTRICT TO ENTER INTO A “MEMORANDUM OF UNDERSTANDING REGARDING MAJOR REGIONAL PROJECTS” WITH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS, SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, AND CITY OF SAN DIEGO

**EXECUTIVE SUMMARY:**

The San Diego Unified Port District (District), San Diego County Regional Airport Authority (Airport Authority), San Diego Association of Governments (SANDAG), and City of San Diego (City) collaboratively developed a draft “Memorandum of Understanding Regarding Major Regional Projects” (MOU). The MOU addresses the Airport Authority’s use of best efforts to fund and obtain Federal Aviation Authority (FAA) approval of funding of certain mitigation measures identified in the Final Environmental Impact Report (FEIR) for the Airport Development Plan (ADP) Terminal 1 (T1) redevelopment project (collectively, ADP Project), including without limitation, a mitigation measure that addresses a potential outbound roadway if and when needed, a framework for obtaining FAA approval of future funding for transit to the San Diego International Airport (Airport) and future collaboration among the agencies. Any and all funding is subject to the prior approval of environmental analyses in accordance with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). Staff recommends that the Board of Port Commissioners (BPC) adopt a resolution authorizing the District to enter into the MOU.

## **RECOMMENDATION:**

Adopt a resolution authorizing the District to enter into a “Memorandum of Understanding Regarding Major Regional Projects” with the San Diego Association of Governments, San Diego County Regional Airport Authority, and City of San Diego.

## **FISCAL IMPACT:**

This agenda item has no fiscal impact.

## **COMPASS STRATEGIC GOALS:**

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

- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.

## **DISCUSSION:**

### *Airport ADP Project and Alternative 4*

In July 2018, the Airport released a Draft EIR for the Airport Development Plan (ADP) Project for public review. In summary the ADP Project included replacement of T1, 400,000 square feet of commercial development, a multi-use pedestrian and bicycle path from N. Harbor Drive, a dedicated in-bound roadway, internal circulation improvements, a 7,500 parking space parking garage, new Airport administration offices, Terminal 2 (T2) modifications overnight aircraft parking and staging, and an increase of 10 gates. Upon receiving public comments on that Draft EIR, the Airport Authority prepared and released a Recirculated Draft Environmental Impact Report (RDEIR) on September 19, 2019 for a 45-day review period.

The RDEIR included a new reduced project CEQA alternative - Alternative 4, T-1 Replacement and Transportation Improvements. This alternative excluded the 400,000 square feet of commercial development and the T2 modifications, reduced the proposed parking stalls to 5,500, and increased the number of new gates to 11. Alternative 4 also set aside of right-of-way for an outbound roadway for eastbound traffic on Airport property, included a dedicated shuttle service between the Old Town Transit Center and the Airport, had the potential to establish a rapid bus line to and from the Airport, and included a transit-ready set aside area to accommodate future transit to and from the Airport. The RDEIR also included Mitigation Measure MM-TR-LRP-2, which addressed future transit and mobility to the Airport.

The District submitted a comment letter to the Airport Authority, supporting Alternative 4 and Mitigation Measure MM-TR-LRP-2 with suggested revisions (see Attachment A). In January 2020, the Airport Authority published its Final EIR for the ADP Project, which, among other items, included revisions to Mitigation Measure MM-TR-LRP-2. After further discussions with Airport Authority, SANDAG and City staff, the District submitted a comment letter to the Final EIR supporting Airport Authority’s staff’s recommendation of adoption of Alternative 4 and the revised Mitigation Measure MM-TR-LRP-2 based on the District’s understanding of the revised mitigation measure (see Attachment B).

On January 9, 2020, the Airport Authority board certified the Final EIR, made CEQA findings and

adopted a Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program (MMRP). The Airport Authority board also adopted Alternative 4 - T1 Replacement and Transportation Improvement.

#### *Airport Connectivity Subcommittee*

The BPC and District staff have collaborated and engaged with other agency stakeholders for the last 14 months to identify potential mobility access and transit solutions to and from the Airport to accommodate the anticipated increased passengers. This effort was kicked off as a result of the Airport's circulation of the Draft EIR for the ADP Project.

Initiated in January 2019 by City of San Diego Mayor Kevin Faulconer after the Airport's circulation of a Draft EIR for the ADP Project, SANDAG established Airport Connectivity Subcommittee (Subcommittee) with representatives from the District, Airport Authority, City, County of San Diego (County), San Diego Metropolitan Transit System (MTS), North County Transit District (NCTD), and the California Department of Transportation (Caltrans). Its purpose was to study and develop recommendations for potential ground transportation access and mobility solutions, including transit solutions, to improve connectivity to and from the Airport.

The Subcommittee met six times from January 3, 2019 to September 25, 2019. Its members considered multiple sites for potential multi-modal transportation improvements to the Airport, including the Naval Information Warfare Systems Command's Midway Pacific-Highway Urban Village (NAVWAR) and an Intermodal Transportation Center (ITC) located across Pacific Highway from the San Diego International Airport Rental Car Center. The NAVWAR site is owned and operated by the United States Department of the Navy (Navy). In September 2019, SANDAG and the Navy entered into a Memorandum of Understanding to explore the possibility of establishing a central mobility hub located at the NAVWAR site. On January 23, 2020, SANDAG and the Navy entered into a second MOU that supplements the original MOU with an agreement to pursue a property transfer from the NAVY to SANDAG. The transfer would allow for constructing a new NAVWAR facility, evaluating the potential construction of a central transit station, and facilitating mixed use real estate development near the facility.

During its last meeting, the Subcommittee identified four concepts for improved regional Airport connectivity for further study. The concepts include three possible layouts for a central mobility hub with an automated people mover (APM) and a fourth concept with a direct trolley connection to the Airport. These four concepts also took into account the mobility concepts contained in the District's Port Master Plan Update (PMPU) discussion draft, including concepts for Harbor Drive that facilitate enhanced transit along the Embarcadero. The Subcommittee's final Airport Connectivity Analysis, which contains an in-depth discussion of the regional effort, is contained in Attachment C. On September 27, 2019, the SANDAG Board of Directors approved moving forward with further study and community outreach on the various concepts, with the goal of a future selection by the SANDAG Board of Directors of a locally preferred alternative to be studied pursuant to both CEQA and NEPA.

#### *Airline Operating and Lease Agreement*

During the time of the Subcommittee, the Airport Authority announced a ten-year airline operating and lease agreement (AOLA) that includes \$515 million in funding for mobility projects on and around the Airport during the term of the AOLA. This funding mechanism is also enshrined in the MOU. These funding elements include:

- A. An estimated \$165 million for an Inbound Roadway Project;
- B. Up to \$75 million for Off-Airport public transportation projects, without restriction;

- C. Up to \$125 million in funding for Off-Airport transportation projects with at least \$200 million in legally binding commitments from third-parties; and
- D. Up to an additional \$150 million for Off-Airport public transportation projects during the term of the AOLA, but only if additional non-Airport Authority funding of at least \$150 million (at least \$350 million in aggregate) has been secured through legally binding commitments from third-parties.

### *MOU*

During public circulation of the Draft EIR, staffs from SANDAG, the Airport Authority, City and District met to discuss next steps to get transit and mobility options to and from the Airport. The result of those discussions is the proposed MOU, attached as Attachment D. The key terms of the proposed MOU include:

- Airport Authority will work with the other agencies to identify and contribute AOLA funding for environmentally-entitled projects subject to FAA approval of the funding for off-Airport improvements;
- The Airport Authority will use best efforts to obtain FAA approval for funding certain mitigation measures in the Final EIR and MMRP, including Mitigation Measure MM-TR-LRP-2;
- The Airport Authority, City and Port will work with SANDAG collaboratively on potential future transit project(s) to the Airport and surrounding areas, identify potential funding mechanisms, and where feasible, make available areas for transit improvements subject to existing obligations;
- The parties will continue to collaborate and give feedback and work in good faith to resolve issues for other regional projects; and
- Under certain circumstances, SANDAG, the City and District covenant not to bring a CEQA or NEPA challenging the ADP Project.

### **General Counsel's Comments:**

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

### **Environmental Review:**

The proposed Board action to authorize a MOU between the District, SANDAG, Airport Authority and the City for major regional projects connected to the ADP Project, 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 the Board's action or 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.

The project complies with Section 87 of the Port Act, which allows for the establishment, improvement, and conduct of airport and heliport or aviation facilities, buildings, utilities, structures, and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation. Additionally, Section 87 also allows for the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of [air commerce and air navigation] uses. 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 proposed Board 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 because they will not result in, without limitation, a physical change, change in use or increase of 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 Board’s direction or 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.

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**Attachment(s):**

- Attachment A: District comment letter to the RDEIR
- Attachment B: District comment letter to the final EIR.
- Attachment C: SANDAG Airport Connectivity Subcommittee final connectivity analysis
- Attachment D: Interagency MOU