



Legislation Text

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SUBJECT:

MITSUBISHI CEMENT CORPORATION BULK CEMENT WAREHOUSE AND LOADING FACILITY PROJECT LOCATED IN WAREHOUSE C AT THE TENTH AVENUE MARINE TERMINAL, SAN DIEGO:

- A) ADOPT RESOLUTION CERTIFYING THE FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT FOR THE "MITSUBISHI CEMENT CORPORATION AT WAREHOUSE C: BULK CEMENT WAREHOUSE AND LOADING FACILITY PROJECT," ADOPTING FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING FILING OF THE NOTICE OF DETERMINATION;**
- B) ADOPT RESOLUTION GRANTING CONCEPT APPROVAL TO MITSUBISHI CEMENT CORPORATION FOR THE BULK CEMENT WAREHOUSE AND LOADING FACILITY PROJECT, CONDITIONED ON EXECUTION OF A LEASE OR DEFINITIVE AGREEMENT BETWEEN THE DISTRICT AND MITSUBISHI CEMENT CORPORATION;**
- C) ADOPT RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT TO MITSUBISHI CEMENT CORPORATION FOR THE BULK CEMENT WAREHOUSE AND LOADING FACILITY PROJECT, CONDITIONED ON EXECUTION OF A LEASE OR DEFINITIVE AGREEMENT BETWEEN THE DISTRICT AND MITSUBISHI CEMENT CORPORATION**

EXECUTIVE SUMMARY:

On June 15, 2015, Mitsubishi Cement Corporation (Mitsubishi), as the project applicant and project proponent, entered into a Conditional Agreement with the San Diego Unified Port District (District) for the potential operation of a cement import terminal at Warehouse C, a structure within District's ownership located at Tenth Avenue Marine Terminal (TAMT) (See Attachment B, Exhibit 1 Regional Map). On September 30, 2016, Mitsubishi, as the applicant and project proponent, submitted an application for their proposed "Mitsubishi Cement Corporation at Warehouse C: Bulk Cement Warehouse and Loading Facility Project" (Proposed Project or Project). The Project proposes to construct and operate a bulk cement warehouse and loading facility within Warehouse C on the TAMT. The Proposed Project would include two separate phases of improvements to Bays C-7 through C-10 of Warehouse C for the receipt, storage, and distribution of up to 600,000 metric tons per year (MT/yr) of cement and cementitious materials. The cementitious materials would be pneumatically unloaded into Warehouse C from dry bulk cargo ships using mobile vacuum unloaders. During peak operation, the Proposed Project would entail up to 24 vessel calls per year at Berths 10-7 and 10-8 of the TAMT. In January 2017, staff initiated the environmental review process pursuant to the California Environmental Quality Act (CEQA).

As lead agency under CEQA, the District determined that the Proposed Project falls under the broader scope of the Tenth Avenue Marine Terminal Redevelopment Plan (TAMT Plan) and its associated Final Program Environmental Impact Report (PEIR) that was certified by the Board in December 2016 by Resolution No. 2016-199 (*Tenth Avenue Marine Terminal Redevelopment Plan and Demolition and Initial Rail Component Final PEIR* (UPD #EIR-2015-39; Clerk Document Number 65901)). Consequently, the District prepared the *Mitsubishi Cement Corporation at Warehouse C Subsequent EIR* (SEIR) (UPD #EIR-2016-178; SCH #2017091051) that tiers from that Final PEIR.

The Final SEIR concluded that the Project, with the incorporation of applicable mitigation measures from the Final PEIR and outlined in the Proposed Project's Mitigation Monitoring and Reporting Program (MMRP) (Attachment A), would not result in new or more severe impacts than identified in the Final PEIR. The Final SEIR and MMRP have been prepared in accordance with CEQA, the State CEQA Guidelines, and the District's Guidelines for Compliance with CEQA. Copies of the Final SEIR and MMRP (as part of the Final SEIR) have been previously provided to the Board via a memorandum to the Board.

The project requires concept approval pursuant to BPC Policy No. 357. Additionally, pursuant to the District's Coastal Development Permit (CDP) Regulations and the California Coastal Act, the issuance of a Non-Appealable CDP is required. As conditioned, the Project is consistent with the certified Port Master Plan (PMP). However, the District and Mitsubishi continue to negotiate a lease for the Project site and hence, Mitsubishi does not have any property rights over the Project site. Consequently, staff is requesting the Board grant concept approval and authorize issuance of a Non-Appealable CDP, conditioned upon final execution of a lease or definitive agreement between the District and Mitsubishi. Pending execution of such lease or definitive agreement, the District is free to entitle other projects or enter into lease agreements or other real estate agreements for the Project site, which protects the Project site from sitting vacant.

Staff recommends the Board adopt a resolution to certify the Final SEIR, adopt the Findings of Fact and Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program, and direct filing of the Notice of Determination (NOD) with the County Clerk and State Clearinghouse. Staff further recommends the Board adopt a resolution granting concept approval, and adopt a resolution authorizing the issuance of a Non-Appealable CDP, conditioned on execution of a lease or definitive agreement between the District and Mitsubishi.

RECOMMENDATION:

Mitsubishi Cement Corporation Bulk Cement Warehouse and Loading Facility Project located in Warehouse C at the Tenth Avenue Marine Terminal:

- A) Adopt resolution certifying the Final Subsequent Environmental Impact Report for the "Mitsubishi Cement Corporation at Warehouse C: Bulk Cement Warehouse and Loading Facility Project," adopting Findings of Fact and Statement of Overriding Considerations and adopting Mitigation Monitoring and Reporting Program, and directing filing of the Notice of Determination.
- B) Adopt resolution granting concept approval to Mitsubishi Cement Corporation for the Bulk

Cement Warehouse and Loading Facility Project, conditioned on execution of a lease or definitive agreement between the District and Mitsubishi Cement Corporation.

- C) Adopt resolution authorizing issuance of a Non-Appealable Coastal Development Permit to Mitsubishi Cement Corporation for the Bulk Cement Warehouse and Loading Facility Project, conditioned on execution of a lease or definitive agreement between the District and Mitsubishi Cement Corporation.

FISCAL IMPACT:

The Board's actions will have no direct fiscal impact to the District. Mitsubishi will be responsible for all costs associated with the Project. Furthermore, Mitsubishi has been subject to cost recovery fees in accordance with BPC Policy No. 106, Cost Recovery User Fee Policy.

Issuance of the Coastal Development Permit and Concept Approval are conditioned on execution of a lease or definitive agreement between the District and Mitsubishi. The Project is anticipated to generate lease revenue that includes flat rent payments initially for two warehouse bays and a Minimum Annual Guarantee (MAG). Once the MAG has ramped up in year three of the Lease, the minimum annual revenue to the District would be nearly \$1 million annually.

COMPASS STRATEGIC GOALS:

The Proposed Project is the first large-scale project proposed by a third-party applicant at TAMT since certification of the Final PEIR in December 2016 and is the first project to tier from the Final PEIR. The TAMT Plan was developed to modernize the TAMT by increasing terminal efficiency and cargo handling capability, advancing clean technology, and enhancing public / private partnerships in a comprehensive and holistic manner to facilitate growth of the District's maritime business.

This agenda item supports the following Strategic Goals.

- A thriving and modern maritime seaport
- A Port with a healthy and sustainable bay and its environment.
- A Port that is a safe place to visit, work and play.
- A financially sustainable Port that drives job creation and regional economic vitality

DISCUSSION:

Background

In December 2016, the Board certified the Final PEIR for the TAMT Plan and adopted the Sustainable Terminal Capacity (STC) Alternative identified in the PEIR, which translates into approximately 75% of the TAMT Plan's Maximum Practical Capacity (MPC) for throughput of all cargo types. The TAMT Plan superseded the 2008 Maritime Business Plan and provides greater flexibility to meet future market conditions at TAMT. The TAMT Plan recommended reconfiguring TAMT's existing footprint to create operational cargo nodes focused on handling three primary commodities: refrigerated containers, multi-purpose break bulk, and dry bulk. The TAMT Plan

grouped similar cargos together by node in order to generate operational efficiencies, increase safety, and present an opportunity to incentivize public-private investments and technological innovations. The TAMT Plan also included a variety of infrastructure improvements phased over time to accommodate the projected increase in TAMT capabilities and capacity (see Attachment B, Exhibit 2 Aerial View of TAMT and Mitsubishi Project Site).

The Final PEIR analyzed the TAMT Plan's development concepts, cargo throughput, and infrastructure improvements in a holistic and comprehensive manner and identified mitigation measures commensurate with the TAMT Plan's significant environmental impacts by primarily linking mitigation measures to the amount of cargo throughput or the number of vessels calls each year. The Final PEIR was designed to allow future projects to tier from the PEIR through subsequent CEQA documents. This positioned the District to shorten the entitlement period for implementation of future projects identified to be within the scope of the broader TAMT Plan.

Since certification of the Final PEIR, the Board has adopted two CEQA Addenda to the PEIR. The first Addendum to the Final PEIR was approved in July 2017 to address minor modifications based on the final engineering design of the Demolition and Initial Rail Component (adopted by the Board by Resolution No. 2017-100, SCH #2015031046; Clerk Document No. 67004). The modifications included larger on-terminal office facilities, elimination of a potential third airbrake system from the project, and additional quantities of soil excavation, as well as the addition of project-specific details for stormwater and conduit/electrical improvements programmatically identified in the Final PEIR. The second Addendum to the Final PEIR was approved in April 2018 to implement and install a renewable energy microgrid (adopted by the Board by Resolution No. 2018-061, SCH # 2015031046; Clerk Document No. 68288) to satisfy a portion of PEIR Mitigation Measure GHG-6. As analyzed in the PEIR, Transit Shed #1 has now been demolished and the area is used for more efficient cargo movement and temporary cargo laydown. Transit Shed #2 demolition is underway and is anticipated to be complete by summer 2020. All other conditions at TAMT described in the Final PEIR remain the same.

On December 19, 2019, the District released for public review the Draft Subsequent EIR (SEIR) for the Proposed Project which is titled "Mitsubishi Cement Corporation at Warehouse C: Bulk Cement Warehouse and Loading Facility." The Draft SEIR was available for a 57-day public review period which began on December 19, 2019 and ended on February 14, 2020.

Conditional Agreement

In June 2015, the Board adopted an ordinance granting a Conditional Agreement to Mitsubishi to construct and operate a cement import terminal in up to three bays in Warehouse C, at TAMT. The Conditional Agreement outlines the framework necessary for Mitsubishi to obtain the appropriate entitlements for operation of a cement import terminal. Should Mitsubishi meet the conditions set forth in the Conditional Agreement, including CEQA review and the Board's approval of the Project, a lease would be granted to Mitsubishi. In September 2017, the Board adopted an ordinance granting Amendment No. 1 to extend the term of the Conditional Agreement and update the business terms to allow Mitsubishi to increase the size of the leased premises from three bays (150,000 square feet) to a potential of four bays (192,000 square feet) so that Mitsubishi may either import a second type of product (slag or fly ash) or import larger volumes of cement. Amendment No. 1 also extended the term of the Conditional Agreement through December 31, 2018 and included one, six-month option to extend the term through June 30, 2019. Subsequently, Amendment No. 2 to the Conditional

Agreement was administratively executed in September 2018 pursuant to the Board of Port Commissioners Policy No. 355 to clarify the terms by which Mitsubishi would be allowed to exercise their six-month option to extend through June 30, 2019. On February 25, 2019, the Board adopted an ordinance granting Amendment No. 3 to extend the term by one year, through June 30, 2020 to allow time to process the SEIR in accordance with CEQA.

In February 2020, the Board adopted an ordinance amending the Conditional Agreement (Amendment No. 4) providing Mitsubishi two, six-month options to extend the Agreement. The time extension allows Mitsubishi the time to complete the EIR process and fulfill the remaining conditions precedent in the Conditional Agreement which include, but are not limited to, finalizing the construction drawings, obtaining all appropriate permits, and securing a construction contract. After Mitsubishi has fulfilled the remaining conditions precedent in the Conditional Agreement, the District and Mitsubishi would execute a lease or definitive agreement that includes the business terms contained in the Conditional Agreement which have been previously approved by the Board.

Proposed Project

Most of the cementitious material used within San Diego County is currently trucked in from outside the County's jurisdictional boundaries. This includes cementitious material shipped primarily from foreign sources to other U.S. ports. In 2016, Mitsubishi submitted a proposal for the Proposed Project to construct and operate a state-of-the-art cement and cementitious material import, storage and distribution facility on the TAMT. The proposed improvements would be constructed on the west end of the existing Warehouse C and at Berths 10-7 and 10-8 along the south side of the TAMT (See Attachment B, Exhibit 1, Project Site Map). These improvements would allow Mitsubishi to receive delivery and provide for the storage and distribution of up to 600,000 MT/yr of cementitious material to meet current and future cement demand in the greater San Diego region. The facility would reduce the amount of cementitious material trucked in from outside the local area, while utilizing existing berths and warehouse facilities on the TAMT.

The Project, as proposed, would be located within Bays C-7 through C-10 on the western end of Warehouse C. Bays C-7 and C-9 of Warehouse C are currently vacant, while Bays C-8 and C-10 are occupied by a District tenant and used for the storage of bauxite. The combined gross floor area of all four bays is 192,000 square feet. The cementitious material would be pneumatically unloaded into Warehouse C from dry bulk cargo ships that would be docked at Berths 10-7 and 10-8 by using up to two 400 MT mobile vacuum unloaders.

Two vessel unloading options and two truck loading options were analyzed in the SEIR. Both vessel unloading options involve the use of 400 MT mobile vacuum unloaders; the options relate to the pipeline carrying materials from the ships to the warehouse being below (Unloading Option 1) or above (Unloading Option 2) ground pipelines. Mitsubishi desires and staff recommends the underground Unloading Option 1 pipeline. The truck loading options include modifications to Warehouse C to load the trucks inside the warehouse (Loading Option A), or to install the truck loading mechanical equipment and truck scales immediately adjacent to, but outside of Warehouse C (Loading Option B). Mitsubishi desires and staff recommends approval of the external truck Loading Option B. Staff is recommending the below ground pipeline and external truck loading options because they minimize interference with Terminal operations and are more efficient operationally. Further, the environmental analysis did not reveal that one option is superior to another in terms of Air Quality, Greenhouse Gas or other environmental considerations. Under any of these options,

operational throughput of materials and other operational characteristics would remain the same.

Construction

Construction of the Proposed Project would occur in two phases (Phase I and Phase II) and take an estimated 7-10 months to complete each phase. The discussion below reflects the recommended pipeline and truck loading options discussed immediately above.

Phase I improvements would include installation of the underground unloading pipeline (approximately 150 feet) and electrical conduit to support ship-to-shore power and two 400 MT mobile vacuum unloaders. Improvements to Bays C-7 and C-9 include sealing the storage bays to prevent cementitious material loss through joints and seams; installing piping to each bay to pneumatically transfer cementitious material and upgrading the structural elements of the roof of Warehouse C to accommodate the roof-mounted piping and equipment. The warehouse floor would be excavated, compacted, and filled with structural fill and capped with reinforced concrete to support equipment and cementitious material. Electrical tie-ins and upgrades are also anticipated to support project operation.

Truck loading equipment and scales also requires excavation that would be compacted and capped with reinforced concrete with up to 40 support piles per truck loadout. The truck loading rack outside Bay C-7 will be equipped with a 200 MT silo with dust control truck loading spouts. To mechanically transfer cementitious material from the warehouse bays to the truck loading silos, a reclaim hopper, air slide, screw conveyor, and bucket elevator will be installed. Additionally, two 26,000 cubic feet per minute dust collectors will be installed to control dust emissions from the storage bays and truck loading racks.

Phase II improvements to Bays C-8 and C-10 would begin three years after Phase I is operational. These improvements (except for the installation of underground piping, which only would occur during Phase I improvements) would be identical to those undertaken for Bays C-7 and C-9, including an additional truck loading rack, and would also require approximately 7-10 months to construct. The roof height of Warehouse C would remain unchanged; however, the equipment added to the roof would have a total maximum height of approximately 75 feet above grade, or approximately 40 feet above the warehouse roof.

Because the Proposed Project's construction would be undertaken in phases, its implementation would also involve the installation of temporary construction modular buildings and utilities within Warehouse C, and their removal upon completion of construction of Phase II. Construction materials would be stockpiled within different bays in Warehouse C.

The estimated maximum number of onsite construction personnel would be 50 over one shift. Construction staging would occur within the TAMT and would avoid existing operations. The workforce is expected to be drawn from the local region.

Operation

Project operation will be phased consistent with the phased construction. Phase I operations have an estimated maximum loading, storage, and distribution capacity of 600,000 MT/yr. At the conclusion of Phase II construction, the maximum annual throughput remains the same (600,000 MT/yr); however, the additional equipment and storage allows for flexible operations and improved ability to respond to

seasonal and other market fluctuations. The Project's maximum 600,000 MT annual throughput is considered new throughput but remains within the total estimated dry bulk throughput of 1,987,500 MT/yr that was analyzed within the certified PEIR as part of the approved STC Alternative for TAMT.

The facility would generate approximately 24,000 round-trip truck trips annually at full, year-round operation. As such, it is anticipated that during average operations, approximately 67 total truck trips per day may occur; peak days may experience up to 176 total truck trips when maximum truck loading operations are fully functional (Phase II is constructed and operational). However, there is no guarantee that maximum truck loading operations will occur.

The Proposed Project would add up to 24 vessel calls per year at Berths 10-7/10-8. Depending on market availability, the origins of the vessels are anticipated to include Asia, South America, Mexico, or elsewhere. The vessels would be dry-bulk ocean-going vessels with a minimum holding of 20,000 MT to a maximum holding capacity of 40,000 MT of deadweight tonnage (DWT). At maximum operation, it is anticipated that each vessel would be at berth for 168 hours (7 days), and that two 400 MT unloaders would be used. The vessels would hotel at the berths continuously; however, actual unloading activities would occur for up to 20 hours per day in two work shifts.

The Proposed Project always requires one full-time supervisor and up to three maintenance staff workers for a total of four onsite workers. Vessel unloading and truck loading operations are considered independent activities that may either occur at different times or simultaneously. During truck loading operations, up to three additional workers would be required, for a total of seven onsite workers per shift. During ship unloading operations, up to 16 workers per shift would be required. When vessel unloading and truck loading occur at the same time, up to 20 workers would be required, for a total of 24 onsite workers per shift for two shifts per day. During simultaneous operations, the Proposed Project would operate up to 20 hours per day for marine vessel unloading in two shifts for dock workers and 24 hours per day for Mitsubishi staff for truck loading.

The Proposed Project is intended to service the San Diego region. The exact locations served would be dependent on customer needs, but trucks are expected to travel between the Project site and the Riverside County line. Customers beyond the Riverside County line are expected to be more efficiently supplied by other sources of cement. The truck fleet visiting the Project site would comply with the District's Clean Truck Program, which requires all trucks visiting the District to meet the California Air Resources Board's (CARB's) emissions standards. Additionally, Mitsubishi has committed and the CDP will require as project mitigation (Mitigation Monitoring and Reporting Program mitigation measures MM-AQ-10 and MM-GHG-10), that 90 percent of trucks loading cement or cementitious material will be equipped with a 5-Year old Engine (or verifiable equivalent engine), which exceeds both CARB requirements and the Districts Climate Action Plan as an above and beyond action in effort to reduce diesel emissions. All trucks entering and leaving TAMT are required to follow the City of San Diego's designated truck routes when accessing and exiting TAMT to minimize effects on the surrounding community.

Dry bulk vessels are not typically equipped with shore power connections like refrigerated vessels or cruise ships. Moreover, while under consideration for regulation, CARB has not yet implemented regulations requiring dry bulk vessels to use shore power systems. However, for Project operations, the dry bulk vessels will utilize a non-traditional shore power system while at berth. The non-traditional shore power system is based on a method of connecting the ships dry-dock breaker to

shore-based connections via cables. The dry-dock breaker is the connection aboard the ship that allows the ship to receive shore power when the ship is berthed or dry-docked for maintenance. While at berth, the vessels will use shore power at an annual average rate of 50 percent of hoteling time (e.g., 84 hours on shore power and 84 hours on auxiliary engines per call).

Cement unloading occurs in two phases. During the free digging phase, the shore-side (electric) vacuum unloader removes most of the cement from each hold of the ship. During this period, power needs are low (e.g., lights, fans) and can be handled by the non-traditional shore power system. During the clean-out phase, a payloader is placed in the first hold and gathers up remaining materials for the vacuum unloaders. The payloader is then moved about the holds using the on-board cranes. The cranes require more power than the dry-dock breaker can provide, so the shore power is disconnected, and the ship's auxiliary engines are turned on to provide the power needs.

The operational lifetime of the Proposed Project is anticipated to be 15 years following District approval of a lease. The proposed term of that agreement is anticipated to have an initial five (5) year term, with two five (5) year options to extend, for a maximum total of 15 years.

Subsequent Environmental Impact Report

As lead agency under CEQA, the District determined that the Proposed Project falls within the broader scope of the Tenth Avenue Marine Terminal Redevelopment Plan (TAMT Plan) and the associated *Final Environmental Impact Report: Tenth Avenue Marine Terminal Redevelopment Plan and Demolition and Initial Rail Component* (TAMT Final PEIR; ICF 2016) certified by the Board of Port Commissioners (Board) in December 2016 (UPD #EIR-2015-39; State Clearinghouse #2015031046; Clerk Document Number 65901). The District has prepared the SEIR to evaluate environmental impacts associated with the implementation of the Proposed Project.

The Proposed Project differs from the dry bulk project component analyzed in the Final PEIR in that it includes dry bulk operations for a maximum of 15 years at Warehouse C, which was proposed to be demolished to make way for a multipurpose general cargo area under the TAMT Plan and analyzed in the PEIR. The Final PEIR identified a consolidated dry bulk operating node located on approximately 15 acres in the southeastern portion of the TAMT (known as the terminal "backlands"). The dry bulk facility analyzed in the Final PEIR was an up to a 100,000-square-foot horizontal structure and/or an equivalent vertical storage facility that would be designed to store dry bulk products. However, this Proposed Project's upgrades to Warehouse C serve the same purpose at a slightly different location and would require less new infrastructure while maintaining the possibility of demolishing Warehouse C later, after the lease's expiration or termination. The TAMT Plan's long-term program for the dry bulk operating node remains planned to be in a consolidated facility on "backlands" of the TAMT.

The Proposed Project's dry bulk cargo throughput of up to 600,000 MT/yr is within the scope of the 1,987,500 MT/yr of dry bulk throughput analyzed in the PEIR. None of TAMT's 1,987,500 MT/yr dry bulk capacity has been drawn down. At the time of PEIR certification, the existing dry bulk cargo throughput already taking place at TAMT was 289,864 MT/yr. As such, after the 600,000 MT/yr associated with the Proposed Project is accounted for, 1,097,636 MT/yr remain available for future dry bulk projects.

The content and format of the Draft SEIR are designed to meet the requirements of CEQA (Public

Resources Code Section 2100 et seq.), and State CEQA Guidelines Article 9 and associated sections, as well as the District's CEQA Guidelines. The SEIR evaluates the environmental impacts associated with the implementation of the Proposed Project and determines if any new or more severe environmental impacts could result from the implementation of the Project than what was evaluated in the PEIR. The SEIR recommends the mitigation measures from the PEIR that would apply to the Proposed Project to avoid or lessen significant adverse effects and evaluates if any new or modified mitigation measures are required.

Project Objectives

In accordance with Section 15124(b) of the CEQA Guidelines, the following objectives were identified for the Proposed Project in the Final SEIR:

- Establish a terminal facility in the San Diego region to receive delivery and provide for the storage and distribution of up to 600,000 MT/yr of cementitious materials to meet current and future cement demand in the greater San Diego region.
- Eliminate or substantially reduce truck trips and distances from other more distant ports which presently deliver cementitious material necessary to serve the San Diego region.
- Establish a facility with onsite storage capacity sufficient to provide for the efficient offloading of bulk ships delivering cementitious materials and loading of bulk cement trucks.
- Establish an efficient, state-of-the-art facility that is sufficiently flexible to allow for unloading separate storage, and distribution of a diverse range of cementitious products, including, but not limited to, cement, slag, fly ash, and pozzolans, which, in turn, facilitates the use of more environmentally sustainable concrete.
- Establish a cementitious import operation facility at TAMT that is consistent with anticipated dry bulk throughput and operational capacities in the TAMT Plan under the Sustainable Terminal Capacity Alternative, adopted by the District while maintaining environmental sustainability.
- Utilize existing berths and Port infrastructure and, in doing so, optimize the use of land and identify improvements and upgrade infrastructure necessary for the Proposed Project, consistent with the objectives of the TAMT Plan.

Notice of Preparation & Scoping Meeting

On September 18, 2017, a Notice of Preparation (NOP) was published, which included an Initial Study determining that a Draft SEIR would be needed to evaluate potentially significant impacts to: Air Quality and Health Risk; GHG Emissions; Hazards and Hazardous Materials; Noise and Vibration; and Transportation, Circulation and Parking. Conversely, the Initial Study determined that the Project would result in a "less than significant" impact with no mitigation required for aesthetics, agriculture and forestry resources, biological resources, cultural resources, energy, geology and soils, hydrology and water quality, land use and planning, mineral resources, population and housing, public services, recreation, tribal cultural resources, utilities, and wildfire; therefore, these

resource areas were not further evaluated in the SEIR.

On September 27, 2017, the District held a public scoping meeting at the District Administration Building. In response to the NOP solicitation and scoping meeting, the District received nine comment letters from the following agencies and organizations: State Clearinghouse and Planning Unit (Governor's Office of Planning and Research), City of San Diego Planning Department, California Department of Transportation, the Native American Heritage Commission, California Department of Toxic Substances Control, City of San Diego Fire-Rescue Department, Environmental Health Coalition, San Diego Port Tenants Association, and the Working Waterfront Group. Afterward, a Draft SEIR was prepared for the Project and was circulated for a 57-day public review period, which began on December 19, 2019 and ended on February 14, 2020.

Draft SEIR

The Draft SEIR examined the potential environmental effects of the Proposed Project, including information related to existing site conditions, analyses of the types and magnitude of individual and cumulative environmental impacts, and feasible mitigation measures that could reduce or avoid environmental impacts. In accordance with Appendix G of the State CEQA Guidelines, and guided by the results of the Initial Study and Scoping Meeting, the potential environmental effects of the Proposed Project were analyzed for the following areas:

- Air Quality and Health Risk
- Greenhouse Gas Emissions and Climate Change
- Hazards and Hazardous Materials
- Noise and Vibration
- Transportation, Circulation, and Parking

Within the Executive Summary of the Draft SEIR, Table ES-4 summarizes all potential impacts associated with the Proposed Project, and the recommended mitigation measures to reduce significant impacts to a level of less than significant, where applicable.

In affirmation of the Initial Study, impacts on aesthetics, agriculture and forestry resources, biological resources, cultural resources, energy, geology and soils, hydrology and water quality, land use and planning, mineral resources, population and housing, public services, recreation, tribal cultural resources, utilities, and wildfire are considered to be "Effects Found Not to be Significant," in accordance with Section 15128 of the State CEQA Guidelines.

The Draft SEIR found that with incorporation of applicable mitigation measures as identified in the TAMT Final PEIR MMRP, and inclusion of new feasible mitigation measures, implementation of the Proposed Project would not create any new or more severe impacts than those previously identified in the TAMT PEIR in the following CEQA resource areas and their sub-considerations:

- Air Quality and Health Risk
 - Violate Air Quality Standards
 - Sensitive Receptors
 - Cumulatively Considerable Criteria Pollutant Contribution under an Ambient Air Quality Standard

- Cumulative Air Quality and Health Risk;
- Greenhouse Gas Emissions
 - Directly or Indirectly Generate Greenhouse Gas Emissions
 - Cumulative Greenhouse Gas Emissions and Climate Change;
- Hazards and Hazardous Materials
 - Potential Hazard to the Public or the Environment Through Reasonably Foreseeable Upset and Accident Conditions
 - Cumulative Hazards and Hazardous Materials;
- Noise and Vibration
 - Exceed an Adopted Noise Standard
 - Cumulative Noise and Vibration; and
- Transportation, Circulation and Parking
 - Conflict with an applicable Plan
 - Ordinance or Policy Establishing Measures of Effectiveness for the Performance of the Circulation System
 - Insufficient Parking Supply Cumulative Transportation, Circulation and Parking.

The Draft SEIR further disclosed, similar to what was described in the TAMT PEIR, that even with incorporation of applicable mitigation measures from the PEIR in combination with the Draft SEIR mitigation measures, the Project would have “Significant and Unavoidable” environmental impacts on the following resource sub-considerations:

- Greenhouse Gas Emissions and Climate Change
 - Project inconsistency with statewide plans, policies and regulations, Cumulative GHG Emissions
- Transportation, Circulation and Parking
 - Project conflicts with an Applicable Program, Plan, Ordinance or Policy and Cumulative Transportation and Circulation.

GHG emissions would be reduced with the implementation of all feasible mitigation measures and be on a downward trajectory through the life of the Proposed Project, but not below a level of significance because there is no certainty that the Proposed Project’s GHG emissions, even after being reduced by the implementation of mitigation measure(s), would represent its fair share of the requisite reductions to achieve statewide post-2020 targets in 2025, 2030, and 2035. Consequently, the Proposed Project may result in insufficient progress toward long-term local, regional, and statewide reduction targets.

In addition to complying with local, regional, state and federal regulations, plans and programs related to GHG emission reduction, an additional 10 mitigation measures are required to be implemented by the Proposed Project, and/or the District as the TAMT operator. All mitigation measures are described in Table 2-1 of Chapter 2, Executive Summary, of the Final SEIR, with the

full complement of implementing information within the MMRP. The mitigation measures which have been revised (indicted by an “R” following the mitigation number) from the TAMT PEIR to address the significant impacts of the Proposed Project are listed below:

- **MM-GHG-1R:** Implement Diesel-Reduction Measures During Construction and operations of Future TAMT Plan Components
- **MM-GHG-2R:** Comply with San Diego Unified Port District Climate Action Plan Measures
- **MM-GHG-3:** Electric Cargo Handling Equipment Upgrades
- **MM-GHG-4:** Electric Cargo Handling Equipment Upgrades
- **MM-GHG-5R:** Implement Vessel Speed Reduction Program Beyond Climate Action Plan Compliance for Future Operations Associated with the TAMT Plan
- **MM-GHG-6R:** Implement a Renewable Energy Project or other verifiable actions or activities on Tidelands or Purchase the Equivalent Greenhouse Gas Offsets from a California Air Resources Board Approved Registry or a Locally Approved Equivalent Program for Future Operations Associated with the TAMT Plan
- **MM-GHG-7R:** Annual Inventory Submittal and Periodic Technology Review
- **MM-GHG-8R:** Implement an Exhaust Emissions Reduction Program at the Tenth Avenue Marine Terminal
- **MM-GHG-9R:** Use of At-Berth Emission Capture and/or Control System to Reduce Vessel Emissions
- **MM-GHG-10:** Modernization of Delivery Truck Fleet

Regarding the significant and unavoidable impacts to the transportation system, the 176 peak daily truck trips generated at maximum throughput operation of the Proposed Project would be within the truck trip volumes analyzed in the TAMT Final PEIR. As a result, operation of the Proposed Project would not result in any new or more severe significant impacts on study area roadway segments or intersections compared to what was previously disclosed in the TAMT Final PEIR.

Implementation of **MM-TRA-3R** would reduce the Proposed Project’s contribution to the overall significant impact from TAMT Plan buildout on the segment of 28th Street between Boston Avenue and National Avenue. Implementation of this roadway improvement would improve the traffic operations at this affected roadway segment to LOS C level, which would reduce this impact to less than significant.

Similarly, implementation of **MM-TRA-4** would reduce the overall significant impact from TAMT Plan buildout on the Norman Scott Road/32nd Street/Wabash Boulevard intersection by adding a westbound right-turn overlap phase. Implementation of this improvement would improve the traffic operations at this affected intersection by reducing the delay to a less-than-significant level.

However, as identified in the TAMT Final PEIR, the timing and implementation of the necessary improvement to the roadway segment of 28th Street between Boston Avenue and National Avenue (**MM-TRA-3R**) is within the exclusive jurisdiction of the City of San Diego and not the District. Similarly, the design and implementation of the necessary improvement to the Norman Scott Road/32nd Street/Wabash Boulevard intersection is within the exclusive jurisdiction of the California Department of Transportation, not the District.

As such, because the design and implementation of the physical improvements of mitigation

measures **MM-TRA-3R** and **MM-TRA-4** are within the jurisdiction and control of other public agencies and not the District, the District cannot guarantee that the necessary improvements will be constructed as needed and is considered significant and unavoidable.

Although in some instances the mitigation measures may substantially lessen these unavoidable environmental impacts, adoption of the mitigation measures will not fully avoid these impacts and a “Statement of Overriding Considerations” is required in order to approve the Proposed Project. A Statement of Overriding Considerations allows a lead agency to determine that specific economic, social or other expected benefits of a project outweigh its potential unavoidable significant environmental risks.

Project Alternatives

State CEQA Guidelines require EIRs present a range of reasonable alternatives that could meet most of the Project’s basic objectives, but that would avoid or substantially lessen one or more significant environmental impacts. Where a project will result in some unavoidable significant environmental impacts even after application of all feasible mitigation measures identified in an EIR, the lead agency must evaluate the project alternatives identified in the EIR. Under such circumstances, the lead agency must consider the feasibility of alternatives to the project that could avoid or substantially lessen the unavoidable significant environmental impacts. “Feasible” means capable of being accomplished in a successful manner within a reasonable time, considering economic, environmental, legal, social and technological factors. (State CEQA Guidelines §15364.) The SEIR examined a range of reasonable alternatives to determine whether they could meet the project objectives while avoiding or substantially lessening one or more of the Proposed Project’s unavoidable significant impacts. No alternatives were identified that meet the requirements of CEQA Guidelines §15364 because there would be no new or more severe significant impacts that an alternative to the Proposed Project could reduce.

However, for comparative purposes and to assure the Board and general public that the District made every attempt to identify feasible project alternatives to lessen the severity of significant environmental impacts, the SEIR analyzed two alternatives to the Proposed Project: (1) the No Project Alternative, and (2) the Reduced Throughput Alternative.

- **Alternative 1 - No Project/No Build Alternative** - Alternative 1 assumed that no Project-related development would occur and none of the Project’s other components would be implemented. Under Alternative 1, the District would maintain existing conditions at the Project site, no new development or upgrades to dry bulk cargo handling equipment would be implemented on this portion of TAMT, and dry bulk operations would continue under the existing physical conditions at the site. The SEIR found that since no physical improvements would occur under Alternative 1, one or more significant impacts that were identified for the Proposed Project would be reduced. However, the alternative would not meet any of the Proposed Project’s objectives because no growth would occur at the Project site and growth would occur in an ad hoc manner. Also, due to the existing capacity constraints on TAMT, the maximum annual dry bulk cargo throughput would only reach approximately 400,000 MT/yr.
- **Alternative 2 - Reduced Throughput Alternative** - Alternative 2 was selected to reduce

the operational impacts of the Proposed Project, which are predominantly tied to throughput. Under Alternative 2, the footprint and improvements to Warehouse C would be identical to the Proposed Project, but the scale of operation would be smaller. The Reduced Throughput Alternative would also reduce the total amount of cementitious materials that would be imported and distributed under the Proposed Project to an amount less than 600,000 MT, resulting in a corresponding decrease in vessel calls, cargo handling activities, and truck trips that would depend on the overall reduction of throughput proposed. Construction activities under Alternative 2 would be identical to the Proposed Project. The SEIR found that while Alternative 2 is the Environmentally Superior Alternative because it would avoid or substantially lessen the potential significant direct and cumulative impacts on GHG Emissions, and Transportation and Circulation associated with the Proposed Project. However, the SEIR found that the reduction of throughput associated with Alternative 2 would be offset by other projects that propose dry bulk cargo throughput up to an amount allowed by the STC Alternative. As such, any reduction of impacts associated with Alternative 2 would only be temporary.

There were also alternatives considered, but rejected, that included a TAMT Plan Dry Bulk Infrastructure Buildout Alternative and several alternative locations including six different locations on TAMT and two locations on the National City Marine Terminal. The TAMT Plan Dry Bulk Infrastructure Buildout Alternative was rejected because of the inability to reduce any significant impacts and the alternative locations were rejected because they were infeasible due to the occupancy of existing tenants and/or occupants.

The Proposed Project would not result in any new or more severe significant impacts than disclosed and analyzed in the certified Final PEIR.

Final SEIR

The Final SEIR consists of the following:

- Volume 1 contains the Final SEIR dated June 2020, which is composed of the following:
 - Chapter 1 is an introduction to the Final SEIR;
 - Chapter 2 contains the final Executive Summary and Summary of Impacts and Mitigation Measures for the Proposed Project;
 - Chapter 3 lists the Proposed Project's central objectives and underlying purpose and provides a detailed description of the Proposed Project characteristics;
 - Chapter 4 contains the errata and revisions to the Draft SEIR;
 - Chapter 5 contains comments received on the Draft SEIR and the District's responses to those comments; and
 - Attachment 1 contains the Mitigation and Monitoring and Reporting Program.
- Volume 2 contains the Draft SEIR (Volume I dated December 2019) and the appendices to the Draft SEIR (Volume II).

These two volumes collectively constitute the Final SEIR.

Comment letters on the Draft SEIR were received during and after the 57-day public review period

from December 19, 2019 through February 14, 2020. Comment letters were received from 4 public agencies including the State Clearinghouse, California Department of Transportation (District 11), the San Diego Association of Governments (SANDAG), and the City of San Diego Planning Department. Additional comment letters were received from 17 private organizations including the San Diego Regional Chamber of Commerce, San Diego County Hispanic Chamber of Commerce, San Diego Port Tenants Association, San Diego Fleet Week Foundation, Working Waterfront Group, Barrio Logan College Institute, Classroom of the Future, San Diego Military Advisory Council, Family Health Centers of San Diego, Junior Achievement of San Diego County, South County Economic Development Council, R.E. Staite Engineering, Inc., Environmental Health Coalition, Industrial Environmental Association, Mitsubishi Cement Corporation, SAY San Diego and HomeAid San Diego. The comment letters and responses to all written comments received on the Draft SEIR are included in the Final SEIR. The comment letters discussed information related to Air Quality, GHG emissions, noise, transportation, circulation and parking, and cumulative impacts. In response to comments received on the Draft SEIR, changes were made to Section 4.1, *Air Quality and Health Risk*; Section 4.5, *Transportation, Circulation, and Parking*, and Chapter 5, *Cumulative Impacts*, to refine text and mitigation measures for clarity, and to include the potential changes in Navy activity within the Bay as a cumulative project, which was brought up in the public comment letters. There were no other changes to the Final SEIR in response to public comments.

The additional information contained in the District's responses to comments clarifies and further substantiates the conclusions contained in the Draft SEIR. None of the comments received constituted or resulted in significant new information requiring recirculation of the SEIR under CEQA Guidelines §15088.5.

The Final SEIR document was prepared to ensure the accuracy and completeness of the environmental analysis. The Final SEIR was made available on the District's website (weblink below) on June 11, 2020 and provided to the Board of Port Commissioners via a Board Memo dated June 11, 2020. District Staff also emailed comments received on the Draft SEIR and the District's responses to those comments (Chapter 5, Volume 1, Final SEIR) in addition to the weblink (below) providing access to the Final SEIR documents to all organizations, agencies and individuals that provided comment on the Draft SEIR.

District Staff met with the Environmental Health Coalition on December 16, 2019 and (virtually) April 29, 2020 with additional communication in-between regarding the subject project and environmental analysis. Staff also attended the Barrio Logan Community Planning Group meetings on December 18, 2019 and virtually on May 20, 2020 to ensure group members were aware of the project status, availability of the Draft and Final SEIR, and were provided District Staff contact information.

The Final SEIR can be accessed on the District's website at:

[<https://www.portofsandiego.org/public-records/port-updates/notices-disclosures/ceqa-documents>](https://www.portofsandiego.org/public-records/port-updates/notices-disclosures/ceqa-documents)

Staff recommends the Board certify the Final SEIR.

Mitigation Monitoring and Reporting Program

As concluded by the Draft SEIR and the Final SEIR, the Project would result in significant and unavoidable direct impacts on GHG Emissions and Transportation, Circulation, and Parking. Further,

GHG Emissions and Transportation, Circulation, and Parking were determined to be cumulatively impacted by Project implementation. Except for the significant and unavoidable impacts on these CEQA resource areas, all project level and cumulative impacts can be mitigated to below a level of significance with the implementation of the applicable mitigation measures outlined in the Final SEIR's Mitigation Monitoring and Reporting Program (MMRP) (see Attachment A).

All mitigation measures have been prepared in compliance with CEQA Guidelines §15097. The MMRP identifies the applicable mitigation measures from the Final TAMT PEIR, the party responsible for carrying them out, and a monitoring and reporting mechanism. Several mitigation measures from the Final TAMT PEIR have been revised (indicted by an “**R**” following the mitigation number) to address the significant impacts of the Proposed Project. Compliance with the MMRP contained in the Final SEIR will be a condition of the District-issued Non-Appealable CDP for the Project.

Staff recommends the Board adopt the MMRP.

Findings of Fact and Statement of Overriding Considerations

In accordance with CEQA, the SEIR tiers from the TAMT Final PEIR, focusing on effects that were not examined in the TAMT Final PEIR; analyzes whether there are any new or more severe significant effects as compared to those identified in the TAMT Final PEIR; and identifies new mitigation measure(s) or alternatives that could potentially lessen significant effects of the Proposed Project. The Findings of Fact and Statement of Overriding Considerations for the SEIR also tiers from the TAMT Final PEIR Findings of Fact and Statement of Overriding Considerations.

CEQA requires the Board to adopt written findings of fact for all significant project impacts identified in the Final SEIR (CEQA Guidelines §15091) including impacts that are considered less than significant after mitigation and impacts that are considered significant and unavoidable. Because the direct impacts on GHG Emissions and Transportation, Circulation, and Parking and the cumulative impacts on GHG Emissions and Transportation, Circulation, and Parking were found to be significant even after the adoption of all feasible, applicable mitigation measures, the Board must adopt findings regarding the feasibility of any alternatives that could avoid or substantially reduce the significant and unmitigable impacts. The significant and unavoidable impacts also require the Board to adopt a Statement of Overriding Considerations (SOC) identifying that the District has balanced the specific environmental risks in determining whether to approve the Project.

Staff recommends the Board adopt the Findings of Fact.

Staff also recommends the Board find that, pursuant to CEQA Guidelines §15093, the benefits of the Project, including but not limited to the specific economic, legal, social, technological, and other benefits outweighs its significant adverse environmental impacts and therefore, such impacts are considered acceptable.

The Project's benefits include the following:

- The Project will advance the goal articulated in the District's mission statement, which provides: “While protecting the Tidelands Trust resources, the District will balance economic

benefits, community services, environmental stewardship, and public safety on behalf of the citizens of California.” The Project will provide a stimulus to the local economy through the creation of temporary and permanent jobs for the construction and operation of the several components of the Project.

- The Project will increase employment opportunities within the region by providing approximately 52 new long-term employment opportunities at buildout of the Project, most of which offer annual compensation well above the regional average.
- The Project will stimulate economic growth for the District, City of San Diego and the overall region and will develop economically feasible land uses in the Proposed Project area. The Project will be economically sustainable, generate revenue, and will encourage private sector participation.
- The Project will provide a benefit to the community by incorporating energy conservation and sustainability features into its design and construction that will provide energy and water efficiency in excess of standards required by Title 24 of the California Code of Building Regulations.
- Although it cannot mitigate the unavoidable environmental impacts to a level below significance, the Project incorporates design features and will implement mitigation measure (s) intended to minimize to the extent feasible the potential direct and cumulative impacts on Greenhouse Gas Emissions and Climate Change and Transportation, Circulation, and Parking associated with the Project, as set forth in the Mitigation Monitoring and Reporting Program.
- Enhances an Established Maritime Use Consistent with the California Coastal Act, the Port Act, and the Port Master Plan.
- Promotes sustainability by requiring either renewable energy projects, or other verifiable actions or activities on Tidelands, or purchasing of equivalent GHG offsets, development of an Exhaust Emission Reduction Program as part of the District’s Clean Air Plan update, and use of electric power through connection with the ship’s dry-dock breaker system to reduce Vessel Hoteling Emissions, as well as several other non-quantifiable practices to be implemented over the life of the Proposed Project.
- Increases the amount of wharfage fees paid to the District as a result of additional dry bulk cargo processed at the terminal.
- Increases the amount of rent the District will receive.
- Increases regional economic growth as the result of increased goods movement activity, as well as additional indirect and induced jobs.
- Provide a valuable resource, cementitious materials, to the region for construction activities, which in turn, will increase construction employment opportunities.

- Reduce the need to truck in cementitious materials to the San Diego region from outside of the County and in turn, reduce GHG emissions, air pollutants and traffic congestion.

Staff recommends the Board adopt the Statement of Overriding Considerations, as specified in the recommended Statement of Overriding Considerations, the Project's benefits outweigh the significant environmental impacts.

Concept Approval

Pursuant to BPC Policy No. 357, plans for new tenant development must be presented to the Board for approval if the project is estimated to cost more than \$500,000. The Project involves the development of new and improvements to existing marine terminal facilities at the Project site at a cost of \$11,000,000. Approval of the Project would allow the construction and operation of a state-of-the-art dry-bulk warehouse storage and loading facility in existing marine terminal facilities (Warehouse C). In addition, the Project is consistent with the current use of the site as Marine Terminal and would facilitate streamlined dry-bulk cargo storage and distribution operations and increase efficiency on the TAMT.

Staff recommends concept approval of the Project conditioned on execution of a lease or definitive agreement between the District and Mitsubishi at a future date.

Coastal Development Permit

The project is in Planning District 4, Tenth Avenue Marine Terminal, which is delineated on Precise Plan Map Figure 13 of the certified Port Master Plan (PMP). The PMP land use designation within the Project site is Marine Terminal. The proposed Project is the construction and operation of marine terminal facilities and is consistent with the existing certified land use designation; therefore, the Project conforms to the certified PMP.

The Project constitutes "development" under Section 30106 of the California Coastal Act, as it will involve the construction of structures. Accordingly, a Coastal Act authorization from the District is required. Pursuant to the District's CDP Regulations, the Project has been determined to be a "non-appealable" development because it is not considered an "excluded", "emergency", or "appealable" development. Additionally, Coastal Act Section 30715 lists the sole categories of development that are appealable, and the Project is not within these categories of development. Therefore, the Project requires authorization of a Non-Appealable CDP.

The Project is located between the sea (as defined in the Coastal Act) and the first inland continuous public road paralleling the sea. The Project is fully consistent with the Public Resources Code Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced therein since the Project is the construction of facilities on a working marine terminal that does not provide any public access amenities. A copy of the draft CDP is provided as Attachment B to this Agenda Sheet. Special conditions are incorporated into the CDP to ensure the Project's conformance with the Final SEIR's MMRP and related District requirements.

Staff recommends the Board adopt a resolution approving the issuance of the Non-Appealable CDP conditioned on execution of a lease or definitive agreement between the District and Mitsubishi.

Consistency with TAMT Redevelopment Plan

District staff determined that the Proposed Project falls within the broader scope of the TAMT Plan and the associated Final PEIR. Notably, the Proposed Project's dry bulk cargo throughput of up to 600,000 MT/yr would be within the scope of the 1,987,500 MT/yr of dry bulk throughput analyzed in the TAMT Final PEIR. The Project is the first large-scale project proposed by a third-party applicant at TAMT. None of the capacity of the 1,987,500 MT/yr (approved dry-bulk throughput) has been drawn down except for the existing dry bulk cargo throughput already taking place at TAMT (i.e., 289,864 MT/yr). As such, after the 600,000 MT/yr associated with the Project is removed, 1,097,636 MT/yr capacity remains for future dry bulk projects.

The Project differs from the dry bulk project component analyzed in the TAMT Final PEIR in that it includes dry bulk operations for a maximum of 15 years at Warehouse C, which was proposed to be demolished to make way for a multipurpose general cargo area under the TAMT Plan. The TAMT Plan identified a consolidated dry bulk operating node located on approximately 15 acres in the southeastern portion of the TAMT (known as the terminal "backlands"). The TAMT Plan did assume the dry bulk node would be served primarily by Berths 10-7/10-8, consistent with the Proposed Project.

The Proposed Project's upgrades to Warehouse C would serve this same purpose as the dry bulk node improvements, including construction of a consolidated multipurpose dry bulk facility with two cement terminals and a new semi-permanent storage facility, as analyzed in the TAMT Final PEIR, but at a slightly different location and requires the installation of less new infrastructure. Further, the Project maintains the possibility of demolishing Warehouse C, at later time after the lease's expiration or termination.

Next Steps

Following Board certification of the Final SEIR, including adoption of the MMRP and adoption of the Findings of Fact and Statement of Overriding Considerations, a Notice of Determination will be filed with the County of San Diego Records' Office. Following the Board's authorization of the issuance of a Non-Appealable CDP, staff will continue to negotiate a lease with Mitsubishi. The Non-Appealable CDP shall not be issued to Mitsubishi until a lease or definitive agreement is executed by the parties.

Staff and Mitsubishi will continue to work to complete the remaining conditions precedent outlined in the Conditional Agreement, which include but are not limited to completing construction drawings, obtaining all necessary permits, and securing a construction contract. Once the conditions have been satisfied, the District and Mitsubishi will execute a lease containing the business terms identified in the Conditional Agreement. It is anticipated that the lease would be executed in fall 2020 and construction would begin in early 2021. Construction of phase 1 is estimated to take seven to ten months to complete.

General Counsel's Comments:

The General Counsel's Office has reviewed the agenda sheet and attachments as presented to it and approves them as to form and legality.

Environmental Review:

The proposed Board action completes the CEQA process for the Project.

The proposed Project complies with Section 87(a)(1) of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation 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 Board action is consistent with the Public Trust Doctrine.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachments:

Attachment A: Findings of Fact and Statement of Overriding Considerations,
and Mitigation Monitoring and Reporting Program
Attachment B: Draft Non-Appealable Coastal Development Permit