

CALIFORNIA COASTAL COMMISSION

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 original staff report

Th22d

Addendum

August 11, 2015

To: Commissioners and Interested Persons

From: California Coastal Commission
 San Diego Staff

Subject: Addendum to **Item Th22d, San Diego Unified Port District Port Master Plan Amendment No. PMP-6-PSD-14-0003-2 (East Harbor Island Subarea)**, for the Commission Meeting of August 13, 2015

The purpose of this addendum is to attach and respond to a letter from the applicant; attach additional letters of support and opposition; attach a copy of the briefing book provided by the applicant to the Commissioners; and attach ex-parte communications to the above-referenced staff report dated July 30, 2015. Additions are shown in underlined text and deletions are shown in ~~strikeout~~ text.

1. Add Exhibit No. 9 which includes a letter from the Port.
2. Attach additional letters of support to Exhibit No. 7.
3. Add Exhibit No. 8 which includes one letter of opposition.
4. Add Exhibit No. 10 which is the briefing provided by the tenant lessee to the Commissioners.
5. Add Exhibit No. 11 which includes ex-partes with the Commissioners.
6. On Page 16 of the staff report, delete the text following the heading "Lower Cost Overnight Accommodations on Public Trust Lands" and replace it as follows:

~~The Commission is vested with the authority to assure that it acts in a manner consistent with Section 30210 of the Coastal Act which requires the Commission to carry "out the requirement of Section 4 of Article X of the California Constitution" and provide for maximum access and recreational opportunities for all people. Section 4 of Article X of the California Constitution provides the following:~~

~~No individual, partnership, or corporation, claiming or possessing the frontage of tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required~~

~~for any public purpose nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this~~

East Harbor Island constitutes public trust lands that the State of California has granted to the Port. The Commission implements the public trust doctrine through its application of the Coastal Act. Section 30213 requires that “[l]ower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.”

7. Delete the entirety of Page 17 of the staff report.
8. On Page 18 of the staff report, the first and second paragraphs shall be revised as follows:

~~highest priority use of public trust lands. Considering the cost of the overnight accommodations will be high cost, only certain portions of the hotel development will likely be available to all of the public while a majority of the finished project will be reserved for paying customers only. While it may be open for all the public, in reality, only a very small percentage of the overall public will be able to pay to stay there and a vast majority of the public will be able to use only a small part of the site (i.e. promenade, lobby) free of charge. Thus, the net impact on the public trust resource will be that a majority of the public wouldn't be able to afford to use a majority of the hotel site for public trust purposes. Given that the major portion of the project is effectively unavailable to all people, it is inconsistent with the public trust doctrine because it would impact the public's right to use the public trust property and must be mitigated through the addition of language that takes into consideration potential lower cost overnight accommodations onsite. Thus, since it is inconsistent with the public trust doctrine, it is inconsistent with Section 30210 of the Coastal Act which, as noted above, gives the Commission authority to ensure that maximum access and recreation opportunities on public trust lands are available to all members of the public.~~

The Coastal Act emphasizes the need to protect and provide for public access to and along the coast, and to provide lower cost visitor and recreational facilities, particularly in new development projects. The proposed PMPA does not include any specific requirement for the provision of lower cost accommodations on-site or in the subarea and does not meet the requirements of Section 30213. The proposed hotel developments will be on public trust land and, ~~as discussed above,~~ the existing development pattern precludes easy shoreline access and in some places directly obstructs it which will be partially mitigated through construction of a bayside pedestrian promenade. The proposed PMPA anticipates construction of up to three hotels within the subject subarea, but does not include any specific requirement for the provision of lower cost accommodations in the subarea. The plan language acknowledges the hotel developer(s) must contribute a fair-share of on-site or off-site lower cost visitor accommodations or pay an in-lieu fee based on a study conducted by the Port; however, the study has not been completed, and the policy language does not establish any identification of the number of affordable units needed to meet public demand, or potential location and timeframe for development of lower cost accommodations within the Port District. The Port's provision on lower cost

accommodations is predicated on a plan that has not been completed and it includes the option for payment of in-lieu fees which could still defer the ultimate provision of lower cost accommodations.

9. On Page 3 of the Port's letter, it states: "In apparent support of this position, the Staff Recommendation states that 'reliance on [the language from the San Diego Convention Center and Hilton Hotel Expansion PMPA] has not resulted in the actual provision of additional lower cost overnight accommodations within the Port,' without acknowledging that this PMPA was adopted only last year, a CDP has not been issued for the hotel, the PMPA and CEQA review is subject to pending litigation and no hotel development has yet occurred." The staff report includes two recent examples of hotel developments within the Port that have not resulted in the provision of lower cost overnight accommodations, including the Hilton Hotel and the Lane Field hotel development. To further clarify, the findings on Page 21 shall be revised as follows:

However, in February 2013, with the Commission's approval, the program was discontinued and replaced with an in-lieu fee that has not resulted in the creation of additional lower cost units within or adjacent to the Port District. Although fees have been collected for the Hilton Hotel expansion and the Lane Field development, as well as several other hotel projects within the Port, none have been spent for the creation of lower cost accommodations. The challenge of providing lower cost accommodations is not unique to the Port; in fact, none of the hotel developments within San Diego County approved by the Coastal Commission have included the actual construction, either on-site or off-site, of lower cost accommodations as part of the project. Instead, hotel developers have chosen to pay mitigation fees in-lieu of providing lower cost accommodations. There is an increasing need for lower-cost overnight accommodations within the Port District in the form of a specific program that will result in units as opposed to deferred collection of in-lieu fees. [...]

10. On Page 21 of the staff report, add the following after the third full paragraph:

The Port asserts that the staff's suggested text revisions, if accepted by the Port, would constitute a taking of private property for a public use without just compensation. The Port argues that if the Commission requires the Port to require 25% of the rooms for a hotel project to be set aside and to reserve land within the subarea for lower cost overnight accommodations, it would require the Port to take a property interest absent a nexus for doing so. The Takings Clause of the Fifth Amendment of the U.S. Constitution provides: "[N]or shall private property be taken for public use, without just compensation." Article 1 section 17 of the California Constitution similarly provides: "Private property may be taken or damaged for a public use and only when just compensation...has been paid to...the owner." These provisions address taking private property for public use. Here, the property in question is public trust tidelands granted by the State to the Port and is therefore public property. Thus, if the Commission adopted a requirement that hotels built in the East Harbor Island subarea set aside a certain percentage of rooms as lower cost accommodations or to reserve land within the subarea for lower cost overnight

accommodations, there could be no unconstitutional regulatory taking because such a requirement would be imposed for projects on public property. Therefore, the Port's takings argument fails to meet the constitutional threshold of establishing that private property is at issue in this case.

11. To clarify, on Page 22 of the staff report, add the following after the recitation of the Port's amended PMP language:

In its response letter to the subject staff report (Exhibit No. 9), the Port asserts that their proposed PMPA language would ensure that 25% of the 500 rooms (125 rooms) would be limited to midscale or economy product types prior to the completion of the Port's lower cost visitor accommodations study. However, this assertion is inaccurate and, as discussed in greater detail below, the Port's proposed language would only require 25% of the remaining 325 rooms (82 rooms) within the subarea to be developed as a midscale or economy product. The Port's letter continues that the developers of the proposed 325 remaining rooms would also either develop their fair share of onsite or offsite lower cost overnight accommodations or pay an in-lieu fee. Again, this statement is inaccurate – the proposed PMPA language explicitly states that “If a hotel is developed at a midscale or economy product, it need not pay the in-lieu fee identified earlier in this precise plan.”

12. On Page 22 of the staff report, revise the last paragraph as follows:

Although this language would increase the affordability of a portion of the remaining hotel(s) – at least 82 rooms, or 25% of the remaining 325 hotel rooms planned for this subarea – it is unlikely that these rooms would be what the Commission considers lower cost overnight accommodations. Based on the Commission's past practice, a lower cost overnight accommodation in the San Diego region would be one whose rate is below approximately \$106. Based on Commission staff's research of other midscale and economy hotel chains in the vicinity, it is very unlikely that the market rate of new hotel rooms on the waterfront developed as an economy product – let alone a midscale product – would fall into this category. The Port argues that the requirement to implement lower cost overnight accommodation policies pursuant to Section 30213 would regulate room rates inconsistent with Section 30213. The Commission, however, has not suggested that the Port fix “an amount certain” for room rentals, as would be prohibited by Section 30213 for privately owned and operated hotels. Rather, the Commission is simply identifying the point at which a room rate no longer be considered lower cost. In addition, the deletion of in-lieu fees should not be considered or permitted without detailed criteria and evidence regarding a project's design to ensure a reduction or deletion in the fee is warranted. In this case, the proposed language is too general to determine whether the midscale/economy hotel rooms and amenities would result in accommodations that are truly lower cost, and would allow build-out of the remainder of the room allocation for the subarea.



SAN DIEGO UNIFIED PORT DISTRICT

OFFICE OF THE GENERAL COUNSEL

August 7, 2015

FOR INCLUSION IN STAFF REPORT; ITEM TH 22d

VIA EMAIL

Chair Kinsey and Honorable Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Deborah Lee
California Coastal Commission
San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: San Diego Unified Port District Port Master Plan Amendment – No. PMP-6-PSD-14-0003-2 (East Harbor Island Subarea)

Dear Chair Kinsey, Honorable Commissioners and Ms. Lee:

We are writing in response to the Staff Recommendation, dated July 30, 2015, regarding the San Diego Unified Port District (“Port”) Port Master Plan Amendment – No. PMP-6-PSD-14-0003-2 (East Harbor Island Subarea) (“PMPA”), which the California Coastal Commission (“Commission”) is scheduled to consider at its August 13, 2015 meeting. The PMPA would modify an existing allowance for a 500-room hotel in a manner that would allow for the development of up to three hotels with a combined total of up to 500 rooms.¹ One of the three hotels is a 175-room hotel proposed by Sunroad Marina Partners, LP. The Port has worked cooperatively with Commission Staff in an effort to develop lower cost overnight accommodations provisions in the PMPA that are legally supportable and consistent with Coastal Act policies.

Nevertheless, Commission Staff is recommending denial of the PMPA unless the Port replaces these provisions with substitute language contained in the Staff Recommendation. For the reasons set forth in this letter, the Port believes the PMPA as proposed by the Port is consistent with the lower cost overnight accommodations policies of the Coastal Act and Coastal Commission precedent. Furthermore, it would be legally impermissible to incorporate Staff’s recommended language, as it would require the Port to regulate development in a manner that would violate Section 30213 of the Coastal Act and the Fifth Amendment to the United States Constitution. Moreover, the State Lands Commission (“SLC”) is charged with implementing and enforcing the public trust doctrine, and as such, the Commission should defer to its

¹ The existing Port Master Plan allows for the development of a single hotel of up to 500 rooms in generally the same location.

EXHIBIT NO. 9

Letter from the Port



PMPA No. PMP-6-PSD-14-0003-2
California Coastal Commission

determination of whether the PMPA is consistent with the public trust doctrine. Significantly, the public trust doctrine does not require the development of lower cost overnight accommodations.

I. The PMPA Merely Reconceptualizes The Already Approved Port Master Plan, Which Allows For The Development Of 500 Hotel Rooms On East Harbor Island.

It is of significant importance to note at the outset that the PMPA is not proposing the development of 500 new hotel rooms. Rather, the existing Port Master Plan – approved by the Coastal Commission in 1990 – expressly allows for the development of up to a 500 room hotel. The PMPA merely would allow the development of these previously approved 500 hotel rooms to occur within up to three low-rise hotels instead of one high-rise hotel. Importantly, the existing Port Master Plan does not require any payment of an in-lieu fee, or development of offsite or onsite lower cost overnight accommodations for the 500-room hotel. Given that there is no change in use, general area of development or number of hotel rooms and there is no current requirement for a land reservation for lower cost overnight accommodations in the subarea, there is even less basis for Commission Staff’s unprecedented recommendations.

II. The PMPA’s Lower Cost Overnight Accommodations Provisions Are Consistent With Past Commission Approvals And Legal Principles.

The Port, through its PMPA, proposes language to address the issue of lower cost overnight accommodations, which is substantially identical to language the Coastal Commission adopted last year in connection with its certification of the San Diego Convention Center and Hilton Hotel expansion PMPA.² Specifically, the language provides:

As a special condition of the coastal development permit for any hotel development or redevelopment that adds hotel rooms to Harbor Island, the hotel developer or redeveloper will develop or designate its fair-share of on-site or off-site lower cost visitor accommodations or pay an in-lieu fee based on a study conducted by the District.

In 2013, Commission Staff also supported essentially the same requirement in connection with the Port’s approval of a CDP for the Shelter Island Kona Kai Hotel. Through language submitted for this proposed PMPA, which was previously approved by the Commission as detailed above, the Port is in the process of developing the analysis and substantiating evidence³ legally required to support the imposition of defensible exactions on hotel development to facilitate the creation of lower cost overnight accommodations in accordance with Coastal Act

² The revised findings adopted by the Commission for the San Diego Convention Center and Hilton Hotel Expansion PMPA at the February 2014 meeting provided: “The revised PMPA also includes language requiring that as a special condition of the Coastal Development Permit for the hotel expansion, the impacts to low-cost overnight accommodations be mitigated by developing or designating a fair-share of on-site or off-site lower cost visitor accommodations or payment of an in-lieu based on a study conducted by the Port District.” (San Diego Convention Center and Hilton Hotel Expansion, Revised Findings, p. 3.)

³ The Port’s effort is an extensive four-phase study: Phase 1, establishing the foundation for lower cost overnight accommodations is complete. Phase 2, establishment of an appropriate percent of lower cost overnight accommodations, is in progress and a draft report has been prepared. The additional two phases should be complete in the next 18 to 24 months with a complete report (all four phases) issued soon thereafter.

Section 30213.⁴ Moreover, in response to concerns raised by Commission Staff, on July 24, 2015, the Port submitted additional language for the PMPA that would facilitate the development of lower cost overnight accommodations in the form of product type for the subarea. The proposed language would ensure that the Port would limit the product types to economy or midscale with certain extra amenities that would reduce the cost of stay and save guests money for 25% of the 500 rooms prior to the completion of the Port's lower cost visitor accommodations study. Additionally, the developers of the proposed 375 remaining rooms would either develop their fair share of onsite or offsite lower cost overnight accommodations or pay an in-lieu fee.

III. Commission Staff's Proposed Lower Cost Overnight Accommodations Language Is Contrary to Governing Law And Exceeds The Authority Of The Commission.

In stark departure from precedent and without any expressed rational basis, the Commission Staff Recommendation concludes the above-referenced Port proposed PMPA provisions are inconsistent with Coastal Act Section 30213. In apparent support of this position, the Staff Recommendation states that "reliance on [the language from the San Diego Convention Center and Hilton Hotel Expansion PMPA] has not resulted in the actual provision of additional lower cost overnight accommodations within the Port," without acknowledging that this PMPA was adopted only last year, a CDP has not been issued for the hotel, the PMPA and CEQA review is subject to pending litigation and no hotel development has yet occurred. The Staff Recommendation also cites to concerns that the in-lieu fee approach – previously repeatedly supported by the Coastal Commission – has not resulted in the development of lower cost overnight accommodations within the Port; again, without acknowledging that this challenge is not unique to the Port. Indeed, the Coastal Commission is in the middle of a series of public workshops regarding ways to modify its lower cost overnight accommodations policies, providing further evidence that its current uncodified policy may not be based upon a legally required nexus analysis.⁵

Commission Staff instead recommends substitute provisions that are not legally supportable, including requiring that the PMPA:

- (i) reserve land within the East Harbor Island subarea (Subarea 23) for lower cost overnight accommodations, even though no nexus study has concluded that this geographic limitation is supportable and where such a reservation could result in a regulatory taking;
- (ii) reserve a minimum of 125 (or 25%) of the 500 hotel rooms for lower cost overnight accommodations, which would result in a limitation of 375 market-rate

⁴ Arguably, Section 30213 does not require the development of overnight accommodations. It does not mention "overnight accommodations." Conversely, it specifies that "lower cost visitor and recreational facilities shall be protected, encouraged and where feasible, provided." Moreover, developments of recreational opportunities are preferred under Section 30213 over other lower cost visitor facilities. The proposed PMPA provides for public recreational facilities in the form of a promenade and other amenities.

⁵ Conversely, pursuant to the legal requirement that the mitigation must have a nexus to an impact and be roughly proportional to said impact, the Port has recently completed a draft nexus study for its policy, which will be distributed to Commission Staff prior to the Commission hearing on the proposed PMPA.

rooms, and could result in an impermissible regulation of room rates and an ultimate required set aside in excess of 25%⁶; and

- (iii) impose a 25% set aside for onsite or offsite lower cost overnight accommodations (unless an in-lieu fee is paid) for the 375 market rate rooms, even though this exaction amount has never been supported through a nexus study and may be inconsistent with the study to be adopted by the Port, which focusses on the San Diego region.

The Staff Recommendation’s legal deficiencies are discussed further below.

a. Reservation of Land is Not Based on Nexus Study.

The Staff Recommendation requires that the Port reserve land within the East Harbor Island subarea (Subarea 23) for lower cost overnight accommodations. The Staff Recommendation, however, cites to no evidence or nexus analysis that the potential impacts to lower cost visitor accommodations can only be mitigated within East Harbor Island, that the costs to the Port associated with the reservation of land in this subarea are roughly proportional to the asserted impacts, or any precedent as support for this restriction. To require such a land reservation, a nexus study would have to have been prepared and so concluded – yet there is no such study, let alone evidence for such a determination. (See Nolan v. Cal. Coastal Com. (1987) 483 U.S. 825, 833 (governmental entity can only “take” a property interest if the permit condition bears an essential nexus and rough proportionality to adverse impacts caused by the proposed project); Dollan v. City of Tigard (1994) 512 U.S. 374 (agency must establish a “nexus” between the condition requiring a property interest or payment and the effects of the project that the property interest or payment is mitigating).)

In contrast to the apparent unsupported Staff position, the Port is undertaking an extensive nexus study that will establish a supportable set aside and/or in-lieu fee for lower cost overnight accommodations and identify potential areas within the Port’s jurisdiction where the development of such accommodations may be located or in-lieu fees applied. (See Footnote 3, above.)

Moreover, the Port has engaged in conversations with a hostel company and they have informed the District that a hostel would likely fail at the site because it is not supported by public transit or amenities such as restaurants.

b. Reservation of Land is Not Required Under Public Trust Doctrine.

The Staff Recommendation attempts to “establish” a nexus between the PMPA and reservation of land within Subarea 23 through a specious argument that any hotel development inconsistent with the public trust doctrine, the Commission has the authority to ensure a PMPA is consistent with the public trust doctrine as an extension of Section 30210 of the Coastal Act, and that a PMPA is inconsistent with the public trust doctrine unless land for lower cost overnight accommodations is reserved within that subarea. The Coastal Commission’s authority to determine consistency with Section 30210, however, does not vest it with authority to determine the extent to which a particular use is consistent with the public trust doctrine, which Staff impermissibly attempts to do here. Indeed, the SLC solely is charged with the paramount responsibility for ensuring development allowed or conducted by public trust grantees – like the

⁶ In other words, if 500 market rate rooms were developed, a 25% onsite lower cost overnight accommodations requirement would be 125 rooms. For 375 market-rate rooms, this would equate to 94 lower cost overnight rooms.

Port – is done in a manner consistent with the public trust doctrine. (See SLC, “Policy Statement Relating to the Public Trust Doctrine” (Public Trust Policy) page 3 (Attachment A).)

Importantly, the public trust doctrine does not require the development of lower cost overnight accommodations. Rather the public trust doctrine and the Port Act, for that matter which was codified to carry out the public trust doctrine, allow for the development of market-rate hotels and motels without the condition of development of lower cost overnight accommodations. Commission Staff cites and quotes to the SLC adopted “Public Trust Policy” (see Attachment A). However, it does so in a vacuum and out of context. That document clearly states that “ancillary or incidental uses, that is, uses that directly promote trust uses, are directly supportive and necessary uses, or that accommodate the public's enjoyment of trust lands, are also permitted. Examples include facilities to serve visitors, such as **hotels** and restaurants, shops, parking lots, and restrooms.” (Public Trust Policy, page 1 (emphasis added).) With respect to leasing of tidelands in particular, the State Land’s Commission Policy Statement instructively notes uses upheld by California courts as appropriate, stating that “Visitor-serving uses, such as restaurants, **hotels**, shops, and parking areas, were also approved as appropriate uses because as places of public accommodation, they allow broad public access to the tidelands and, therefore, enhance the public's enjoyment of these lands specifically set apart for their benefit.” (Public Trust Policy, page 6, (emphasis added).)

Additionally, the SLC issued a white paper on the public trust doctrine (see attachment B). That white paper states:

Hotels, restaurants, shops and parking areas are appropriate because they accommodate or enhance the public’s ability to enjoy tide and submerged lands and navigable waterways. The public trust is intended to promote rather than serve as an impediment to essential commercial services benefiting the people and the ability of the people to enjoy trust lands. [(Page 7, emphasis added).]

The white paper continues by enumerating the uses that are not allowed on public trust lands. They include “commercial installations that could as easily be sited on uplands and strictly local or ‘neighborhood-serving’ uses that confer no significant benefit to Californians statewide. Examples include hospitals, supermarkets, department stores and local government buildings and private office buildings that serve general rather than specifically trust-related functions.” (Pages 7-8.) Nowhere are hotels mentioned as a prohibited use. Accordingly, pursuant to the SLC – the state agency charged with implementation of the public trust doctrine – hotels are an allowable public trust use.

Neither the SLC’s Public Trust Policy nor its white paper requires the development of lower cost overnight accommodations. The Staff Recommendation cites to Carstens v. California Coastal Commission ((1986) 182 Cal.App.3d 277, 289) in support of its position that the Commission may prioritize the public trust use of public access in the nature of lower cost overnight accommodations over the public trust use of commerce in the nature of hotel development. However, Carstens does not stand for that principle. To the contrary, Carstens holds that, in carrying out the public trust doctrine, the Commission may consider commerce, appropriately value it and not rigidly subjugate it to public access uses.

It is undisputed that hotels are acceptable and important public trust uses. Commission Staff’s conclusion to the contrary has no basis in law or practice.

c. Reservation of Land May Result in Regulatory Taking.

Commission Staff's requirement that specific land be reserved for lower cost overnight accommodations is likely a regulatory taking. Commission Staff's language would require the PMPA to limit land owned by the Port within the East Harbor Island Subarea to only one permissible use – lower cost overnight accommodations, the development of which largely is outside the control of the Port and which may or may not ever occur. Should the development of lower cost overnight accommodations on this property never occur, the Port, as the land owner, effectively would be deprived of all economically beneficial use and value of the property which not only would be unfair, but potentially an impermissible regulatory taking. (See Nectow v. Cambridge (1928) 277 U.S. 183, 187 (A person's property rights exist regardless of the regulatory restrictions that subsequently burden those rights); Hansen Brothers Enterprises, Inc. v. Board of Supervisors (1996) 12 Cal.4th 533, 552 (A governmental dictate that interferes with continued use is unconstitutional).) That the Staff Recommendation would allow the Port to relocate this land reservation to another property, upon approval of yet another PMPA, does not remove this legal deficiency, but rather shifts its application to another area.

d. Reservation of 125 Rooms as Lower Cost Overnight Accommodations May Impermissibly Regulate Room Rates and Exceeds a 25% Set Aside.

The Staff Recommendation requires that the PMPA reserve a minimum of 25% of the proposed 500 hotel rooms (125 rooms) as lower cost overnight accommodations pending the results of the Port's study. The PMPA proposes up to three hotels of up to 500 rooms total – the 175-room Sunroad hotel and one or two other hotels on adjacent property totaling up to 325 rooms. By requiring a *minimum* of 125 rooms to be set aside as lower cost overnight accommodations, the Staff Recommendation has the potential to impermissibly regulate room rates and exceed its own recommendation for a 25% set aside.

Under Coastal Act Section 30213, the Commission shall not “require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or similar visitor-serving facility located on either public or private lands . . .” To accomplish the development contemplated by the PMPA of three hotels providing up to 500 hotel rooms and meet the Staff Recommendation to provide 125 of those rooms as lower cost overnight accommodations would require that those rooms be located within the three hotels. This, in turn, would require the Port to set room rental rates for those 125 rooms, which it is not permitted to do under Section 30213.

To avoid this impermissible result, the 125 rooms/units would need to be provided as a standalone development that meets the requirements of lower cost overnight accommodations, such as through a hostel or campgrounds. While these rooms/units would satisfy the 25% set aside included in the Staff Recommendation, Staff's language also still would require that the remaining 375 rooms be subject to the 25% set aside or an in lieu fee. While the Port does not believe the Commission has supported the 25% set aside requirement with the required nexus analysis in the first instance, it certainly has not established a nexus or any precedent for the type of “double-dipping” set aside that would result from the Staff Recommendation. Furthermore, if a 25% set aside were legal, which it is not, it would equate to an additional 94 rooms for the 375 market-rate rooms that could be developed under Staff's Recommendation. Alternatively, if 500 market rooms were developed, 125 additional rooms would be lower costs accommodations to equate to a 25% set aside for a total of 625 rooms.

e. Imposition of a 25% Set Aside for Lower Cost Overnight Accommodations is Not Based on Nexus Study and Could Conflict with Port's Study.

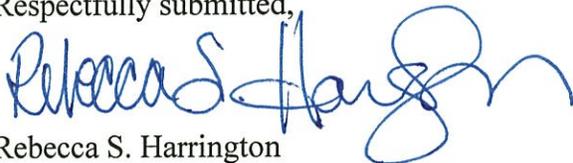
The Staff Recommendation would require that the PMPA impose as a condition of approval for all hotel development that the developer “develop or designate its fair share (minimum of twenty-five percent of total rooms proposed) of on-site lower cost overnight accommodations” or pay an in-lieu fee in accordance with the study to be adopted by the Port. While the Commission may have “established” precedent of applying a 25% set aside for lower cost overnight accommodations in its permitting decisions, to the Port’s knowledge the Commission has never undertaken a formal nexus study (or any properly conducted study for that matter) to establish whether this amount of set aside is roughly proportional to the impacts created by hotel development within the coastal zone in general or for specific areas as required by law.⁷ Indeed, the preliminary results from the draft Port study indicate a different percentage for its specific geography may be appropriate.⁸ Accordingly, the Coastal Commission may not require the Port to impose a requirement that fails to satisfy constitutional muster.

Under the Nolan/Dollan line of cases cited above, the Port may only “take” a property interest if the permit condition bears an essential nexus and rough proportionality to adverse impacts caused by the proposed project. Acceptance of the Staff Recommendation would require the Port to take a property interest – by requiring a 25% lower cost overnight accommodation set aside – absent any nexus study whatsoever statewide or particular to the lands subject to the Port’s jurisdiction. Moreover, Commission Staff’s language does not make allowance for the results of the Port’s nexus study, which may establish a different set aside amount or employ a different methodology entirely and which is specific to Port owned lands.

* * *

In light of the foregoing, the Port respectfully requests that the Coastal Commission reject the Staff Recommendation to deny the PMPA and instead certify the PMPA as submitted.

Respectfully submitted,



Rebecca S. Harrington
Deputy General Counsel

cc: Sherilyn Sarb
Kanani Brown
Thomas A. Russell
Randa Coniglio
Lesley Nishihira
Penny Maus
Uri Feldman

⁷ It should be noted that the Commission has on multiple occasions departed from imposing a 25% set aside on hotel projects, which calls into question whether this requirement truly is rooted in established Commission precedent. (See, e.g., Revised Findings 6-13-0407 (McMillin-NTC, LLC).)

⁸ A copy of the Port’s draft nexus study will be given to Commission Staff prior to the hearing on the PMPA.

ATTACHMENT A

PUBLIC TRUST POLICY

For

The California State Lands Commission

The Legislature has given the California State Lands Commission authority over California's sovereign lands – lands under navigable waters. These are lands to which California received title upon its admission to the Union and that are held by virtue of its sovereignty. These lands are also known as public trust lands. The Commission administers public trust lands pursuant to statute and the Public Trust Doctrine – the common law principles that govern use of these lands.

Public Trust Doctrine

The Public Trust Doctrine is set forth in common law. Several of its guiding principles are that:

- I. Lands under the ocean and under navigable streams are owned by the public and held in trust for the people by government. These are referred to as public trust lands, and include filled lands formerly under water. Public trust lands cannot be bought and sold like other state-owned lands. Only in rare cases may the public trust be terminated, and only where consistent with the purposes and needs of the trust.
- II. Uses of trust lands, whether granted to a local agency or administered by the State directly, are generally limited to those that are water dependent or related, and include commerce, fisheries, and navigation, environmental preservation and recreation. Public trust uses include, among others, ports, marinas, docks and wharves, buoys, hunting, commercial and sport fishing, bathing, swimming, and boating. Public trust lands may also be kept in their natural state for habitat, wildlife refuges, scientific study, or open space. Ancillary or incidental uses, that is, uses that directly promote trust uses, are directly supportive and necessary for trust uses, or that accommodate the public's enjoyment of trust lands, are also permitted. Examples include facilities to serve visitors, such as hotels and restaurants, shops, parking lots, and restrooms. Other examples are commercial facilities that must be located on or directly adjacent to the water, such as warehouses, container cargo storage, and facilities for the

development and production of oil and gas. Uses that are generally not permitted on public trust lands are those that are not trust use related, do not serve a public purpose, and can be located on non-waterfront property, such as residential and non-maritime related commercial and office uses. While trust lands cannot generally be alienated from public ownership, uses of trust lands can be carried out by public or private entities by lease from this Commission or a local agency grantee. In some cases, such as some industrial leases, the public may be excluded from public trust lands in order to accomplish a proper trust use.

- III. Because public trust lands are held in trust for all citizens of California, they must be used to serve statewide, as opposed to purely local, public purposes.

Commission Authority

The Legislature has granted general authority to the Commission to manage trust lands. Unless otherwise expressly stated in the State Constitution or statutes, the public trust doctrine mandates the criteria for Commission management of trust lands. In carrying out its management responsibilities, the Commission commonly leases trust lands to private and public entities for uses consistent with the doctrine. Subject to the criteria in statutes and case law, the Commission may also exchange public trust lands for non-trust lands, lift the trust from public trust lands, enter into boundary line agreements, and otherwise generally manage trust lands. While most of the authority over public trust lands possessed by the Legislature is vested in the Commission, the Legislature, as the people's elected representatives, has not delegated the authority to modify uses permitted on public trust lands by the Public Trust Doctrine. There are times when the Legislature, exercising its retained powers, enacts laws dealing with public trust lands and uses for specified properties. This may include, in limited circumstances, allowing some non-trust uses when not in conflict with trust needs, in order to serve broader public trust purposes.

Implementation by the Commission of the Public Trust Doctrine.

The Commission implements the Public Trust Doctrine through careful consideration of its principles and the exercise of discretion within the specific context of proposed uses. Factors such as location, existing and planned surrounding facilities, and public needs may militate in

favor of a particular use in one area and against the same use in another. The Commission applies the doctrine's tenets to proposed projects with consideration given to the context of the project and the needs of a healthy California society, to meet the needs of the public, business and the environment. The Commission may also choose among competing valid trust uses. The Commission must also comply with the requirements of other applicable law, such as the California Environmental Quality Act. In administering its trust responsibilities, the Commission exercises its discretionary authority in a reasoned manner, accommodating the changing needs of the public while preserving the public's right to use public trust lands for the purposes to which they are uniquely suited.

Relationship of the Commission to Granted Lands

The Legislature has granted certain public trust lands to local governments for management. A grantee must manage trust lands consistent with its own granting statutes and the Public Trust Doctrine. The Legislature has retained for the state, by delegating to the Commission, the power to approve land exchanges, boundary line agreements, etc.

The State Lands Commission exercises oversight over all granted lands. Generally, this means the Commission carries out this responsibility by working cooperatively with grantees to assure that requirements of the legislative grants and the Public Trust Doctrine are carried out and to achieve trust uses. The Commission monitors and audits the activities of the grantees to insure that they are complying with the terms of their statutory grants and with the public trust. With a few exceptions, grantees are not required to secure approval from the Commission before embarking on development projects on their trust lands nor before expending revenues generated from activities on these lands. However, where an abuse of the Public Trust Doctrine or violation of a legislative grant occurs, the Commission can advise the grantee of the abuse or violation; if necessary, report to the Legislature, which may revoke or modify the grant; or file a lawsuit against the grantee to halt the project or expenditure.

ATTACHMENT B

The Public Trust Doctrine

California State Lands Commission

I. Origins of the Public Trust

The origins of the public trust doctrine are traceable to Roman law concepts of common property. Under Roman law, the air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public.¹ This concept that tide and submerged lands are unique and that the state holds them in trust for the people has endured throughout the ages. In 13th century Spain, for example, public rights in navigable waterways were recognized in *Las Siete Partidas*, the laws of Spain set forth by Alfonso the Wise.² Under English common law, this principle evolved into the public trust doctrine pursuant to which the sovereign held the navigable waterways and submerged lands, not in a proprietary capacity, but rather “as trustee of a public trust for the benefit of the people” for uses such as commerce, navigation and fishing.³

¹Institutes of Justinian 2.1.1.

²*Las Siete Partidas* 3.28.6 (S. Scott trans. & ed. 1932).

³*Colberg, Inc. v. State of California ex rel. Dept. Pub. Works* (1967) 67 Cal.2d 408, 416.

After the American Revolution, each of the original states succeeded to this sovereign right and duty. Each became trustee of the tide and submerged lands within its boundaries for the common use of the people.⁴ Subsequently admitted states, like California, possess the same sovereign rights over their tide and submerged lands as the original thirteen states under the equal-footing doctrine.⁵ That is, title to lands under navigable waters up to the high water mark is held by the state in trust for the people. These lands are not alienable in that all of the public's interest in them cannot be extinguished.⁶

II. Purpose of the Public Trust

The United States Supreme Court issued its landmark opinion on the nature of a state's title to its tide and submerged lands nearly 110 years ago, and although courts have reviewed tidelands trust issues many times since then, the basic premise of the trust remains fundamentally unchanged. The Court said then that a state's title to its tide and submerged lands is different from that to the lands it holds for sale. "It is a title held in trust for the people of the State that they may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing" free from obstruction or interference from private parties.⁷ In other words, the public trust is an affirmation of the duty of the

⁴*Martin v. Waddell* (1842) 41 U.S. (16 Pet.) 367, 410.

⁵*Pollard=s Lessee v. Hagen* (1845) 44 U.S. (3 How.) 212, 228-29.

⁶*People v. California Fish Co.* (1913) 166 Cal. 576, 597-99; *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 524-25.

⁷*Illinois Central R.R. Co. v Illinois* (1892) 146 U.S. 387, 452.

state to protect the people's common heritage of tide and submerged lands for their common use.⁸

But to what common uses may tide and submerged lands be put? Traditionally, public trust uses were limited to water-related commerce, navigation, and fishing. In more recent years, however, the California Supreme Court has said that the public trust embraces the right of the public to use the navigable waters of the state for bathing, swimming, boating, and general recreational purposes. It is sufficiently flexible to encompass changing public needs, such as the preservation of the lands in their natural state for scientific study, as open space and as wildlife habitat. The administrator of the public trust "is not burdened with an outmoded classification favoring one mode of utilization over another."⁹

The Legislature, acting within the confines of the common law public trust doctrine, is the ultimate administrator of the tidelands trust and often may be the ultimate arbiter of permissible uses of trust lands. All uses, including those specifically authorized by the Legislature, must take into account the overarching principle of the public trust doctrine that trust lands belong to the public and are to be used to promote public rather than exclusively private purposes. The Legislature cannot commit trust lands irretrievably to

⁸*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 441.

⁹*Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260.

private development because it would be abdicating the public trust.¹⁰ Within these confines, however, the Legislature has considerable discretion.

The Legislature already may have spoken to the issue of the uses to which particular tide and submerged lands may be put when making grants of these lands in trust to local government entities. Statutory trust grants are not all the same--some authorize the construction of ports and airports, others allow only recreational uses and still others allow a broad range of uses.

A further and often complicating factor is that granted and ungranted lands already may have been developed for particular trust uses that are incompatible with other trust uses or may have become antiquated. Some tidelands have been dedicated exclusively to industrial port uses, for example, and in these areas, recreational uses, even if also authorized by the trust grant, may be incompatible. Similarly, tidelands set aside for public beaches may not be suitable for construction of a cannery, even though a cannery may be an acceptable trust use. Piers, wharves and warehouses that once served commercial navigation but no longer can serve modern container shipping may have to be removed or converted to a more productive trust use. Historic public trust uses may have been replaced by new technologies. Antiquated structures on the waterfront may be an impediment rather than a magnet for public access and use of the waters. Public trust uses may and often do conflict with one another. The state and local tidelands grantees, as administrators of their

¹⁰*Illinois Central Railroad v. Illinois, supra*, at 452-53.

respective public trust lands, are charged with choosing among these conflicting uses, with the Legislature as the ultimate arbiter of their choices.

For all these reasons, a list of uses or a list of cases without more may not be as useful as an analysis of public trust law applied to a specific factual situation.

III. The Leasing of Tidelands

A few principles established by the courts are instructive in analyzing under the public trust doctrine the leasing of public trust lands for particular uses. For example, it was settled long ago that tidelands granted in trust to local entities may be leased and improved if the leases and improvements promote uses authorized by the statutory trust grant and the public trust. Leases for the construction of wharves and warehouses and for railroad uses, i.e., structures that directly promote port development, were approved early in the 20th century.¹¹ Later, leases for structures incidental to the promotion of port commerce, such as the Port of Oakland's convention center, were held to be valid because although they did not directly support port business, they encouraged trade, shipping, and commercial associations to become familiar with the port and its assets.¹² Visitor-serving facilities, such as restaurants, hotels, shops, and parking areas, were also approved as appropriate uses because as places of public accommodation, they allow broad public

¹¹*San Pedro etc. R.R. Co. v. Hamilton* (1911) 161 Cal. 610; *Koyner v. Miner* (1916) 172 Cal. 448; *Oakland v. Larue Wharf & Warehouse Co.* (1918) 179 Cal. 207; *City of Oakland v. Williams* (1929) 206 Cal. 315.

¹²*Haggerty v. City of Oakland* (1958) 161 Cal.App.2d 407, 413-414.

access to the tidelands and, therefore, enhance the public's enjoyment of these lands historically set apart for their benefit.¹³

These cases provide three guidelines for achieving compliance with the public trust when leasing tidelands for construction of permanent structures to serve a lessee's development project: (1) the structure must directly promote uses authorized by the statutory trust grant and trust law generally, (2) the structure must be incidental to the promotion of such uses, or (3) the structure must accommodate or enhance the public's enjoyment of the trust lands. Nonetheless, when considering what constitutes a trust use, it is critical to keep in mind the following counsel from the California Supreme Court: The objective of the public trust is always evolving so that a trustee is not burdened with outmoded classifications favoring the original and traditional triad of commerce, navigation and fisheries over those uses encompassing changing public needs.¹⁴

IV. Promotion of Trust Uses and Public Enjoyment of Trust Lands

¹³*Id.* at p. 414; *Martin v. Smith* (1960) 184 Cal.App.2d 571, 577-78.

¹⁴*National Audubon Society v. Superior Court, supra*, at p. 434.

Installations not directly connected with water-related commerce are appropriate trust uses when they must be located on, over or adjacent to water to accommodate or foster commercial enterprises. Examples include oil production facilities, freeway bridges and nuclear power plants.¹⁵ Hotels, restaurants, shops and parking areas are appropriate because they accommodate or enhance the public's ability to enjoy tide and submerged lands and navigable waterways. The tidelands trust is intended to promote rather than serve as an impediment to essential commercial services benefiting the people and the ability of the people to enjoy trust lands.¹⁶

Nevertheless, the essential trust purposes have always been, and remain, water related, and the essential obligation of the state is to manage the tidelands in order to implement and facilitate those trust purposes for all of the people of the state.¹⁷ Therefore, uses that do not accommodate, promote, foster or enhance the statewide public's need for essential commercial services or their enjoyment tidelands are not appropriate uses for public trust lands. These would include commercial installations that could as easily be sited on uplands and strictly local or "neighborhood-serving" uses that confer no significant benefit to Californians statewide. Examples may include hospitals, supermarkets, department stores, and local government buildings and private office

¹⁵See *Boone v. Kingsbury* (1928) 206 Cal.148, 183; *Colberg, Inc. v. State of California ex rel. Dept. Pub. Work*, *supra*, at pp. 421-22; and *Carstens v. California Coastal Com.* (1986) 182 Cal.App.3d 277, 289.

¹⁶*Carstens v. California Coastal Com.*, *supra*, at p. 289.

buildings that serve general rather than specifically trust-related functions.

V. Mixed-Use Developments

¹⁷Joseph L. Sax, A The Public Trust in Stormy Western Waters, @ October 1997.

Mixed-use development proposals for filled and unfilled tide and submerged lands have generally consisted of several structures, including non-trust use structures or structures where only the ground floor contains a trust use. While mixed-use developments on tidelands may provide a stable population base for the development, may draw the public to the development, or may yield the financing to pay for the trust uses to be included in the development, they ought not be approved as consistent with statutory trust grants and the public trust for these reasons. These reasons simply make the development financially attractive to a developer. Projects must have a connection to water-related activities that provide benefits to the public statewide, which is the hallmark of the public trust doctrine. Failure to achieve this goal, simply to make a development financially attractive, sacrifices public benefit for private or purely local advantage. A mixed-use development may not be compatible with the public trust, not because it may contain some non-trust elements, but because it promotes a “commercial enterprise unaffected by a public use”¹⁸ rather than promoting, fostering, accommodating or enhancing a public trust use.¹⁹ That use, however, need not be restricted to the traditional triad of commerce, navigation and fishing. It is an evolving use that is responsive to changing public needs for trust lands and for the benefits

¹⁸*City of Long Beach v. Morse* (1947) 31 Cal.2d 254, 261.

¹⁹*Haggerty v. City of Oakland, supra*, at pp. 413-14.

these lands provide.²⁰

Moreover, commercial enterprises without a statewide public trust use may violate the terms of statutory trust grants. Typically, grants allow tidelands to be leased, but only for purposes “consistent with the trust upon which said lands are held.” This term is not equivalent to “not required for trust uses” or “not interfering with trust uses.” Since leases of tidelands must be consistent with statutory trust grant purposes, leases which expressly contemplate the promotion of non-trust uses rather than trust uses would not comply with the terms of the trust grants.

²⁰*National Audubon Society v. Superior Court, supra*, at p. 434.

For these reasons, non-trust uses on tidelands, whether considered separately or part of a mixed-use development, are not mitigable. That is, unlike some environmental contexts where developments with harmful impacts may be approved so long as the impacts are appropriately mitigated by the developer, in the tidelands trust context, mitigation of a non-trust use has never been recognized by the courts. To the contrary, the California Supreme Court has said that just as the state is prohibited from selling its tidelands, it is similarly prohibited from freeing tidelands from the trust and dedicating them to other uses while they remain useable for or susceptible of being used for water-related activities.²¹

VI. Incidental Non-Trust Use

All structures built on tide and submerged lands should have as their main purpose the furtherance of a public trust use. Any structure designed or used primarily for a non-trust purpose would be suspect. Mixed-use development proposals, however, frequently justify non-trust uses as “incidental” to the entire project. The only published case in California in which a non-trust use of tidelands has been allowed focused on the fact that the real or main purpose of the *structure* was a public trust use and that the non-trust use would be incidental to the main purpose of the structure.²² In this context, the court noted that because the real or main purpose of the structure was to promote public trust uses, non-trust groups could also use the facility, but the non-trust uses must remain *incidental* to the

²¹*Atwood v. Hammond* (1935) 4 Cal.2d 31, 42-43.

²²*Haggerty v. City of Oakland, supra*, at p. 413.

main purpose of the structure.²³ This is the state of the law, and it is supported by good policy reasons as well. If the test for whether a non-trust use is incidental to the main purpose of a development were not applied on a structure-by-structure basis, pressure for more dense coastal development may increase as developers seek to maximize the square feet of allowable non-trust uses. Disputes may arise as to how to calculate the square footage attributable to the proper trust uses versus non-trust uses, with open waterways and parking garages likely being the dominant trust uses and structures being devoted to non-trust uses.

It is beyond contention that the state cannot grant tidelands free of the trust merely because the grant serves some public purpose, such as increasing tax revenues or because the grantee might put the property to a commercial use.²⁴ The same reasoning applies to putting tidelands to enduring non-trust uses by building structures on them. Accordingly, the only enduring non-trust uses that may be made of tidelands without specific legislative authorization are those incidental to the main trust purpose applied on a structure-by-structure basis. Each structure in a mixed-use development on tidelands must have as its primary purpose an appropriate public trust use. If its real or main purpose is a trust use, portions of the structure not needed for trust purposes may be leased temporarily to non-trust tenants, provided that the non-trust use is incidental to the main purpose of the structure.

²³*Ibid.*

VII. The Role of the Legislature

The Legislature is the representative of all the people and, subject to judicial review, is the ultimate arbiter of uses to which public trust lands may be put. The Legislature may create, alter, amend, modify, or revoke a trust grant so that the tidelands are administered in a manner most suitable to the needs of the people of the state.²⁵ The Legislature has the power to authorize the non-trust use of tidelands. It has done so rarely, and then on a case-specific basis.²⁶ Many of its actions have been a recognition of incidental non-trust uses or of a use that must be located on the tidelands. When these legislative actions have been challenged in court, the courts, understandably, have been very deferential, upholding the actions and the findings supporting them.²⁷

The Legislature has provided a statutory framework for the leasing of tidelands for non-trust uses by the cities of Long Beach and San Francisco grounded on findings that the tidelands are *not required for* (San Francisco) or *not required for and will not interfere*

²⁴*National Audubon Society v. Superior Court*, *supra*, at p. 440.

²⁵*City of Coronado v. San Diego Unified Port District* (1964) 227 Cal.App.2d 455, 474.

²⁶For example, in Chapter 728, Statutes of 1994, the Legislature authorized tidelands in Newport Beach to continue to be put to non-trust uses for a limited term after it was determined that the tidelands had been erroneously characterized and treated as uplands by the city due to incorrect placement of the tidelands boundary.

²⁷See, e.g., *Boone v. Kingsbury*, *supra*, at p. 183 and *City of Coronado v. San Diego Unified Port District*, *supra*, at pp. 474-75; but see *Mallon v. City of Long Beach* (1955) 44 Cal.2d 199, 206-07, 212.

with (Long Beach) the uses and purposes of the granting statute.²⁸ Where, as in these two statutes, the Legislature has authorized in general terms the use of tidelands for non-trust purposes, the statutes' provisions must be interpreted so as to be consistent with the paramount rights of commerce, navigation, fishery, recreation and environmental protection. This means that the tidelands may be devoted to purposes unrelated to the common law public trust to the extent that these purposes are incidental to and accommodate projects that must be located on, over or adjacent to the tidelands. These non-trust uses are not unlimited, for there are limits on the Legislature's authority to free tidelands from trust use restrictions.²⁹

To ensure that the exercise of the Long Beach and San Francisco statutes is consistent with the common law public trust, the tidelands to be leased for non-trust uses must have been filled and reclaimed and no longer be tidelands or submerged lands and must be leased for a limited term. The space occupied by the non-trust use, whether measured by the percentage of the land area or the percentage of the structure, should be relatively small. Finally, any structure with a non-trust use should be compatible with the overall project. Findings such as these are necessary because legislative authorizations to devote substantial portions of tidelands to long-term non-trust uses have generally been considered by the

²⁸Ch. 1560, Stats. 1959; Ch. 422, Stats. 1975. These statutes also provide for, *inter alia*, the lease revenues to be used to further trust uses and purposes.

²⁹*Illinois Central R.R. Co. v. Illinois, supra*, at pp. 452-54.

courts as tantamount to alienation.³⁰

In several out-of-state cases, specific, express legislative authorizations of incidental leasing of publicly-financed office building space to private tenants solely for the purpose of producing revenue have been subject to close judicial scrutiny, although they did not involve tidelands trust use restrictions.³¹ One case involved construction of an international trade center at Baltimore's Inner Harbor with public financing where legislation expressly permitted *portions* of the structure to be leased to private tenants for the production of income. Another was a condemnation case where the statute authorizing the New York Port Authority to acquire a site on which to build the World Trade Center was challenged on the basis that it allowed *portions* of the new structure to be used for no other purpose than the raising of revenue. In both cases, opponents of the projects argued that a publicly financed office building should not be permitted to have *any* private commercial tenants even though the respective legislatures had expressly allowed incidental private use of each building. The state courts in both Maryland and New York held that so long as the primary purpose of the office building was for maritime purposes connected with the port, legislation authorizing the leasing to private tenants was valid.³² Although both cases involve challenges to financing and condemnation statutes and do not involve the public

³⁰*Atwood v. Hammond, supra*, at p. 42; see also *Illinois Central R.R. Co. v. Illinois, supra*, at pp. 454-53.

³¹*Lerch v. Maryland Port Authority* (1965) 240 Md. 438; *Courtesy Sandwich Shop, Inc. v. Port of New York Authority* (1963) 12 N.Y.2d 379.

³²*Ibid.*

trust, they are instructive because they demonstrate the importance to the courts, even in the context of public financing and condemnation, that when a portion of a structure is to be leased for the purpose of raising revenues to offset expenses, this incidental non-public leasing must have been legislatively authorized.

VIII. Exchanges of Lands

Situations where a local government or a private party acquires a right to use former trust property free of trust restrictions are rare.³³ In order for such a right to be valid, the Legislature must have intended to grant the right free of the trust and the grant must serve the purpose of the trust. Public Resources Code section 6307 is an example of the rare situation where abandonment of the public trust is consistent with the purposes of the trust.

Section 6307 authorizes the Commission to exchange lands of equal value, whether filled or unfilled, whenever it finds that it is “in the best interests of the state, for the improvement of navigation, aid in reclamation, for flood control protection, or to enhance the configuration of the shoreline for the improvement of the water and upland, on navigable rivers, sloughs, streams, lakes, bays, estuaries, inlets, or straits, and that it will not substantially interfere with the right of navigation and fishing in the waters involved.” The lands exchanged may be improved, filled and reclaimed by the grantee, and upon adoption by the Commission of a resolution finding that such lands (1) have been improved, filled, and reclaimed, and (2) have thereby been excluded from the public channels and are no longer

³³*National Audubon Society v. Superior Court*, *supra*, at p. 440.

available or useful or susceptible of being used for navigation and fishing, and (3) are no longer in fact tidelands and submerged lands, the lands are thereupon free from the public trust. The grantee may thereafter make any use of the lands, free of trust restrictions.

In order for such an exchange of lands to take place, the Commission must find that the lands to be exchanged are no longer available or useful or susceptible of being used for navigation and fishing, taking into consideration whether adjacent lands remaining subject to the trust are sufficient for public access and future trust needs; that non-trust use of the lands to be freed of the public trust will not interfere with the public's use of adjacent trust lands; and that the lands that will be received by the state in the exchange not only are of equal, or greater, monetary value but also have value to the tidelands trust, since they will take on the status of public trust lands after the exchange. Only then can the Commission find that the transaction is in the best interests of the state, that the exchange of lands will promote the public trust and that it will not result in any substantial interference with the public interest in the lands and waters remaining.



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Lisa Cohen

August 7, 2015

Steve Kinsey
Chairman, California Coastal Commission
45 Freemont St., Ste 2000
San Francisco, CA 94105

Re: SUPPORT for East Harbor Island Sub-area Port Master Plan Amendment – Sunroad Harbor Island Hotel Project

Dear Chairman Kinsey and Commission Members:

At our August 5th, 2015 Executive meeting, the Chula Vista Chamber of Commerce unanimously voted to support the Sunroad Harbor Island Hotel Project and respectfully request, your approval for the appropriate East Harbor Island Sub-area Port Master Plan Amendment.

The Chula Vista Chamber of Commerce is an 89-year old organization that serves as the voice of the Chula Vista businesses that provides jobs, generate tax revenue, build infrastructure, and provide services for the City of Chula Vista. Our members are the key contributors to the Chula Vista's economy and have helped foster growth of new businesses and commerce throughout the region. They also make significant contributions to the local economy, employing more than 30,000 individuals in Chula Vista. We advocate for programs, projects and public policy that adequately plans for the future and protects Chula Vista's quality of life as well as those impacting the South County region.

The Sunroad project, made possible by the plan amendment, will benefit the entire San Diego region as it will add another asset to our rich portfolio of tourist destinations. Public access to coastal resources will also benefit the lives of both visitors and those of us who live here. In fact, we understand this project will more than double the shoreline promenade through East Harbor Island.

Our Chula Vista Chamber of Commerce supports projects such as the Sunroad Harbor Island Hotel Project. These type of projects, bring responsibly benefits to our region's environment, economy and cultural treasures. We ask for your support, by approving the East Harbor Island Sub-area Port Master Plan Amendment.

Sincerely,

Lisa Cohen

EXHIBIT NO. 7
Support Letters
PMPA No. PMP-6-PSD-14-0003-2 California Coastal Commission

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SAN DIEGO PORT TENANTS ASSOCIATION

August 6, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Coastal Commission Application PMP -6-PSD-14-0003-2 (Sunroad's Harbor Island Hotel and Port Master Plan Amendment)

Dear Chair Kinsey and Members of the Commission:

On behalf of the San Diego Port Tenants Association (SDPTA), we strongly support the Sunroad Harbor Island Hotel Project and encourage you to approve of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment. The scope of this amendment is rather limited in that it will allow several hotels totaling no more than 500 rooms instead of a single 500 room hotel. In addition, the existing public promenade which is limited to the bayside of East Harbor Island Dr. will be more than doubled in length through its extension around the entire perimeter of East Harbor Island.

We understand that a key issue in processing this project is determining the amount and method for providing lower cost over-night accommodations. It is commendable that both the Coastal Commission and the San Diego Unified Port District are drafting policies and procedures to more effectively deliver lower cost accommodations, however approval of hotel projects currently being processed through the Coastal Commission should not be withheld while updated policies and procedures are being developed. To withhold approvals amounts to a de facto moratorium on hotel development. This is contrary to the goal of increasing public access and visitor serving commercial uses within the Coastal Zone.

As proposed by the Port District, the amendment will allow for construction of a long-awaited, new hotel on East Harbor Island and, consistent with past practice, it establishes clear requirements for creating new lower cost over-night accommodations. SDPTA urges you to approve the Port Master Plan Amendment without further delay.

Sincerely,

George Palermo, Chairman

CC: Commissioners

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August 5, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Coastal Commission Application PMP -6-PSD-14-0003-2 (Sunroad's Harbor Island Hotel and Port Master Plan Amendment)

Dear Chair Kinsey and Members of the Commission:

On behalf of TTG Environmental & Associates, we strongly support the Sunroad Harbor Island Hotel Project and encourage you to approve the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment. The scope of this amendment is rather limited in that it will allow several hotels totaling no more than 500 rooms instead of a single 500 room hotel. In addition, the existing public promenade which is limited to the bayside of East Harbor Island Dr. will be more than doubled in length through its extension around the entire perimeter of East Harbor Island.

I understand that a key issue in processing this project is determining the amount and method for providing lower cost over-night accommodations. It is commendable that both the Coastal Commission and the San Diego Unified Port District are drafting policies and procedures to more effectively deliver lower cost accommodations, however approval of hotel projects currently being processed through the Coastal Commission should not be withheld while updated policies and procedures are being developed. To withhold approvals amounts to a de facto moratorium on hotel development. This is contrary to the goal of increasing public access and visitor serving commercial uses within the Coastal Zone.

As proposed by the Port District, the amendment will allow for construction of a long awaited new hotel on East Harbor Island and, consistent with past practice it, establishes clear requirements for creating new lower cost over-night accommodations. We urge you to approve the Port Master Plan Amendment without further delay.

Sincerely,

Teresa TG Wilkinson

Teresa TG Wilkinson, President

CC: Commissioners

California Coastal Commission

San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District



Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



901 National City Boulevard
National City, CA 91950-3203
Business: 619 477-9339
Fax: 619 477-5018
Web site: www.nationalcitychamber.org

July 29, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Coastal Commission Application PMP -6-PSD-14-0003-2 (Sunroad's Harbor Island Hotel and Port Master Plan Amendment)

Dear Chair Kinsey and Members of the Commission:

On behalf of the National City Chamber of Commerce, we support the Sunroad Harbor Island Hotel Project and encourage you to approve of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment. We understand that this project will provide greater access to the bay by doubling the length of the public promenade by extending it around the entire perimeter of East Harbor Island.

I understand that a key issue in processing this project is determining the amount and method for providing lower cost over-night accommodations. It is commendable that both the Coastal Commission and the San Diego Unified Port District are drafting policies and procedures to more effectively deliver lower cost accommodations; however, we urge you to continue moving forward on development opportunities that will benefit the entire region. To withhold approvals will stall development opportunities that will support increased tourism and economic development.

As proposed by the Port District, the amendment will allow for construction of a long awaited new hotel on East Harbor Island and, consistent with past practice it, establishes clear requirements for creating new lower cost over-night accommodations. We urge you to approve the Port Master Plan Amendment without further delay.

The National City Chamber of Commerce is committed to ensure the economic vitality of the Port and the San Diego Bay; in addition, we strongly support tourism growth. This project will meet both objectives and serve as a valuable recreational resource for San Diegan's and visitors to enjoy.

Sincerely,

Jacqueline Reynoso
President/ CEO
National City Chamber of Commerce

CC: Commissioners

California Coastal Commission
San Diego Coast District Office

Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



July 30, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission,

As the Mayor of the City of National City, I would like to express my strong support for the Sunroad Harbor Island Hotel Project and urge you to approve the East Harbor Island Subarea Port Master Plan Amendment.

The Amendment and the Sunroad Harbor Island Hotel project will add another vibrant tourist destination on East Harbor Island by enhancing the visitor serving opportunities and public amenities on the hotel sites. Public access and enjoyment of coastal resources will also be significantly improved for visitors and locals as the existing shoreline promenade will be more than doubled in length through its extension around the entire perimeter of East Harbor Island. The promenade extension, coupled with the addition of public parking and public amenities, will activate a portion of the waterfront that is underutilized by residents and visitors, and will further enhance active transportation access to coastal resources and maritime employment. Additionally, the projects contemplated by the Amendment will generate substantial economic benefits for the community through the creation of short term construction jobs and long term hospitality jobs.

Sunroad is recognized for its quality projects and it's architecturally and efficient buildings, in particular, they developed the first Spec LEED certified office building in San Diego. Sunroad is also recognized as an exemplary corporate citizen, a role model for our Latino community, that routinely donates to community causes such as their donation of \$1M to the San Diego Fire Department to secure its first permanent fire helicopter for the region. For these reasons, I proudly support Sunroad, the largest Hispanic business on the tidelands, and this project. Sunroad will provide East Harbor Island with its first Hispanic owned waterfront hotel and tourist destination for our diverse communities.

National City has a long history of supporting environmentally sound coastal projects that provide employment to local workers, contract opportunities for small and minority businesses and bring economic benefits and prosperity to our coastal communities and the region, while maintain the delicate balance of preserving coastal access and resources.

Given the environmental, economic, and cultural benefits this project will provide to our community and visiting tourists, we again ask you to please approve the East Harbor Island Subarea Port Master Plan Amendment. Thank you for your time and consideration.

Sincerely,

Ron Morrison
Mayor

Ron Morrison, Mayor
1243 National City Blvd., National City, CA 91950-4301
Office: 619/336-4233 Fax: 619/336-4239 www.nationalcityca.gov
Cell: 619/250- 6091 rmorrison@nationalcityca.gov



OFFICE OF THE MAYOR
Mary Casillas Salas

July 31, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Coastal Commission Application PMP -6-PSD-14-0003-2 (Sunroad's Harbor Island Hotel and Port Master Plan Amendment)

Dear Chair Kinsey and Members of the Commission:

On behalf of the City of Chula Vista we strongly support the Sunroad Harbor Island Hotel Project and encourage you to approve of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment. The scope of this amendment is rather limited in that it will allow several hotels totaling no more than 500 rooms instead of a single 500 room hotel. In addition, the existing public promenade which is limited to the bayside of East Harbor Island Drive will be more than doubled in length through its extension around the entire perimeter of East Harbor Island.

I understand that a key issue in processing this project is determining the amount and method for providing lower cost over-night accommodations. It is commendable that both the Coastal Commission and the San Diego Unified Port District are drafting policies and procedures to more effectively deliver lower cost accommodations, however approval of hotel projects currently being processed through the Coastal Commission should not be withheld while updated policies and procedures are being developed. To withhold approvals amounts to a de facto moratorium on hotel development. This is contrary to the goal of increasing public access and visitor serving commercial uses within the Coastal Zone.

As proposed by the Port District, the amendment will allow for construction of a long awaited new hotel on East Harbor Island and, consistent with past practice, it establishes clear requirements for creating new lower cost over-night accommodations. We urge you to approve the Port Master Plan Amendment without further delay.

Sincerely,

Mary Casillas Salas
Mayor

cc: Deborah Lee, District Manager, California Coastal Commission, San Diego Coast District Office
Anna Buzatis, Associate Redevelopment Planner, San Diego Unified Port District



Latino American Political Association of San Diego

Non-Partisan Leadership Since 1973

July 29, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Subj: Support for East Harbor Island Subarea Port Master Plan Amendment & Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission,

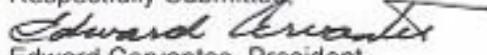
I am writing on behalf of the Latino American Political Association (LAPA) to express our full support of the Sunroad Harbor Island Hotel Project and approval of the East Harbor Island Subarea Port Master Plan Amendment.

We believe the project would improve public access and create new views to San Diego Bay, while facilitating, environmentally sustainable, development at no cost to the taxpayer. The Amendment would allow for expansion of the existing shoreline promenade, to more than double in length, around the entire perimeter of East Harbor Island. This promenade extension would improve public access to the waterfront, with new views to San Diego Bay, and add another vibrant tourist destination. The additional hotel projects, contemplated by the amendment, would also create economic benefits for the region by creating short-term construction jobs and long-term hospitality jobs. It would also expand business opportunities for the small and diverse businesses that make up the five Port cities along the tidelands.

LAPA understands that the Coastal Commission and the San Diego Unified Port District are drafting policies and procedures to more effectively deliver lower cost accommodations. However, approval of hotel projects currently being processed through the Coastal Commission should not be withheld, while updated policies and procedures are being developed. To withhold approvals would amount to a moratorium on hotel development. This would be contrary to the goal of increasing public access and, visitor serving, commercial uses within the Coastal Zone. This would negatively impact our Latino community by delaying our long anticipated Latino owned hotel in the waterfront.

As proposed by the Port District, the amendment would allow for the construction of a long awaited hotel on the East Harbor Island and, consistent with past practice, would establish clear requirements for creating new, lower cost, accommodations. We respectfully ask you to approve the Port Master Plan Amendment without further delay.

Respectfully Submitted,


Edward Cervantes, President
Latino American Political Association

CC: Commissioners

San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



Our mission is to encourage Latinas to develop their business and professional goals through education and collaboration.

National Latina Business Women Association – San Diego Chapter
8885 Rio San Diego Dr. #237, San Diego, CA 92108
(619) 500-4248 • info@nlbwa-sd.com • Tax ID #: 20-2735568

July 31, 2015

Mr. Steve Kinsey, Chair California Coastal Commission
45 Freemont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

On behalf of the National Latina Business Women Association – San Diego Chapter (NLBWA-SD) I would like to express our strong support for the Sunroad Harbor Island Hotel Project and urge you to approve the East Harbor Island Subarea Port Master Plan Amendment.

The Amendment and the Sunroad Harbor Island Hotel project will add another vibrant tourist destination on East Harbor Island by enhancing the visitor serving opportunities and public amenities on the hotel sites. Public access and enjoyment of coastal resources will also be significantly improved for visitors and locals as the existing shoreline promenade will be more than doubled in length through its extension around the entire perimeter of East Harbor Island. The promenade extension, coupled with the addition of public parking and public amenities, will activate a portion of the waterfront that is underutilized by residents and visitors, and will further enhance active transportation access to coastal resources and maritime employment. Additionally, the projects contemplated by the Amendment will generate substantial economic benefits for the community through the creation of short-term construction jobs and long-term hospitality jobs.

Sunroad is recognized for its quality projects and its architecturally and efficient buildings, in particular, they developed the first Spec LEED certified office building in San Diego. Sunroad is also recognized as an exemplary corporate citizen, a role model for our Latino community, that routinely donates to community causes such as their donation of \$1M to the San Diego Fire Department to secure its first permanent fire helicopter for the region. For these reasons, NLBWA-SD proudly supports Sunroad, the largest Hispanic business on the tidelands, and this project. Sunroad will provide East Harbor Island with its first Hispanic owned waterfront hotel and tourist destination for our diverse communities.

NLBWA-SD has a history of supporting projects that provide employment to local workers, contract opportunities for small and minority businesses and bring economic benefits and prosperity to our communities. Given the environmental, economic, and cultural benefits this project will provide to our community and visiting tourists, we again ask you to please approve the East Harbor Island Subarea Port Master Plan Amendment. Thank you for your time and consideration.

Sincerely,

Remy Meraz-Mimms, LEED AP, CSBA
President
NLBWA-SD



National Latino Peace Officers Association
SAN DIEGO COUNTY CHAPTER
P.O. BOX 122708
SAN DIEGO, CA 92112 -2708
www.nlpoasandiegocounty.com

July 30, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Letter of Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission,

The National Latino Peace Officers Association, San Diego County Chapter is in full support of the Sunroad Harbor Island Hotel Project and request the approval of the East Harbor Island Subarea Port Master Plan Amendment.

Sunroad is an experienced developer with many quality projects to its credit and will do an exceptional job in providing another vibrant tourist destination that enhances visitor serving opportunities, and creates jobs for local workers as well as contract opportunities for small and minority businesses that reflect the diversity of the five Port Cities.

This Amendment will significantly improve public access and increase vistas of our beautiful San Diego bay further enhancing the visitors and convention attendees experience of San Diego that help promote repeat visits to our water front destinations, and increase convention bookings and leisure stays long into the future.

Additionally, the Amendment as proposed by the Port District allows for the construction of a long awaited new hotel on East Harbor Island and, consistent with past practice it establishes clear requirements for creating new lower cost accommodations furthering the goal of increasing public access and visitor serving commercial uses within the Coastal Zone.

For all of these reasons, coupled with the environmental sustainability and the economic benefits this project would bring to the region, our Chapter supports and respectfully requests the approval of the Port Master Plan Amendment without further delay. Thank you for your consideration

Sincerely,

David Ardilla

David Ardilla
President, San Diego County Chapter
National Latino Peace Officers Association

CC: Commissioners
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108 • Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101 • Via email to: abuzati@portofsandiego.org



Our Mission is to Enrich, Lead and Foster the San Ysidro Business Community and our Bi-National Region.

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Claudia Valenzuela

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Wal-Mart

Executive Director

Jason M-B Wells

President's Circle



July 28, 2015

Steve Kinsey
Chairman, California Coastal Commission
45 Freemont St., Ste 2000
San Francisco, CA 94105

Re: **SUPPORT for East Harbor Island Sub-area Port Master Plan Amendment – Sunroad Harbor Island Hotel Project**

Dear Chairman Kinsey and Commission Members:

At its July 28, 2015 meeting the San Ysidro Chamber of Commerce unanimously voted to support the Sunroad Harbor Island Hotel Project and respectfully urge you to approve the appropriate East Harbor Island Sub-area Port Master Plan Amendment.

The Sunroad project, made possible by the plan amendment, will benefit the entire San Diego region as it will add another asset to our rich portfolio of tourist destinations. Public access to coastal resources will also benefit the lives of both visitors and those of us who live here. In fact, we understand this project will more than double the shoreline promenade through East Harbor Island.

The San Ysidro Chamber of Commerce supports projects such as the Sunroad Harbor Island Hotel Project that responsibly bring benefit to our region's environment, economy and cultural treasures. We ask you support the same by approving the East Harbor Island Sub-area Port Master Plan Amendment.

Sincerely,


Jason M-B Wells
Executive Director

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

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DANIEL L. CARDOZO
CHRISTINA M. CARO
THOMAS A. ENSLOW
TANYA A. GULESSERIAN
LAURA E. HORTON
MARC D. JOSEPH
RACHAEL E. KOSS
JAMIE L. MAULDIN
ADAM J. REGELE
ELLEN L. WEHR

RECEIVED

August 10, 2015

AUG 10 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

VIA OVERNIGHT DELIVERY AND FACSIMILE

Chair Steve Kinsey
and Honorable Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105
Fax: (415) 904-5400

Th22d

Re: San Diego Unified Port District Port Master Plan Amendment
No. PMP-6-PSD-14-0003-2) East Harbor Island Subarea

Dear Chair Kinsey and Commissioners:

We write on behalf of UNITE HERE Local 30 to urge the California Coastal Commission to deny the Port Master Plan Amendment ("PMPA") prepared for San Diego Unified Port District ("Port") lands in the East Harbor Island subarea of Planning District 2, Harbor Island/Lindbergh Field. The PMPA would allow up to three hotels over a broad area of the East Harbor Island subarea, with a maximum of 500 rooms and no lower cost overnight accommodations. One of the hotels proposed to be built is the Sunroad Harbor Island Hotel, a 175-room hotel located at 955 Harbor Island Drive.

I. SUMMARY OF BASIS FOR DENIAL OF THE PMPA

The PMPA would allow development of Sunroad's 175-room hotel and up to 325 additional hotel rooms in Subarea 23 – East Harbor Island, which are State tidelands held in trust for the people of California, without the provision of any lower cost overnight accommodations. Last year, Commission staff recommended denial of the PMPA due to its inconsistency with the public access and recreation policies of the Coastal Act that protect and encourage lower cost visitor-serving and public recreational opportunities. At the July 9, 2014 hearing, both the Commission and staff noted concerns with the lack of lower cost overnight accommodations in the Port and the resulting need for the Port to develop a policy for the provision of

2421-062cv

EXHIBIT NO. 8
Opposition Letters
 PMPA No. PMP-6-PSD-14-0003-2 California Coastal Commission

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Page 2

such accommodations within the Port. The Port then withdrew the PMPA to allow more time to work on the San Diego Unified Port District Lower Cost Overnight Accommodations Study ("Study").

The Port did not complete the Study. Instead, the Port resubmitted the same PMPA. The Port then submitted previously negotiated modifications to the PMPA that addressed other inconsistencies with the Coastal Act. Finally, in a last-ditch move purported to address the long-standing lack of lower cost overnight accommodations, the Port added language that does not require any of the 500 hotel rooms to provide lower cost overnight accommodations. Specifically, the PMPA would allow the Sunroad hotel to be built without providing any lower cost accommodations or an in lieu fee. The PMPA would also allow up to two high-end hotels, totaling 325 rooms, with 25% of those rooms priced as "midscale or economy," and no in lieu fee would be required.

The Commission should deny the PMPA because the PMPA fails to provide sufficient detail, as required by section 30711 of the Coast Act, for the Commission to determine whether the PMPA is consistent with the public access and recreation policies of the Coastal Act. Also, substantial evidence shows that the PMPA, as drafted, violates public access and recreation policies of the Coastal Act that protect and encourage lower cost visitor-serving and public recreational opportunities.

II. LEGAL AND FACTUAL BASES FOR DENIAL

Section 30711 of the Coastal Act requires a port master plan to describe proposed projects listed as appealable, such as those in this case, "in sufficient detail to be able to determine their consistency with the policies of Chapter 3 of the Coastal Act." Chapter 3 of the Coastal Act, along with Article X of the California Constitution which is incorporated therein, contains numerous policies for ensuring maximum access to the coast by all of the people of the State. In fact, the Port Master Plan itself states that it will "encourage non-exclusory uses on tidelands" and will "[d]evelop the multiple purpose use of the tidelands for the benefit of all the people" in an effort to satisfy its goal to "emphasize . . . public benefits over private ones." Port Master Plan, p. 8, Goal IV. This goal is consistent with the State's policies in the Coastal Act to protect and provide for maximum public access and recreational opportunities to the coast, which are at issue in this case. Section 30210 of the Coastal Act states that "[i]n carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access...and recreational opportunities shall be provided for all the people..." Section 30211 of the Coastal

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Page 3

Act states that “[d]evelopment shall not interfere with the public’s right of access to the sea where acquired through use or legislative authorization...” Like the existing Port Master Plan, Section 30213 of the Coastal Act protects, encourages and, where feasible, provides for “[l]ower cost visitor and recreational facilities.” Coastal Act § 30213.

The PMPA is precedent-setting. The PMPA clearly violates section 30711, 30210, 30211 and 30213 of the Coastal Act, along with the California Constitution, in several ways.

First, it would create an entirely new plan, regulation and policy, which would prohibit the Port and the Commission from requiring mitigation for impacts to public access from midscale and economy accommodations. Instead of acknowledging the growing gap between the wealthy and poor¹, the Port seems to assume (incorrectly) that lower cost accommodations are no longer needed in the State of California in 2015 and beyond. The PMPA is nonsensical. The PMPA’s provision for midscale overnight accommodations with no in lieu fee violates State law. Instead of protecting, encouraging and providing lower cost visitor accommodations, as required by sections 30210, 30211 and 30213 of the Coastal Act, the PMPA does not provide for lower cost overnight accommodations. The PMPA cannot be approved until the California Legislature amends the California Coastal Act *first*.

Second, the project-driven PMPA would allow the proposed 175-room Sunroad Harbor Island Hotel Project to be built and operated without any provision for lower cost overnight accommodations, and without any requirement to pay an in lieu fee to mitigate its failure to provide lower cost overnight accommodations on site. As the Commission knows, where projects fail to provide lower cost overnight accommodations, the Commission requires project applicants to provide an in lieu mitigation fee for 25% of the new, higher cost units, to ensure that a range of accommodation rates is available to the public. As Commission staff has explained, it is the expectation of the Commission, based upon several precedents, that developers of sites suitable for overnight accommodations will provide facilities which serve people with a range of incomes, and if development cannot provide for a range of affordability on-site, the Commission requires off-site mitigation. For example, the Commission required a \$30,000 per room in-lieu fee for 25% of higher cost units at the Lane Field hotel project.

¹ <http://www.bizjournals.com/losangeles/news/2013/01/25/income-gap-between-rich-and-poor.html>.
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In *La Costa Beach Homeowners' Association v. California Coastal Commission* (2002) 101 Cal.App.4th 804, the California Court of Appeal upheld the Coastal Commission's decision to allow offsite mitigation for impacts to views and public access from construction of new homes because the homeowners:

1. Provided evidence of the location of the parcel;
2. Purchased the parcel;
3. Restricted the deed on the parcel to provide for public views and public access; and
4. Tendered the parcel to the Coastal Conservancy, which agreed to assume ownership and implement a public access plan.

Based on these factors and others, the court held that substantial evidence supported the Commission's findings and its decision to accept the mitigation parcel for public views and public access.

Unlike *La Costa*, the record contains no evidence that the PMPA will not impede public access to the coast; instead, the PMPA will practically result in privatization of public tidelands on East Harbor Island. There is no evidence that a site for lower cost accommodations has been identified, there is no evidence that a parcel will be provided in the coastal zone, no party has purchased or secured a lease on a parcel, no deed restrictions are in place to ensure continued use of a parcel for lower cost overnight accommodations, a parcel has not been tendered or subleased to an applicant who is willing to build a project to mitigate impacts to public access; no in lieu fee is required for up to three hotels on East Harbor Island; and there is no timetable for ensuring lower cost facilities will be developed.

Furthermore, the PMPA would *preclude* the Commission from requiring payment of an in lieu fee, or any other provision, as mitigation for up to three hotels and 500 rooms not providing lower cost overnight accommodations, even though they would be appealable developments. The PMPA, if approved, would be a Commission-sanctioned change in State law and policy regarding the provision of lower cost overnight accommodations.

Finally, the record in this case clearly shows that even the detailed plan developed in 2009 for the Lane Field Hotel's provision of a hostel to mitigate the failure to provide lower cost overnight accommodations failed to mitigate the Project's inconsistency with section 30213 of the Coastal Act.

August 10, 2015

Page 5

Approval of the PMPA would violate State law for the following reasons:

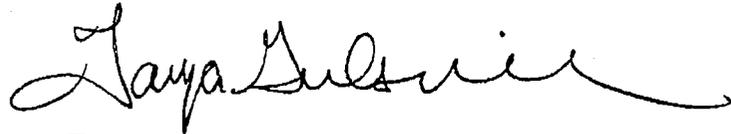
1. The Port has no obligation to do anything other than allow midscale or economy hotel rooms on East Harbor Island.
2. The PMPA would prohibit the Commission from requiring lower cost overnight accommodations in the 175-room Sunroad Hotel Project.
3. The PMPA would prohibit the Commission from requiring lower cost overnight accommodations in up to two other hotels, totaling 325 rooms.
4. The PMPA would prohibit the Commission from requiring the payment of an in lieu fee for up to 500 hotel rooms that fail to provide lower cost overnight accommodations.
5. The PMPA contains no requirement that lower cost hotel rooms be provided in the coastal zone.
6. The PMP contains no requirement that lower cost overnight accommodations be provided anywhere. The Lane Field record from 2009 made clear that “[v]acant tidelands without committed leases are extremely rare...”
7. The PMPA would be inconsistent with State law and Coastal Commission policies, which require mitigation for midscale hotels.
8. The Port’s promises and statements that are not in the PMPA are either vague or unenforceable.
9. All mitigation for the PMPA’s inconsistencies with the Coastal Act would be dependent on an applicant desiring to build a lower cost overnight accommodation.
10. Should no applicant desire to build lower cost overnight accommodations, none would be built on East Harbor Island or off-site as mitigation for 500 hotel rooms on East Harbor Island.

August 10, 2015

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Simply put, the PMPA fails to provide sufficient detail for the Commission to determine whether the PMPA is consistent with the Coastal Act, and substantial evidence shows that the PMPA and the projects detailed therein violate the public access and recreation policies of the California Coastal Act. East Harbor Island is comprised of State tidelands and is a feasible and opportune location to ensure protection of lower cost visitor serving accommodations in the waterfront. The PMPA's allowance of three hotels in this small subarea of East Harbor Island without any provision for lower cost overnight accommodations, constitutes privatization of public tidelands, violates the Coastal Act and is nothing short of poor planning.

Sincerely,



Tanya Gulesserian
Attorney for UNITE HERE Local 30

TAG:clv

cc: Sherilyn Sarb
Deborah Lee
Kanani Brown

San Diego Unified Port District Port Master Plan Amendment No. 47 (PMP-6-PSD-14-0003-2) East Harbor Island




PMPA No. PMP-6-PSD-14-0003-2
California Coastal Commission

Port Briefing Book

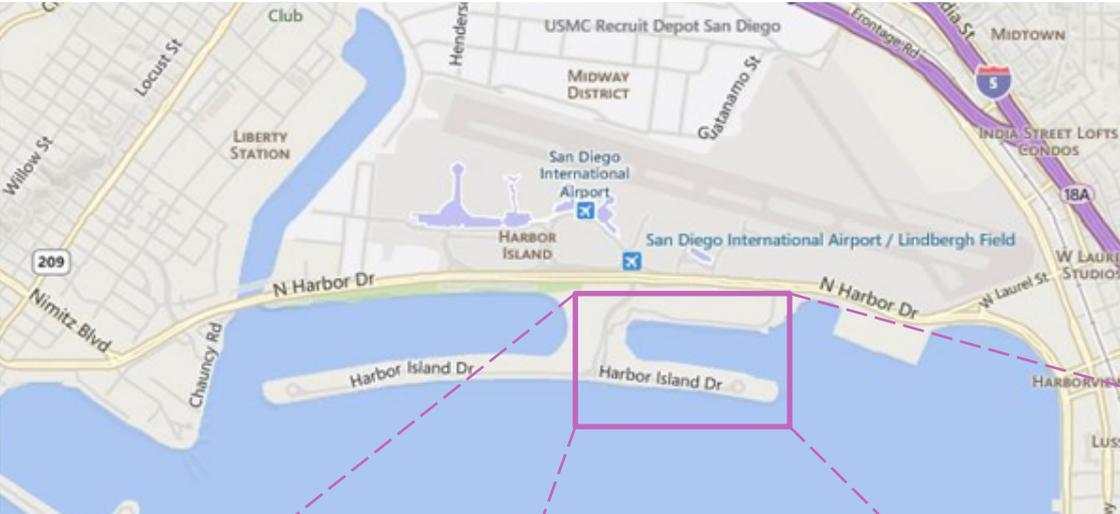
EXHIBIT NO. 10

California Coastal Commission Hearing
13, 2015

Item Th22d

Location

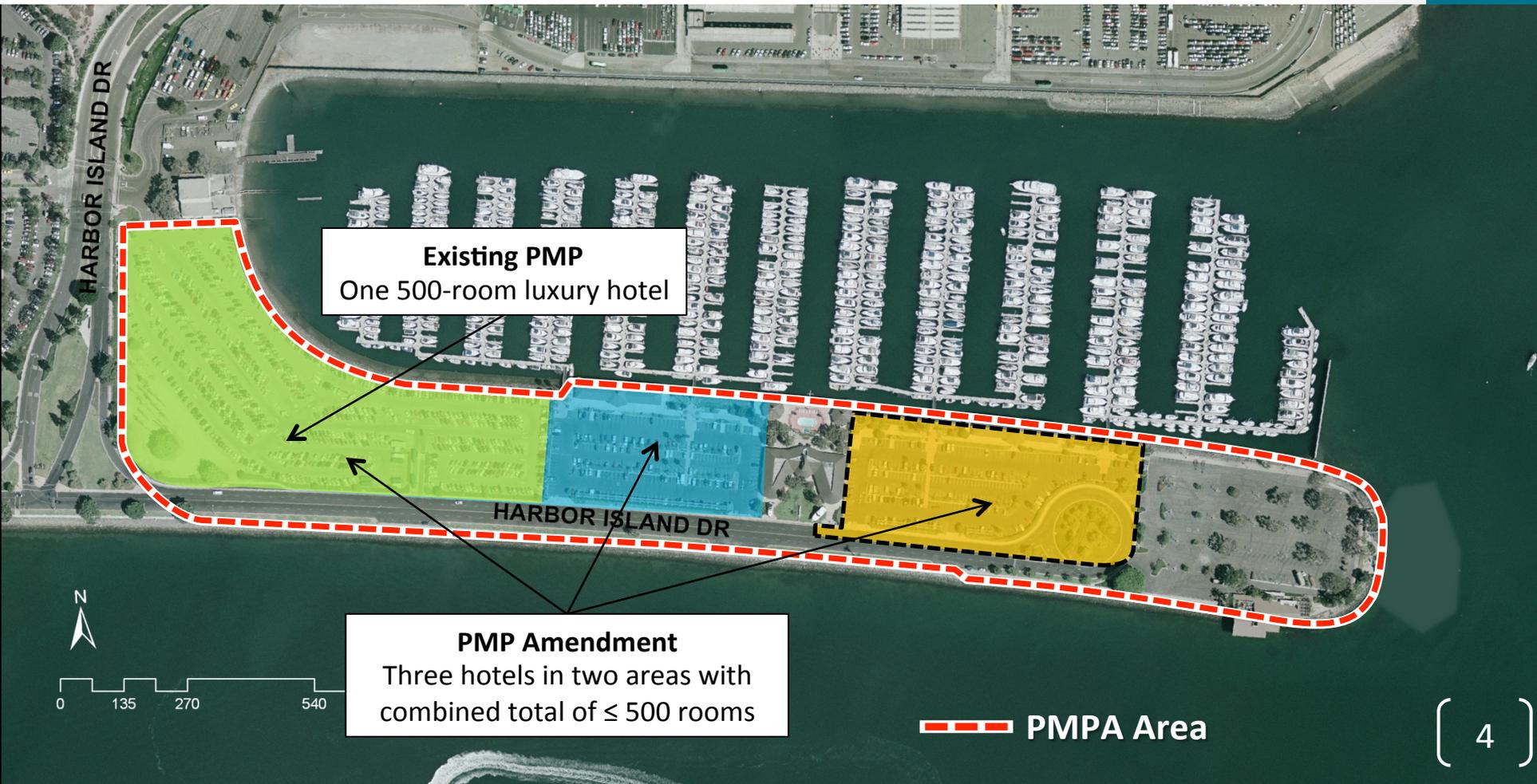
East Harbor Island,
San Diego



Proposed PMPA

- East Harbor Island is designated for Commercial Recreation uses; currently developed with restaurants, marina and parking.
- Existing Port Master Plan allows for one 500-room luxury hotel.
- Port requests to amend its certified Port Master Plan with text and map changes to allow for up to three hotels with up to 500 rooms total and associated facilities on East Harbor Island instead of a single luxury hotel, extension of the public access promenade and realignment of the traffic circle.

Proposed PMPA



PMPA Timeline

- **2008 – Commence environmental review**
- **June 2011 Port Board meeting**
 - ❖ Option Agreement, EIR, PMPA, Concept Approval
- **July 2011 to April 2012 - CEQA lawsuit by Unite HERE**
 - ❖ EIR analysis adequate for Sunroad Harbor Island Hotel
 - ❖ Additional CEQA review needed for PMPA
- **August 2012 Port Board meeting**
 - ❖ Rescind approvals for EIR, PMPA, Concept Approval
- **2013 – Revisions to Draft EIR prepared**
- **March 2014 – Port Board meeting**
 - ❖ Approval of Revised Final EIR, draft PMPA, concept approval
- **July 2014 – CCC Hearing; application withdrawn**
 - ❖ Directed to work w/staff on lower cost accommodations issue
- **December 2014 & March 2015 – CCC Workshops**
 - ❖ Statewide policy discussion re: lower cost accommodations
 - ❖ Port staff provides updates on its own lower cost accommodations study and policy
- **August 2015 – CCC Hearing**

PMPA Area w/Sunroad Hotel



 PMPA Area

**175-room limited service hotel is part of 500 total hotel rooms*



NORTH

Sunroad Hotel

CONCEPT APPROVAL



SOUTH ELEVATION

- 175-Room, 4-Story Limited Service Hotel
- Roadway and Traffic Circle Realignment
- Enhanced Public Access
- \$30M Estimated Investment in Improvements

Resolution of Issues

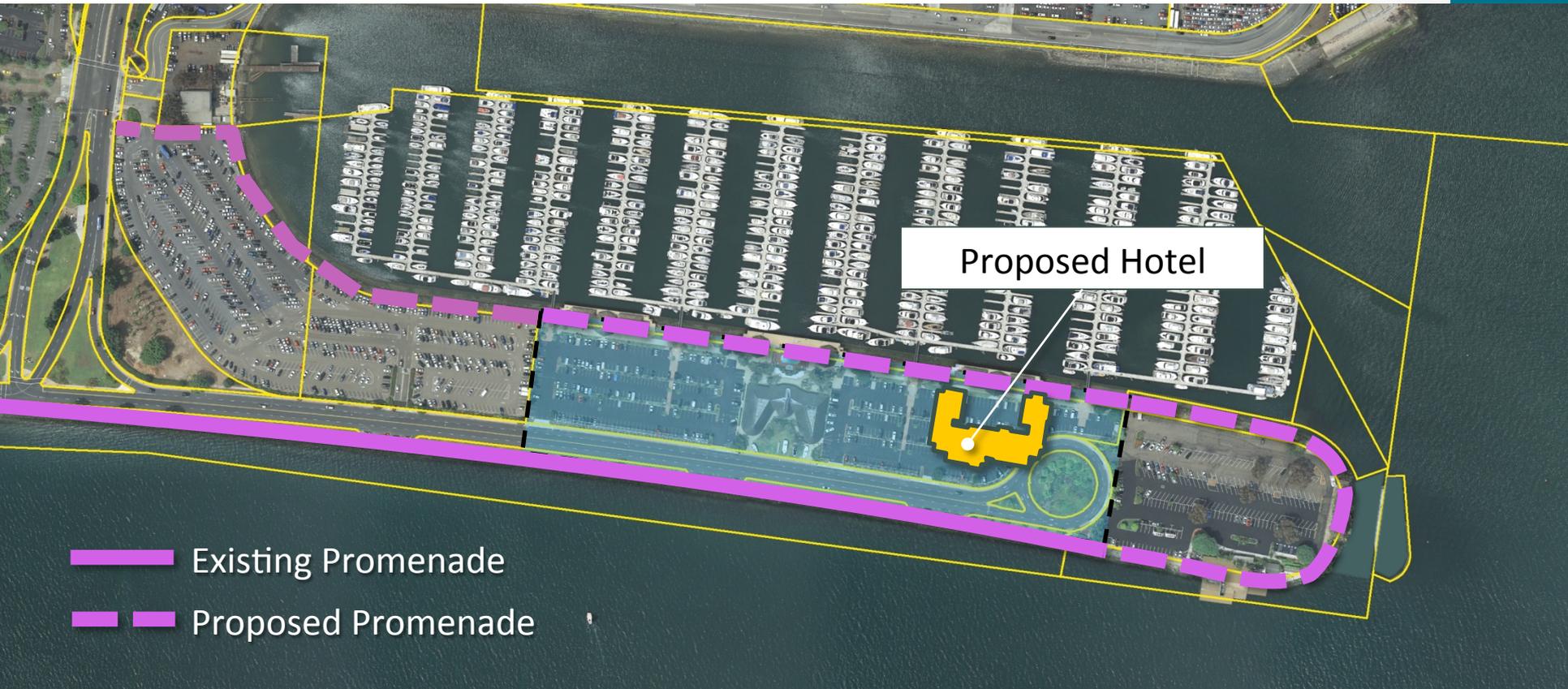
CCC Staff Issue

- Parking
- Shuttle
- Activating Uses
- Bulk and Scale; Public Views
- Public Promenade

Port Staff Response

- Provision of a total of 15 public parking spaces across the hotel sites
- Requires participation in and expansion of bayside shuttle system
- Includes requirements for provision of public amenities
- Building envelopes will not exceed 70% of each hotel site; views provided through access corridors
- Interim promenade to be constructed until such time as existing buildings are demolished and promenade can be realigned

Public Promenade



- Existing Promenade
- Proposed Promenade

Outstanding Issue

CCC Staff Issue

- Provision of lower cost visitor serving accommodations required on-site; new PMPA must be approved to site accommodations elsewhere

Port Staff Response

- Developer to provide lower cost accommodations or in-lieu fee as condition of CDP pursuant to study.
 - Same language approved by CCC for Hilton Expansion in October 2013.
- Request for Proposal (RFP) for remaining 325 hotel rooms to specify:
 - No less than 25% of hotel rooms will be midscale or economy;
 - Developer will be required to include amenities that lower cost of stay.

Issues with CCC Staff Approach

- Would require that room rates be fixed, which is prohibited by Section 30213.
- Requires leasehold on E. Harbor Island to remain underutilized indefinitely.
- Preempts study that is currently underway to identify where lower cost accommodations could be sited.

San Diego Unified Port Act

- Governing legislation that details Port's responsibilities
- Directs Port to manage San Diego Bay and the Tidelands (consistent with principles of Public Trust Doctrine)
- Promote commerce, navigation, recreation and fisheries
- \$1.7 billion reinvested into Tidelands since 1963
 - Parks, piers, infrastructure, coastal access, maintenance
- Port is a landlord and needs to achieve a rate of return on land through rents to remain self-sustaining and support reinvestment initiatives

Port's Lower Cost Overnight Accommodations Policy

- Preliminary four phase study underway to:
 - Establish a baseline of existing lower cost overnight accommodations
 - Create the framework for a future policy:
 - Define “lower cost”;
 - Analyze projected demand for lower cost accommodations;
 - Estimate cost to meet projected demand; and
 - Establish nexus for establishment of fair share fee concept to fund construction of new lower cost accommodations.



Consistency with Coastal Act

- As submitted and modified, PMPA is consistent with public access/recreation and visual resource policies of Coastal Act:
 - Encouraging new overnight accommodations and public amenities to serve visitors to the Bay;
 - Providing public access to a previously inaccessible area of the Bay;
 - Providing continuous, contiguous waterfront pedestrian access along promenade;
 - Allowing shared/joint use parking to ensure adequate parking on East Harbor Island while providing a total of 15 public parking spaces across the hotels sites; and
 - Reducing bulk and scale by allowing for hotel rooms to be sited in multiple lower profile structures throughout East Harbor Island.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Kevin Schmidt

1) Name or description of project: SD Port Amendment; Hotels

2) Date and time of receipt of communication: 8/3/15 12:52 pm

3) Location of communication: Telephone

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Susan McCabe

5) Identity of person(s) on whose behalf communication was made: _____

SD Port

6) Identity of persons(s) receiving communication: _____

Kevin Schmidt

7) Identity of all person(s) present during the communication: _____

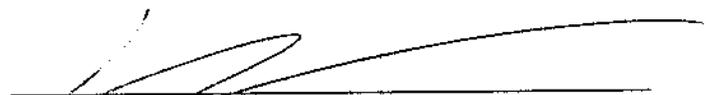
Kevin Schmidt; Susan McCabe

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Susan asked about SLCs position regarding a public trust determination made on Page 17 and 18 of the staff report

I offered to review the language used and discuss with staff at SLC

8/5/15
Date


Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written communication. This form may be filed with the Executive Director at the time of disclosure.

EXHIBIT NO. 11
Ex-Partes
 PMPA No. PMP-6-PSD-14-0003-2 California Coastal Commission

EX PARTE COMMUNICATION DISCLOSURE FORMFiled by Commissioner: Carole Groom

- 1) Name or description of project: San Diego Unified Port District PMP Amendment No. PMP-6-PSD-14-0003-2 (East Harbor Island Hotels)
- 2) Date and time of receipt of communication: August 3, 2015 at 1:30 PM
- 3) Location of communication: Telephone
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
Anne Blemker
- 5) Identity of person(s) on whose behalf communication was made:
Port of San Diego
- 6) Identity of persons(s) receiving communication:
Carole Groom
- 7) Identity of all person(s) present during the communication:
Carole Groom, Penny Maus and Anne Buzaitis (Port of San Diego), Uri Feldman and Anrea Rosati (Sunroad Hotel), Susan McCabe (McCabe and Company), Steve Kaufmann (Richards Watson Gershon), Richard Alexander Bac

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I received a briefing regarding the Port Master Plan Amendment in San Diego in which the representatives went through a briefing booklet that was previously provided to staff (titled "Harbor Island" and dated August 13, 2015). The representatives stated that they are working to satisfy staff and still reaching denial with staff. They reviewed the history with the Commission, that in July of 2014, the Commission denied the project due to the affordable lodging issue. The 500-room hotel project has been broken down into 3 hotels with 500 rooms combined. The representatives stated that the current proposal includes a 4-story, limited service hotel with 175 rooms, a gym, a grab and go breakfast place (but no spa or three-meal restaurant). In addition, they indicated that there would be a public promenade included in the project, as well as a temporary promenade during construction. According to the representatives, there is no definition of "lower cost" in the Coastal Act. They stated that the remaining 325 rooms for the other hotel(s) would go out in a Request for Proposals (RFP) that would be for mid-scale or economy hotels only. They also discussed the San Diego Unified Port Act, which requires commerce, recreation, and fishery uses, among others. They stated that they need the hotel revenues to be self-sustaining and will invest in the local tidelands with some of the funds. In terms of alternatives for lower cost accommodations, it was indicated that it is not a viable site for a hostel as it is not near public transit and not within walking distance of nearby attractions. The representatives stated that they have worked on this proposal for over 7 years and are beginning to wonder if there is a de facto moratorium on building in coastal tidelands areas.

Aug 7 2015
Date

Carole Groom
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

EX PARTE COMMUNICATION DISCLOSURE FORMFiled by Commissioner: Carole Groom

- 1) Name or description of project: San Diego Unified Port District PMP Amendment No. PMP-6-PSD-14-0003-2 (East Harbor Island Hotels)
- 2) Date and time of receipt of communication: August 7, 2015 at 8 AM
- 3) Location of communication: Telephone
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication: Lex Olbrei
- 5) Identity of person(s) on whose behalf communication was made: Unite Here, Local 30, San Diego
- 6) Identity of persons(s) receiving communication: Carole Groom
- 7) Identity of all person(s) present during the communication: Carole Groom, Lex Olbrei, and Richard Alexander Bac

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I received a briefing from the representative regarding the Port Master Plan Amendment in San Diego. The representative indicated agreement with the staff recommendation as they believe the project does not meet the requirements for lower cost accommodations. The representatives stated concern regarding the use of in lieu fees instead of building a hostel; she said that, under similar conditions in the past, the in lieu fees sit there and don't get used to build any new, low-cost units. She said this approach hasn't worked. She stated that the trend has been dual branded hotels and questions why three hotels are being contemplated for the site. Dual branded hotels can be more affordable, she indicated. Furthermore, the representative made the point that the public promenade may feel closed off to the public as they may be intimidated to use it if a high-end hotel is located there. In addition, she stated that it is generally hard and intimidating for the public to access the beaches/coast in San Diego.

Aug 7 2015
Date

carole groom
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Steve Kinsey

- 1) Name or description of project: San Diego Unified Port District PMP Amendment No. PMP-6-PSD-14-0003-2 (East Harbor Island Hotels)
- 2) Date and time of receipt of communication: Aug. 10, 2015 at 1:00pm
- 3) Location of communication: Telephone
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
Anne Blemker
- 5) Identity of person(s) on whose behalf communication was made:
Uri Feldman, Sunroad Enterprises
- 6) Identity of persons(s) receiving communication:
Steve Kinsey
- 7) Identity of all person(s) present during the communication:
Penny Maus (SD Port), Uri Feldman (Sunroad), Andrea Rosati (Sunroad), Steve Kaufmann, Susan McCabe, Anne Blemker

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I received a briefing from representatives of the Port of San Diego and the Sunroad Harbor Island Hotel in which they went through a briefing booklet previously provided to staff. The representatives provided an update on the proposed Port Master Plan Amendment (PMPA) and the associated hotel project and discussed efforts to work with CCC staff since the hearing in July 2014. The PMPA would allow for up to 500 rooms in three individual hotels rather than a single luxury hotel. At this time, only one 175-room hotel, road/traffic circle realignment and public access improvements are being proposed. They described a number of issues that had already been resolved with CCC staff, including those relating to timing of construction of the public promenade, parking, shuttle service, activating uses, bulk and scale, and public views. There is only one outstanding issue related to provision of lower cost visitor-serving accommodations on-site (where a new PMPA must be approved to site accommodations elsewhere). They explained that the CCC staff's suggested language would require that camping or a hostel be sited on E. Harbor Island or that room rates be fixed, inconsistent with Section 30213. They also stated that the Port is currently conducting a study to assess where low cost accommodations should be sited and how to establish a fair share in-lieu fee policy.

At the time of the meeting, the primary outstanding issue was the requirement that low cost overnight accommodations be provided on-site as part of this PMPA. The Port and hotel representatives request approval of the proposed amendment as submitted with recent revisions.

8/10/15
Date

SA Kinsey
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

Subarea 23 at this time; therefore, specificity is needed to guide future proposals for development and to protect public access and coastal resources.

The subject PMPA is project-driven with one of the three possible hotels proposed for development at this time by Sunroad Marina Partners, LP. The proposed Sunroad hotel would be situated towards the east end of Harbor Island on the same leasehold as the Sunroad Resort Marina, which has a 50 year lease with the Port for a 600-slip marina that will expire in 2037. The proposed hotel would operate in conjunction with the marina and includes a 175-room, four-story, limited service hotel with ancillary meeting and fitness space, common areas, an exterior pool, and surface parking. The proposed hotel would be similar in quality and amenities to a Courtyard by Marriott or a Hilton Garden Inn, both of which are considered upscale hotel chains according to Smith Travel Research.

As proposed, the PMPA language acknowledges the hotel developer(s) must contribute a “fair-share” of on-site or off-site lower cost visitor accommodations or pay an in-lieu fee based on a study conducted by the District; however, the study has not been completed, and the policy language does not establish or identify the number of lower cost units needed to meet public demand, or the potential location and timeframe for development of lower cost accommodations elsewhere within the Port. The language proposed in the PMPA would be similar to that required in the PMPA approved by the Commission in the Hilton hotel addition associated with the convention center expansion; however, reliance on this language has not resulted in the actual provision of additional lower cost overnight accommodations within the Port. For example, of the existing 8,035 overnight accommodations within the Port, only 237 are lower cost (237 RV sites at Chula Vista RV Resort).

Additionally, in January 2009, the Coastal Commission originally required that the Lane Field development along the North Embarcadero participate in a hostel program to create actual units within the Port; however, in February 2013, the program was discontinued and replaced with an in-lieu fee that has not resulted in the creation of additional lower cost accommodations within or adjacent to the Port. There is an increasing need for lower cost overnight accommodations within the Port in the form of a specific program that will result in units as opposed to deferred collection of in-lieu fees. The subject subarea is public tidelands, is currently undeveloped and designated for overnight accommodations and is, thus, a potential location to be reserved for use of the in-lieu fees and provision of such lower cost overnight accommodations.

Despite several meetings, Commission and Port staffs were unable to reach agreement on language concerning the reservation of land in the subarea to support lower cost overnight accommodations and/or the direct provision of lower cost overnight accommodations within the subarea. The Port’s final revision to the subject PMPA, made on July 24, 2015, includes language that attempts to address this issue, including that 25% of the remaining 325 rooms (82 rooms) planned for East Harbor Island will be

midscale or economy, with no in-lieu fee required. However, the proposed language does not adequately protect and encourage lower cost visitor-serving accommodations within the subarea, which are historic public tidelands subject to the public trust.

Full-buildout of the subarea would be premature until it has been determined that this subarea is not required to accommodate a lower-cost hotel and/or a very low cost option, such as a hostel, through use of in-lieu fee payments, and to fulfill the results of the Port's final study on lower cost overnight accommodations. As the land owner of public trust lands, the Port is in a unique position to manage development within its jurisdiction in a manner that maximizes the public benefit consistent with the public access and recreation policies of the Coastal Act; however, the proposed PMPA does not adequately do so and therefore the staff recommendation is denial.

As originally submitted, the PMPA did not adequately protect coastal resources and the right of public access on public tidelands. However, staff at the Commission and the Port were able to reach agreement on proposed PMPA text language on all but the one issue related to the lower-cost overnight accommodations. The PMPA addresses parking management to protect public access and recreational opportunities, requires participation in the Port's shuttle system, the provision of activating uses, and the provision of 15 public parking spaces beyond the otherwise required off-street parking conditions. The Port will maintain and build upon alternate transit opportunities in conjunction with the City of San Diego and the San Diego Metropolitan Transit System to supplement existing transit services and provide a convenient alternate transit system for the public and patrons alike. In addition, the hotels will be constructed to protect public visual resources and will be required to conform to bulk and scale limits such that building envelopes will not exceed 70% of each project site. The PMPA includes a requirement for public access corridors in between hotel buildings to protect coastal access and visual resources to the scenic Harbor Island East Basin and the City of San Diego skyline. The PMPA also requires the installation of a bayside public promenade to be completed concurrent with the development of the first hotel in order to provide a continuous waterfront accessway.

The appropriate motion and resolution can be found on Page 5. The findings for denial of the amendment as submitted begin on Page 14.

Port Master Plan Amendment Procedure. California Code of Regulations, Title 14, Section 13636 calls for port master plan amendments to be certified in the same manner as provided in Section 30714 of the Coastal Act for certification of port master plans. Section 13628 of the Regulations states that, upon the determination of the Executive Director that the master plan amendment and accompanying materials required by Section 13628(a) are sufficient, the master plan amendment shall be deemed submitted to the Commission for purposes of Section 30714 of the Coastal Act.

The subject amendment was deemed submitted on May 21, 2015. Within 90 days after this submittal date, the Commission, after public hearing, shall certify or reject the amendment, in whole or in part. If the Commission fails to take action on the amendment submittal within the 90-day period, the proposed amendment is deemed certified. The date by which the Commission must take action, absent a waiver by the Port District of the 90-day period, is August 19, 2015.

Section 30700 of the Coastal Act states that Chapter 8 shall govern those portions of the San Diego Unified Port District located within the coastal zone, excluding any wetland, estuary, or existing recreation area indicated in Part IV of the Coastal Plan. The entire water area under the jurisdiction of the Port of San Diego is governed by Chapter 3 policies because San Diego Bay is mapped as an estuary and wetland in Part IV of the Coastal Plan, and on the maps adopted by the Commission pursuant to Section 30710 of the Act. The attached amendment reflects the Port's proposal (Exhibit 4).

STAFF RECOMMENDATION:

I. PORT MASTER PLAN SUBMITTAL - RESOLUTION

Following a public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to the resolution.

RESOLUTION I (Resolution to deny certification of Port of San Diego Master Plan Amendment No. PMP-6-PSD-14-0003-2)

MOTION I

I move that the Commission certify the Port Master Plan Amendment No. PMP-6-PSD-14-0003-2 as submitted by the San Diego Unified Port District.

Staff Recommendation

Staff recommends a **NO** vote. Failure of this motion will result in rejection of the Port Master Plan Amendment and adoption of the following resolution and findings. The motion to certify passes only upon an affirmative vote of a majority of the Commissioners present.

Resolution I

Deny Certification of Amendment

The Commission hereby denies certification of San Diego Unified Port District Master Plan Amendment No. PMP-6-PSD-14-0003-2, and finds, for the reasons discussed below, that the amended Port Master Plan does not conform with or carry out the policies of Chapter 3 and Chapter 8 of the Coastal Act. Nor would certification of the amendment meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the amendment.

II. FINDINGS AND DECLARATIONS.

The Commission finds and declares as follows:

A. Previous Commission Action. The Commission certified the San Diego Unified Port District Master Plan on October 14, 1980. The Commission has reviewed 46 amendments since that date. The Commission reviewed a nearly identical PMPA (Amendment #46) on July 9, 2014; however, the applicant subsequently withdrew it at the hearing. The subject PMPA would be Amendment #47 to the PMP.

B. Contents of Port Master Plan Amendments. California Code of Regulations Title 14, Section 13636 calls for port master plan amendments to be certified in the same manner as port master plans. Section 30711 of the Coastal Act states, in part, that a port master plan shall include all the following:

- (1) The proposed uses of land and water areas, where known.
- (2) The proposed design and location of port land areas, water areas, berthing, and navigation ways and systems intended to serve commercial traffic within the area of jurisdiction of the port governing body.
- (3) An estimate of the effect of development on habitat areas and the marine environment, a review of existing water quality, habitat areas, and quantitative and qualitative biological inventories, and proposals to minimize and mitigate any substantial adverse impact.
- (4) Proposed projects listed as appealable in Section 30715 in sufficient detail to be able to determine their consistency with the policies of Chapter 3 (commencing with Section 30200) of this division.
- (5) Provisions for adequate public hearings and public participation in port planning and development decisions.

The Commission finds that the proposed port master plan amendment does not conform to the provisions of Section 30711 of the Coastal Act. The proposed changes in land and

water uses do not contain sufficient detail in the port master plan submittal for the Commission to make a determination of the proposed amendment's consistency with the Chapter 3 and Chapter 8 policies of the Coastal Act.

The proposed amendment was the subject of an Environmental Impact Report under the California Environmental Quality Act. The Environmental Impact Report and the proposed PMPA were subject to public review and hearing and were adopted by the Board of Port Commissioners on March 4, 2014 as Resolutions #2014-52 and #2014-53, respectively.

C. Standard of Review. Section 30710 states that Chapter 8 shall govern those portions of the San Diego Unified Port District, excluding any wetland, estuary, or existing recreation area indicated in Part IV of the Coastal Plan. The entire water area under the jurisdiction of the Port of San Diego is governed by Chapter 3 policies because San Diego Bay is mapped as an estuary and wetland in Part IV of the Coastal Plan, and on the maps adopted by the Commission pursuant to Section 30710 of the Act. Sections 30714 and 30716 of the Coastal Act provides that the Commission shall certify a PMPA if it conforms with and carries out the policies of Chapter 8 of the Coastal Act or, if there is a portion of the proposed PMPA that is appealable to the Commission pursuant to Section 30715 of the Coastal Act, then that portion of the PMPA must also be consistent with the Chapter 3 policies of the Coastal Act. Pursuant to Section 30715(a)(4) of the Coastal Act, a port-approved hotel, motel, or shopping facility not principally devoted to the sale of commercial goods utilized for water-oriented purposes is appealable to the Commission. The proposed amendment involves changes to the text and project list of the Lindbergh Field/Harbor Island Planning District 2. The proposed Sunroad and future hotel developments are appealable to the Commission; and, thus, that portion of the proposed PMPA must be consistent with the Chapter 8 and Chapter 3 policies of the Coastal Act.

D. Summary of Proposed Plan Amendment/History.

1. Project Setting

The subject PMPA will apply to East Harbor Island which is located in the southern portion of San Diego County and at the northern end of San Diego Bay ([Exhibit 1](#)). East Harbor Island is designated as Subarea 23 of the Lindbergh Field/Harbor Island Planning District in the current PMP. Existing development within Subarea 23 includes the Island Prime restaurant and the site of the approved Reuben E. Lee restaurant reconstruction project at the east end. The Sunroad Marina and commercial recreational uses associated with the marina facility including a marina, office, pool, and parking lots are located north and west of the restaurants. Harbor Island Drive terminates in a traffic circle located in the eastern portion of Subarea 23. The westernmost portion of East Harbor Island contains a parking lot that is currently used to park overflow rental cars and was formerly used as employee parking for the San Diego International Airport.

The proposed Sunroad hotel, which is the catalyst for the proposed PMPA, includes a 175-room, four-story, limited service hotel with ancillary meeting and fitness space, common areas, an exterior pool, and surface parking on East Harbor Island. The proposed hotel would be similar in quality and amenities to a Courtyard by Marriott or a Hilton Garden Inn, both of which are considered upscale hotel chains according to Smith Travel Research. The proposed development would be located on the east end of the existing Sunroad marina leasehold and would replace an existing locker building and parking spaces, with the existing marina offices to remain and the locker building to be reconstructed west of the proposed hotel. Sunroad Marina currently has a 50 year lease with the Port for a 600-slip marina on East Harbor Island that will expire in 2037. The proposed Sunroad hotel would be built on the same leasehold and operate in conjunction with the marina.

The Sunroad project site and proposed future project sites are designated for visitor-serving commercial uses and the area surrounding the site is developed with urban uses including the Sheraton hotel to the west, two restaurants to the south and east, and the Sunroad Marina located on East Harbor Island.

2. History

In 1990, the Coastal Commission approved a Port Master Plan to allow: (1) the development of a resort-oriented, first class hotel of 400 to 500 guest rooms on Harbor Island, including restaurants, cocktail lounges, meeting and conference rooms, recreation facilities, such as a swimming pool and tennis court, on-site parking and extensive landscaping; (2) the incorporation of 1.24 acres of adjacent land into the proposed hotel site; (3) the replacement of the main Harbor Island Drive traffic circle with a modified “T” intersection; and (4) the upgrade of sewer capacity to accommodate the proposed hotel development. The proposed hotel was to be located on approximately 7.56 acres of the westernmost portion of East Harbor Island. The 1990 Programmatic Environmental Impact Report (PEIR) concluded that significant environmental impacts could occur associated with Traffic/Circulation/Parking, Visual Quality, and Endangered Species (California Least Tern) from the PMPA, but all impacts would be mitigated to below a level of significance with the implementation of the recommended mitigation measures. The hotel project was evaluated in 1990 but never constructed.

In December 2009, the Port District prepared a Draft EIR for a PMPA for the Sunroad hotel project that proposed to replace the existing marina locker building with a 175-room, four-story, limited service hotel on a site currently leased to Sunroad Marina Partners, LP, located east of the hotel site evaluated in the 1990 PEIR. In 2011, a lawsuit was filed which claimed the Final EIR was inadequate with respect to analyzing the potential impacts of the development of multiple hotels. Additional analysis was completed in 2013 and on March 4, 2014, the Port passed Resolution 2015-52 to certify the Revised Final EIR and Resolution 2014-53 to approve the proposed PMPA.

On July 9, 2014, a PMPA submittal (PMP-6-PSD-14-0002-6) nearly identical to the subject PMPA was heard by the Coastal Commission and subsequently withdrawn by the Port at the hearing. A unique provision with the review of Port Master Plans, and any subsequent amendments, is that the Commission may not adopt suggested modifications to them, as is provided for in the review of local coastal programs. Therefore, master plans or their amendments must be either approved or denied as submitted. Commission and Port staffs were unable to reach agreement on one key issue – lower cost visitor-serving overnight accommodations. Thus, Commission staff recommended denial of the previous PMPA due to its inconsistency with the public access and recreation policies of the Coastal Act that protect and encourage lower cost visitor-serving and public recreational opportunities. At the July 9, 2014 hearing, both the Commission and staff noted concerns with the lack of lower cost overnight accommodations in the Port and the resulting need for the Port to develop a policy for the provision of such accommodations within the Port. Discussions centered on the specific reservation of land in this subarea for the development of lower cost overnight accommodations or the identification of an alternative location where in-lieu fees could be applied to. Just before the vote was called, the Port asserted that it had the same concerns and questions as the Commission and would withdraw the PMPA to allow more time to work on their study (San Diego Unified Port District Lower Cost Overnight Accommodations Study).

On November 7, 2014, the Port resubmitted the same PMPA, with no changes. The application was non-filed several times due to lack of information on the following: feasibility analysis on the reservation and provision of lower cost overnight accommodations within the subarea; a copy of the Port's draft study on lower cost overnight accommodations; update on the Port's process and timeframe for completing the study on lower cost overnight accommodations; and details regarding the proposed Sunroad hotel, including the anticipated hotel brand and projected room rates. However, once the application was deemed complete on May 21, 2015, the Port revised the submittal to include all the modifications previously negotiated. Commission and Port staff corresponded regularly and met on several occasions (January 12, 2015, January 30, 2015, May 28, 2015, June 18, 2015, July 1, 2015, July 21, 2015) to discuss potential language that would address the Commission's concerns regarding the protection of opportunities to provide lower cost overnight accommodations within this subarea; however, no agreement was reached on language that would adequately protect lower cost overnight accommodations. The Port's final revision to the subject PMPA was made on July 24, 2015, and includes language about the prospective build-out of Subarea 23 and that 25% of the remaining 325 rooms will be midscale or economy, discussed in greater detail below.

3. Amendment Description

The proposed PMPA for the Sunroad hotel project includes changes to the Harbor Island Planning District 2 Precise Plan text and maps, land use tables, and project list ([Exhibit](#)

4). No changes to land or water use designations are proposed. There are five major components to the project: demolition of an existing marina locker room building, construction of Sunroad hotel, realignment of traffic circle and public utilities, construction of a continuous public promenade, and future construction of up to two additional hotels.

The subject PMPA includes the following:

- updating the Precise Plan map;
- updating the Lindbergh Field/Harbor Island Planning District 2 project list to change the 500-room hotel to a 175-room hotel and up to two additional hotels with a combined total of no more than 325 rooms and include a continuous bayside public promenade and traffic circle/road realignment;
- updating the land use acreage tables within the PMP to reflect increased promenade acreage, reduced street acreage, reduced open space acreage, and increased commercial recreation acreage;
- adding language to the Planning District 2 text that indicates that as each hotel development on Harbor Island is developed or redeveloped, it will: (1) prepare and implement a public access plan; (2) provide or participate in shuttle service to and from the airport and expand the Port's bayside shuttle system; (3) prepare a parking management plan; (4) provide public access and view corridors in between structures and conform to bulk and scale requirements; and (5) provide on-site or off-site lower cost visitor-serving accommodations or pay an in-lieu fee contribution for such accommodations; and
- adding language to the Planning District 2 text that indicates the following: a Request for Proposal (RFP) to develop the one or two remaining hotels (up to 325 rooms) shall specify that no less than 25% of the hotel rooms will be midscale or economy; the developer will be required to include amenities that lower the cost of stay; and if a hotel is developed at a midscale or economy product, it need not pay the in-lieu fee.

Sunroad Hotel Project

The hotel referenced in the existing certified PMP was proposed for the westernmost area of East Harbor Island (the area located west of the proposed 175-room hotel site). This property was previously used by the San Diego International Airport for employee parking and is currently used to park overflow rental cars. Although the proposed project generally includes those uses outlined in this description, the PMP would need to be amended to allow multiple hotels on a broader area of East Harbor Island. The proposed project site, as well as other areas within East Harbor Island where other hotels would be allowed, already has the proper land use designation for a hotel use – Commercial Recreation. The proposed changes to the traffic circle, roadway, and bayside public promenade also warrant an amendment to the PMP and are proposed as part of the Sunroad hotel project.

The proposed PMPA is project-driven and involves the partial redevelopment of one leasehold, located at 955 Harbor Island Drive, which is currently leased by Sunroad Marina Partners, to allow a 175-room hotel. This leasehold is currently developed with a marina, support buildings, and surface parking. The proposed redevelopment would only affect the land side area of this leasehold.

The proposed Sunroad hotel project includes the following:

- demolition of an existing locker building and parking lot east of the existing marina building;
- construction of a limited service, four-story hotel with a maximum of 175 rooms, fitness area, limited meeting space (approximately 8,000 sq. ft.), and common areas;
- reduction of the traffic circle and realignment of the road and leasehold lines;
- reconfiguration of existing paved areas, as necessary, to accommodate ingress and egress to the hotel and surface parking;
- enhanced public access along the Harbor Island East Basin; and
- realignment of existing sewer, water and utility lines.

The floor area of the proposed Sunroad hotel would total approximately 117,000 sq. ft. and include a maximum of 175 rooms, fitness and meeting space, and common areas. The meeting rooms would facilitate functions and conferences for guests. The 175 rooms, which would make up approximately 94,000 sq. ft. of the hotel, would be distributed over four floors. The height of the structure is proposed to be approximately 65 feet, although architectural details and fenestrations may cause the maximum building height to reach 75 feet. The maximum height approved by the Federal Aviation Administration and San Diego County Airport Land Use Commission for the proposed 175-room hotel project is 86 feet above mean sea level in order to accommodate features such as a flag pole.

Fitness and meeting rooms would total approximately 8,000 sq. ft. Common areas – including exterior features such as a pool and spa – would total approximately 15,000 sq. ft. Specific lighting plans have not been developed; however, the structure is proposed to be lit at night for security and aesthetic purposes. All lighting will be consistent with the City of San Diego Outdoor Lighting Regulations. A detailed landscaping plan will be prepared for review and approval of the Port prior to construction of the hotel. Certain mature and scenic trees will be incorporated into the exterior design of the hotel and common areas.

Following construction, the number of parking spaces within the vicinity of the proposed hotel would be reduced from 568 to 457. The proposed hotel project would include a total of 457 parking spaces for shared use with the hotel and marina guests. To

accommodate the construction of the hotel, 111 parking spaces of the existing 291-space lot currently located east of the marina building would be eliminated. A 72-space parking lot would be located east of the proposed hotel, and a 101-space lot would be located west of the proposed hotel. An additional 7 parking spaces would be located near the front entrance of the hotel. The configuration of the spaces in the existing 277-space lot west of the existing marina building may be modified as a part of the proposed hotel; however, the number of spaces in the existing 277-space lot would not be reduced. The existing 306-space parking area located east of the proposed hotel is not a part of the proposed project. The existing parking available on the proposed hotel site is part of the leasehold and is utilized for the marina. Public parking in the vicinity of the project site is located on the southern side of Harbor Island Drive and will not be affected by the proposed project. The approved restaurant reconstruction at 880 Harbor Island Drive will include 10 public parking spaces with signage.

As part of the Sunroad hotel project, the traffic circle would be reconfigured to accommodate the ingress and egress of the hotel and a realignment of the easternmost portion of Harbor Island Drive. The section of Harbor Island Drive immediately south of the proposed hotel would also be realigned. Harbor Island Drive would be reduced in width by approximately 12 feet by removing one of the two westbound lanes for a total distance of approximately 370 feet. The number of lanes in the vicinity of the hotel would be reduced from four to three, but would still accommodate visitors to the hotel and maintain access to and from the Island Prime restaurant and the restaurant/event center being developed on the old Reuben E. Lee site. Emergency access and fire lanes would be provided. Emergency vehicles would be able to access fire lanes in the 101-space lot west of the proposed hotel.

Operation of the proposed hotel would increase demands on existing infrastructure including water supply and wastewater treatment. Water and sewer pipelines currently extend through the site of the proposed hotel. The Project Utility Plan proposes that certain existing facilities be removed and new facilities be placed underneath Harbor Island Drive. Water and sewer pipelines serving the proposed hotel would be connected with the realigned water and wastewater lines within Harbor Island Drive. Electrical, gas, telephone connections, and a storm drain system serving the hotel are also proposed to be located beneath Harbor Island Drive.

Demolition associated with the proposed hotel would involve removal of an existing locker building and the existing parking lot located east of the marina building. Construction of the proposed hotel would occur in a single phase. The foundation of the proposed hotel would be constructed using stone columns or Helical Earth Anchor Technology (HEAT anchors), and would not utilize pile driving. Construction would involve excavation of approximately 10,000 cu. yds. of material. The excavated material would be used on site or be disposed of at an offsite landfill permitted to receive such material. Once construction commences, it is expected to be completed in 15 to 18 months. The construction staging area would be limited to the proposed hotel site, east of

the marina building and west of the proposed hotel footprint. During construction, the 277-space parking lot located west of the marina building would remain open and available for marina use. The existing public parking spaces along East Harbor Drive would also remain open for public use during construction.

Future Hotels

The Port has not received a proposal to develop any of the remaining 325 hotel rooms that would be allowed on East Harbor Island under the proposed PMPA. Because no site specific proposal for the development of additional hotel(s) has been received, the EIR assumes that the hotel development allowed by the PMPA would consist of either (a) one additional hotel, providing up to 325 rooms and ancillary facilities in a structure up to ten stories in height; or (b) two additional hotels with 325 rooms and ancillary facilities equally distributed between the hotels with surface parking ([Exhibit 2](#)). The potential locations where hotels can be located are limited to the western portion of East Harbor Island due to seismic faulting in the eastern portion of the subarea. Any future hotel development projects proposed as a result of the PMPA would require additional project-level environmental analysis to ensure any unidentified impacts are addressed.

Although no specific proposals have been brought forward for the development of the remaining 325 rooms, the Port anticipates that the existing tenants of the easternmost portion of the subarea will be relocating to the consolidated Rental Car Center on the north side of the San Diego International Airport in January 2016, leaving the site available for such a use. The Port has included language in its final revised PMPA submittal addressing the remaining 325 rooms, as follows:

If the District issues a Request for Proposals (RFP) to develop the one or two hotels (up to 325 rooms) on the southwesternmost area of Subarea 23 before the District has completed a lower cost visitor accommodations study, the RFP shall specify that no less than 25% of the hotel rooms will be midscale or economy, as defined by Smith Travel Research. The developer of the midscale or economy hotel rooms shall be required to include amenities that lower the cost of stay. Examples of amenities that could lower the cost of stay may include the provision of kitchenettes, refrigerators and/or microwaves in guest rooms, it could also include provision of complimentary services such as Wi-Fi, continental breakfast and/or parking. If a hotel is developed at a midscale or economy product, it need not pay the in-lieu fee identified earlier in this precise plan.

As discussed in greater detail below, the PMPA would require future hotel developments to include activating uses such as restaurants, outdoor seating and dining areas, and retail shops open to the public, which would be integrated into the hotel(s) to maximize public recreation opportunities. Furthermore, in order to reduce the bulk and scale of the hotel structures, building envelopes would not be permitted to exceed 70% of each project site.

Public Promenade

The existing public promenade along the south side of Harbor Island Drive will be extended to the east portion of East Harbor Island and along the Harbor Island East Basin frontage. The promenade will provide pedestrian access around East Harbor Island and will connect the hotel developments, marina, and restaurants to the rest of Harbor Island. The promenade will be located along the waterfront to provide views of the San Diego Bay, the downtown San Diego skyline, and the Harbor Island East Basin. Public access signage, as well as signage identifying that the promenade is open to the public will be placed at strategic locations throughout East Harbor Island to guide guests and visitors to and from public use areas, restaurants, and other facilities.

As proposed by the Port in the revised submittal, completion of the bayside public promenade shall be required by the Port in conjunction with leasehold development or redevelopment. On each hotel project site, the shoreline promenade will be a minimum of 10-ft. wide and each respective portion must be fully completed prior to the completion of any new structure requiring the issuance of a final Certificate of Occupancy on that hotel project site. The promenade will include connections across the hotel project sites to the public sidewalk adjacent to the north side of Harbor Island Drive. At the Sunroad Resort Marina, the 10-ft. wide promenade will be continued on the shoreline side of the marina office and west locker buildings when the cumulative redevelopment of the marina office and west locker buildings exceeds demolition of more than 50% of the exterior walls and substantial structural components.

At such time as the current leases for the western half of the subarea terminate or are amended or concurrent with the development of the first hotel, whichever occurs first, a temporarily aligned 10-ft. wide shoreline promenade is required to be installed by the developer of the Sunroad hotel as a special condition of that hotel's coastal development permit if a hotel development has not been approved for the remaining hotel(s) on the western half of the subarea. The temporary promenade will be required to be replaced with a permanent 10-ft. wide shoreline promenade as a special condition of the coastal development permit(s) for the remaining hotel(s). The temporary promenade may include a fence and will include coastal access signage indicating that the promenade is open and accessible to the public.

Any hotel project on the Sunroad Resort Marina leasehold that is developed before the cumulative redevelopment of the marina office and west locker buildings will provide bayside pedestrian public access along the length of the marina leasehold. Within the marina's existing swimming pool enclosure and bayward of the west locker buildings, the walkway may be reduced to a minimum 5-ft. wide shoreline public promenade which will also be constructed and open for public use prior to the issuance of a final Certificate of Occupancy for that hotel project. Pedestrian access would also be available adjacent to the hotel building to provide access to Harbor Island Drive. Additional public access

enhancements include landscaping, benches, and signage adjacent to the pathways identifying the promenade is open to the public.

With the anticipated hotel development, the entire promenade will be located immediately adjacent to the shoreline except at the southeast end of the peninsula where it moves inland briefly due to an existing restaurant (Island Prime). At such time when the cumulative redevelopment of the restaurant structures exceeds demolition or relocation of more than 50% of the major structural components including exterior walls, floor and roof structure, and foundation (excluding maintenance and repairs), the promenade will be relocated adjacent to the shoreline.

E. Findings for Consistency with Chapter 3/Chapter 8 of the Coastal Act

The following Coastal act policies are relevant and applicable:

1. Public Recreation/Coastal Access

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, [...]

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, [...] (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings [...]

Section 30253

New development shall do all of the following: [...]

(d) Minimize energy consumption and vehicle miles traveled. [...]

Section 30708

All port-related developments shall be located, designed, and constructed so as to: [...]

(d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible.

Public Access and Recreation

The proposed PMPA provides for the creation of a public promenade and requires future hotel developments to include activating uses for the public as part of development in order to enhance public recreational opportunities. The activating uses would include restaurants, outdoor seating and dining areas, retail shops, and benches. As proposed, this area would be more accessible to the general public than the existing uses and would allow for some new public recreational opportunities along the waterfront and interaction with the extension of the public promenade. Individual public access plans will be prepared concurrent with the coastal development permit applications and implemented for each hotel development on East Harbor Island. The public access plans will include information on signage, amenities, and public access to inform and invite the public to and around Harbor Island and downtown San Diego. All hotel developments on Harbor Island will provide or participate in shuttle service to and from the airport and will provide information regarding other transit opportunities. The Port's bayside shuttle system will be expanded to serve Harbor Island and will be in operation to serve the future hotel development on East Harbor Island.

The proposed amendment includes the provision of a public promenade as a public recreational amenity and to address the public shoreline access impacts that the proposed hotel developments would have on the subarea. The majority of the shoreline at East Harbor Island, which is public trust land, is currently inaccessible to the public and any delay in the construction of the public promenade as the subarea undergoes redevelopment would result in ongoing coastal resource impacts. Therefore, the revised PMPA language specifies that a temporary 10-ft. wide shoreline promenade is required to be constructed concurrent with development of the first hotel development. As a special condition of the coastal development permit(s) for the remaining hotel(s), the temporary promenade will be required to be replaced with a permanent 10-ft. wide shoreline promenade prior to the occupancy of the hotel(s). This language requiring a temporary public promenade will ensure the construction of a continuous pathway along the waterfront that does not rely upon the development of the additional hotel room allotment provided in the PMPA.

Lower Cost Overnight Accommodations on Public Trust Lands

The Commission is vested with the authority to assure that it acts in a manner consistent with Section 30210 of the Coastal Act which requires the Commission to carry "out the requirement of Section 4 of Article X of the California Constitution" and provide for maximum access and recreational opportunities for all people. Section 4 of Article X of the California Constitution provides the following:

No individual, partnership, or corporation, claiming or possessing the frontage of tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this

provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

This section merges the common law public trust doctrine with the California Constitution (see *Personal Watercraft Coalition v. Marin County Board of Supervisors* (2002) 100 Cal.App.4th129, 144-45). The Legislature, in furthering the goals of Article X, Section 4 of the Constitution, enacted Section 30210 of the Coastal Act to ensure the public can always attain access to navigable waters for recreational purposes. As such, through this legislative mandate, the Commission is charged with the duty of ensuring that proposed development is consistent with Section 30210 of the Coastal Act and, by extension, the public trust doctrine. Therefore, the Commission has the authority to review the proposed PMPA's consistency with the public trust doctrine.

The California State Lands Commission (SLC), which manages the public trust lands of the state, adopted a "Policy Statement Relating to the Public Trust Doctrine" (Calendar Item No. C88) on September 17, 2001.¹ SLC's Public Trust Doctrine statement provides that "uses that do not accommodate, promote, foster or enhance the statewide public's need for essential commercial services of their enjoyment [of] tidelands are not appropriate uses for public trust lands." (Exhibit B, SLC Public Trust Doctrine statement, pg. 8) It goes further, stating that such uses that are not appropriate for public trust lands "include commercial installations that could easily be sited on uplands" (Ibid.) While SLC and case law hold that a hotel may be an appropriate commercial public trust use, "the essential trust purposes have always been, and remain, water related, and the essential obligation of the state is to manage the tidelands in order to implement and facilitate those trust purposes for *all* of the people of the state." (Ibid.) Further, the public trust doctrine, as codified in the California Constitution, Article X, Section 4, does not "prevent the state from preferring one trust use over another...[nor] preclude the [Coastal] Commission from considering commerce as well as recreational and environmental needs in carrying out the public trust doctrine." (*Carstens v. California Coastal Commission* (1986) 182 Cal.App.3d 277, 289.)

In this case, the parcels leased by Sunroad are subject to the same reservation of public trust rights for the public to access the waters in the Port's jurisdiction due to their location on public trust lands. Thus, the construction of a high-cost hotel over one of the parcels that significantly limits a majority of the public from enjoying the public trust lands upon which the hotel is sited is a significant enough impact on the public's ability to use the entire parcel to access the water, such that it warrants the reservation of a portion of the subject subarea as a potential site for lower cost overnight accommodations. The use of an entire parcel for a commercial purpose that isn't related to Port activities, and which could be sited in upland areas outside of public trust lands, while not entirely inconsistent with the public trust doctrine, is nonetheless not the

¹ http://archives.slc.ca.gov/Meeting_Summaries/2001_Documents/09-17-01/Items/091701R88.pdf.

highest priority use of public trust lands. Considering the cost of the overnight accommodations will be high-cost, only certain portions of the hotel development will likely be available to all of the public while a majority of the finished project will be reserved for paying customers only. While it may be open for all the public, in reality, only a very small percentage of the overall public will be able to pay to stay there and a vast majority of the public will be able to use only a small part of the site (i.e. promenade, lobby) free of charge. Thus, the net impact on the public trust resource will be that a majority of the public wouldn't be able to afford to use a majority of the hotel site for public trust purposes. Given that the major portion of the project is effectively unavailable to all people, it is inconsistent with the public trust doctrine because it would impact the public's right to use the public trust property and must be mitigated through the addition of language that takes into consideration potential lower cost overnight accommodations onsite. Thus, since it is inconsistent with the public trust doctrine, it is inconsistent with Section 30210 of the Coastal Act which, as noted above, gives the Commission authority to ensure that maximum access and recreation opportunities on public trust lands are available to all members of the public.

The Coastal Act emphasizes the need to protect and provide for public access to and along the coast, and to provide lower cost visitor and recreational facilities, particularly in new development projects. The proposed PMPA does not include any specific requirement for the provision of lower cost accommodations on-site or in the subarea and does not meet the requirements of Section 30213. The proposed hotel developments will be on public trust land and, as discussed above, the existing development pattern precludes easy shoreline access and in some places directly obstructs it which will be partially mitigated through construction of a bayside pedestrian promenade.

The proposed PMPA anticipates construction of up to three hotels within the subject subarea, but does not include any specific requirement for the provision of lower cost accommodations in the subarea. The plan language acknowledges the hotel developer(s) must contribute a fair-share of on-site or off-site lower cost visitor accommodations or pay an in-lieu fee based on a study conducted by the Port; however, the study has not been completed, and the policy language does not establish any identification of the number of affordable units needed to meet public demand, or potential location and timeframe for development of lower cost accommodations within the Port District. The Port's provision on lower cost accommodations is predicated on a plan that has not been completed and it includes the option for payment of in-lieu fees which could still defer the ultimate provision of lower cost accommodations.

The language proposed in this PMPA would be similar to that required in the PMPA for the convention center expansion which included an addition to the Hilton Hotel. The following proposed PMPA text is also the same as the previous PMPA heard by the Commission last year:

As a special condition of the coastal development permit for any hotel development or redevelopment that adds hotel rooms to Harbor Island, the hotel developer or

redeveloper will develop or designate its fair-share of on-site or off-site lower cost visitor accommodations or pay an in-lieu fee based on a study conducted by the District.

However, the Commission finds that inclusion of this language has not resulted in the actual provision of additional lower cost overnight accommodations within the Port District jurisdiction.

In January 2009, the Coastal Commission, in permit A-6-PSD-08-4/A-6-PSD-08-101, originally required that the Lane Field development participate in a hostel program to create actual units within the Port District. The Commission made the following findings in the staff report:

As proposed by the applicant and approved by the Board of Port Commissioners as part of the required public access program, the applicant will work with the Port District to design and construct a non-profit hostel on Port controlled land, funding half of the construction costs. The hostel operator would have to provide a matching grant for the rest of the construction costs, and the land value of the hostel site would be the Port's contribution of the project.

The minimum number of lower cost units proposed to be constructed was derived from the Commission's past practice of requiring a mitigation fee based on a percentage of the number of high-cost hotel units being constructed. Although the Commission prefers the actual provision of lower cost accommodations in conjunction with projects, where necessary, the Commission has used in-lieu fees to provide lower cost opportunities. For example, for Oceanside LCPA #1-07 (Downtown District), the Commission approved a requirement that a fee be paid per hotel room for 25% of the total quantity of proposed new units that are not lower cost. The subject development is for 800 hotel rooms, thus, the Commission would typically require that a mitigation fee be assessed for 25% (200) of the rooms, to offset the cost of constructing new lower cost accommodations.

However, hostels often have varying room sizes that can accommodate different numbers of people. So rather than assume that construction of 200 lower-cost units would be the most appropriate amount of mitigation, the applicant has proposed constructing a hostel with a minimum of 400 beds (200 hotel rooms would typically have 400 beds). The applicant has indicated that approximately 133 hostel rooms would accommodate 400 beds and thus be equivalent to providing 200 new units.

The plan acknowledges that developing a new hostel will take several years to implement, requiring a development program, a suitable site, entitlements under CEQA and the Port Master Plan, and design and construction. However, a strict timetable for meeting particular project goals is included in the plan. For example, prior to issuance of the coastal development permit, the applicant must enter into a

memorandum of understanding or other legal arrangement with a qualified nonprofit hostel operator establishing the requirements and responsibilities contained in the Public Access Plan.

Within twelve months from issuance of the coastal development permit for the project, the applicant must identify one or more sites in conjunction with the Port and the hostel operator and complete an appropriate site feasibility analysis. Within six (6) months from completion of Task #1, the applicant must negotiate an agreement with the Port to establish a development program and an entitlement process for an approximately 133 unit hostel. And so on, until construction of a hostel commences.

If the milestones are not met on time, the Port must notify the Executive Director, and the Executive Director may at that time require the applicant to pay a fee in lieu of construction, consisting of \$30,000 for 25% of the units being, having been and to be constructed on Lane Field (\$6,000,000 total). The Commission required a similar in-lieu fee for the conversion of a 130-unit hotel (not yet constructed) located on the bluffs in Encinitas to a 100-unit condo-hotel, with 30 units required to remain as traditional hotel units (6-92-203-A4/KSL), and for the Surfer's Point Resort development in Encinitas (#A-6-ENC-07-51). The \$30,000 fee amount was established based on figures provided to the Commission by San Diego Hostelling International USA (Hostelling International is a non-profit organization with more than 4,000 hostels in over 60 countries, including two in San Diego), in an October 26, 2007 letter. The figures provided by HI are based on two models for a 100-bed, 15,000 sq. ft. hostel facility in the Coastal Zone.

To ensure that mitigation funds would be available in the event the hostel program is not executed, prior to execution of the lease with the Port District, a bond or other financial instrument acceptable to the Port must be executed to ensure the fee amount, including any interest that would have accrued since issuance of the Coastal Development Permit, is paid.

If the hostel planning and design milestones are not met on time, the Executive Director also has the option of granting a time extension. The applicant could also apply for an amendment for a revised affordable accommodations proposal. Thus, in all cases, the Commission can be assured that a hostel will be built, a mitigation fee will be paid, or they will have the opportunity to review a revised proposal to ensure all impacts are fully mitigated. Special Condition #3 requires implementation of the Public Access Program.

To further ensure that the hostel will be constructed in the area most impacted by the proposed high-end hotel, Special Condition #4 requires that the location of the hostel be on Port Tidelands within the City of San Diego. Construction of the hostel will require a coastal development permit appealable to the Commission, and potentially

a Port Master Plan Amendment, ensuring that the Commission will have oversight authority over the development.

The proposed program is expected to establish an on-going program and mechanism for the development of lower-cost units that future high-end development projects on Port Tidelands will be able to participate in. If the appraise value of the hostel exceeds the Coastal Commission's typical fee of \$30,000 for 25% of higher cost units constructed, any excess value can be credited to a Port "bank" to be applied to future Port projects. Those projects could pay an additional mitigation fee to offset the remaining impacts, or develop a similar program to establish low-cost overnight accommodations.

However, in February 2013, with the Commission's approval, the program was discontinued and replaced with an in-lieu fee that has not resulted in the creation of additional lower cost units within or adjacent to the Port District. There is an increasing need for lower-cost overnight accommodations within the Port District in the form of a specific program that will result in units as opposed to deferred collection of in-lieu fees. The subject subarea and proposed development is on public tidelands and is a potential location for lower cost overnight accommodations that should be considered within the Port's planning document – the Port Master Plan.

Staff is recommending denial of the PMPA because it does not include policy language that reserves a portion of the subarea as a potential site for lower cost overnight accommodations until such time as the Port can finalize their study on lower cost overnight accommodations, or the Port can identify an alternative location in the Port District where such lower cost accommodations will be developed to which the in-lieu fees may apply. Furthermore, the proposed language allows an in-lieu fee to be paid instead of requiring lower cost overnight accommodations on-site. The Port, as landowner, is in a position to control development within its jurisdiction in a manner that assures that visitor-serving facilities are provided for all of the people of the state, consistent with the public trust doctrine and the public access and recreation policies of the Coastal Act.

The following language has been offered by Commission staff for inclusion in the PMPA to ensure the provision of lower cost overnight accommodations on the subject site or within the vicinity through a future PMPA in order to mitigate coastal resource impacts caused by the proposed hotel development on East Harbor Island:

A portion of the subarea remaining to be redeveloped on East Harbor Island shall be reserved as a potential site for lower cost overnight accommodations (e.g., hostel, tent, cabin, RV) pursuant to the results of the San Diego Unified Port District Lower Cost Overnight Accommodations Study. An alternative location for the lower cost overnight accommodations required in this subarea may be considered through a future Port Master Plan amendment, pursuant to the results of the Study conducted

by the District that will designate the location and timeframe for the construction of lower cost overnight accommodations within the District.

A minimum of twenty-five percent (125 units) of the 500 hotel rooms planned for East Harbor Island shall be reserved for lower cost overnight accommodations pending the results of the Study. As a special condition of the coastal development permit for any hotel development, redevelopment, or change in lease that adds hotel rooms to East Harbor Island, the developer will develop or designate its fair-share (minimum of twenty-five percent of total rooms proposed) of on-site lower cost overnight accommodations or make a payment consistent with the results of the Study adopted by the District and certified by the Coastal Commission.

Port staff has indicated there is not adequate direction from the Port Board to accept such language and incorporate it into the revised PMPA submittal. However, in response, the Port has included language in its final revised PMPA submittal from July 24, 2015 that addresses the development of the remaining 325 rooms, as follows:

If the District issues a Request for Proposals (RFP) to develop the one or two hotels (up to 325 rooms) on the southwesternmost area of Subarea 23 before the District has completed a lower cost visitor accommodations study, the RFP shall specify that no less than 25% of the hotel rooms will be midscale or economy, as defined by Smith Travel Research. The developer of the midscale or economy hotel rooms shall be required to include amenities that lower the cost of stay. Examples of amenities that could lower the cost of stay may include the provision of kitchenettes, refrigerators and/or microwaves in guest rooms, it could also include provision of complimentary services such as Wi-Fi, continental breakfast and/or parking. If a hotel is developed at a midscale or economy product, it need not pay the in-lieu fee identified earlier in this precise plan.

Although this language would increase the affordability of a portion of the remaining hotel(s) – at least 82 rooms, or 25% of the remaining 325 hotel rooms planned for this subarea – it is unlikely that these rooms would be what the Commission considers lower cost overnight accommodations. Based on the Commission's past practice, a lower cost overnight accommodation in the San Diego region would be one whose rate is below approximately \$106. Based on Commission staff's research of other midscale and economy hotel chains in the vicinity, it is very unlikely that the market rate of new hotel rooms on the waterfront developed as an economy product – let alone a midscale product – would fall into this category. In addition, the deletion of in-lieu fees should not be considered or permitted without detailed criteria and evidence regarding a project's design to ensure a reduction or deletion in the fee is warranted. In this case, the proposed language is too general to determine whether the midscale/economy hotel rooms and amenities would result in accommodations that are truly lower cost, and would allow build-out of the remainder of the room allocation for the subarea. Full-buildout should not occur until it has been determined that this subarea is not required to accommodate a

lower-cost hotel and/or a very low cost option, such as a hostel, through use of in-lieu fee payments and to fulfill the results of the Port's study described below.

According to the Port's draft study, there are currently 8,035 overnight accommodations on Port tidelands, with only 237 of these being lower cost (237 RV spaces at the Chula Vista RV Resort), and the average room rate for hotel properties on Port tidelands in the summer of 2014 was \$242.42 with half of the rooms on District tidelands charging more than \$250 per night. This extreme shortage of lower cost accommodations on Port tidelands prompted the Port to pursue the development of a lower cost visitor-serving accommodations policy. According to the Port, they have undertaken a four step approach to developing a policy, which is summarized below:

1. Prepare a Draft Lower Cost Overnight Visitor Accommodations Study – this study was prepared to establish a baseline of existing lower cost overnight accommodations within the Port and to create the framework for a future policy regarding the provision of lower cost overnight accommodations. The draft study was provided to Commission staff on December 23, 2014.
2. Nexus Study for Lower Cost Accommodation Fee Program – the Port is finalizing a nexus study and creating a potential fee program for developments that impact overnight lower cost accommodations. The purpose of this program is to ensure that the in-lieu fee is roughly proportional to the impact created by new development. The estimated completion for this step is July 2015.
3. Site Selection – the third step will be to develop site criteria for a variety of lower cost visitor-serving accommodations and identify potential locations throughout the District for these potential accommodations. This step is anticipated to commence in December 2015 and take approximately 6 to 12 months to complete.
4. Environmental Review and Port Master Plan Amendment – after potential sites have been identified, and deemed feasible, the fourth step will be to conduct environmental review pursuant to the California Environmental Quality Act and propose a PMPA for the Board of Port Commissioners' consideration that, if approved, would ultimately be submitted to the Coastal Commission for certification. This step is anticipated to commence between June and December 2016 and will take approximately 12 to 18 months to complete.

Based on Port staff's projections, this four-step process of developing a policy on lower cost overnight accommodations for inclusion in the Port Master Plan will be completed within the next two to three years (June 2017-June 2018). This policy will be integral in determining the appropriate location(s) for lower cost accommodations within the Port and thus, Commission staff's suggested language, discussed previously, focuses on reserving a portion of the site as a potential location for accommodations that are

intrinsically lower cost, such as a hostel, pursuant to the results of the final study. This suggested language would allow the proposed Sunroad hotel to be constructed prior to completion of the Port's study, potentially with the payment of in-lieu fees for its complement of 175 rooms, but further build-out of the subarea would need to be considered after completion of the Port's study. If the study concludes that an alternative site is preferred for the development of new lower cost accommodations within the Port, and this subarea is not required to fulfill the need for a very low-cost option, the Port may propose a PMPA to allow full build-out of the subarea in accordance with the results of the study. In advance of the Port's completion of its study and the development of its own program to provide lower cost accommodations, the suggested language would also require that Port tenants proposing high cost overnight accommodations would need to provide, either on-site or off-site, lower cost options or pay an in-lieu fee for 25% of the total number of high cost rooms consistent with historic Commission precedents.

At last year's July 9, 2014 hearing for a nearly identical PMPA, the Port asserted that it had the same concerns and questions regarding the provision of lower cost overnight accommodations on Port tidelands as the Commission and would withdraw the PMPA to allow more time to work on their study. Although the Port has completed a draft study and is nearing the completion of the second of four steps in developing a policy on lower cost overnight accommodations, one of the most important steps – identifying potential sites throughout the District will not commence until December 2015 and will take approximately 6 to 12 months to complete. The Port's proposed language would allow full development of the subarea prior to the completion of the study with no requirement for the provision of lower cost overnight accommodations in the subarea. As the land owner of public trust lands, the Port is in a unique position to manage Port tidelands in such a way that maximizes the public benefit; however, the proposed PMPA language does not adequately do so.

[Exhibit 6](#) includes Commission staff's comment letter to the Port on the Draft San Diego Unified Port District Lower Cost Overnight Accommodations Study, which contains the same concerns raised in the subject staff report. Given the finite amount of land available to develop or redevelop new lower cost overnight accommodations and the Port's responsibility as the manager of this land, the draft study's goal – that the combined percentage of lower and moderate cost overnight accommodations within the Port shall not be less than 10% of the total hotel submarket – seems especially low and would not assure that enough land area will be set aside for the provision of lower cost overnight options on Port tidelands. The Commission acknowledges that mid-price hotels may serve as a part of the overall effort to address the need for more affordable accommodations within the Port because they are typically less costly or are more reasonably priced for larger groups and families; however, the focus of this study should be the protection and provision of new lower cost accommodations that all economic segments of the population can afford to use, including hostels, tent camping, cabins/yurts, and low cost hotels (e.g., budget hotels with the lowest average room rates). Thus, the study should provide a goal specifically related to providing lower cost

accommodations that is distinguishable from the goal for moderate cost overnight accommodations and include analysis of how this goal is consistent with the Public Trust Doctrine and the Coastal Act.

Therefore, as discussed above, the Commission finds that, as submitted, the proposed Port Master Plan amendment does not conform with the provisions of Section 30711 of the Coastal Act. The proposed changes in land and water uses do not contain sufficient detail in the PMP submittal for the Commission to make a determination of the proposed amendment's consistency with Sections 30210, 20211, and 30213 of the Coastal Act.

Parking/Transit

In evaluating the impact the proposed development will have on coastal access, it is important to keep several factors in mind. Redevelopment efforts often present challenges with regard to parking, traffic, and circulation patterns. The Coastal Act supports the construction of new development in existing developed areas to decrease sprawl and impacts to open space. Development in these locations will be designed to take advantage of existing mass-transit opportunities, and to supplement existing facilities with new or expanded alternate transit systems.

To determine the adequacy of the proposed parking supply in accommodating the projected demand associated with the proposed PMPA, parking demand was calculated based on the Port District's Tideland Parking Guidelines (2001) using Port District parking rates developed specifically for Harbor Island. Although these guidelines are not part of the certified Port Master Plan, the ratios used are within the range of parking ratios commonly approved for coastal cities in San Diego County. In addition, the EIR for the PMPA includes a parking study that specifically evaluated peak parking demand for the hotels under various circumstances. Under both standards, even with the removal of 111 parking spaces, the 381 parking spaces proposed for the Sunroad hotel and the surface area available for future hotels is anticipated to be sufficient to meet the demand for parking at Subarea 23.

While the Sunroad hotel would remove 111 existing marina parking spaces, based on a parking analysis conducted by traffic consultants Linscott Law and Greenspan; the leasehold is currently over parked and the project will contain adequate surface parking for both the hotel and marina. The parking study concluded that the shared requirement would be 381 parking spaces, less than the 457 proposed spaces and 568 existing spaces. The traffic circle and the utilities underlying it will be realigned to accommodate the hotel project. In order to increase public parking, the Sunroad hotel will include a minimum of 5 spaces and the remaining one or two hotels will provide a cumulative total of at least 10 spaces for a total of 15 public parking spaces that will be reserved exclusively for coastal access users and signed as such. These coastal access parking spaces will be above and beyond the required parking for the hotel(s), marina, and any associated uses, such as in-hotel restaurants.

Prior to the approval of a coastal development permit for future development of a hotel on the existing west marina parking lot, the design of the proposed hotel development will be required to provide adequate on-site parking in accordance with the Port District parking guidelines and for the shared parking requirement of the existing marina and the proposed Sunroad hotel. Prior to the demolition or removal of any parking spaces in the existing west marina parking lot which are required for the shared parking of the existing marina and the proposed Sunroad hotel; the project proponent will be required to submit a Parking Management Plan that provides adequate parking.

Any future hotel(s) would need to provide the required number of parking spaces based on how many rooms are proposed. Additional parking may be required depending on the types and sizes of ancillary uses proposed for the future hotel(s). The future development of two approximately four-story hotels in this area will be required to provide adequate on-site parking. The PMPA also requires that in combination, future hotel development includes a minimum of 10 public parking spaces with adequate signage. Because public parking is not provided or allowed in the existing marina parking lot, future hotel development in this area would improve public parking opportunities in this area.

The summer of 2012 saw the first implementation of a summer season shuttle system for the Embarcadero region. The Port has reported that the program has been extremely successful, and plans are underway to expand both the range and duration of the project. The Port District, through this PMPA, is specifically committing to expanding the Port District bayside shuttle system to serve Harbor Island, to ensure that long term public access is preserved and enhanced. The proposed language specifically establishes that the shuttle will be in operation by the time the hotel expansion is open.

2. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visually degraded areas [...]

As proposed, the development permitted through the PMPA would have a significant effect on public views and the visual character of the area as seen from Harbor Drive, both positive and negative. As described above, the amendment would allow up to three new hotel buildings and includes a substantial expansion and improvement to the public promenade. The construction of several hotel buildings raises concerns regarding the compatibility of the bulk and scale of the proposed structures with the surrounding

pedestrian orientation and the current blockage of public views along Harbor Drive to the downtown skyline view.

Public views of the bay from East Harbor Island are considerably expansive, although various structures blocking views along this segment of the shoreline have arisen, including the Island Prime restaurant and the construction of a new land-side restaurant at 880 Harbor Drive. The ongoing pressure to develop new and expanded structures that incrementally encroach upon the remaining public views of the bay and skyline is a challenge the Port and Commission must address on San Diego's historic tidelands. Under these circumstances, it is particularly important that all new shoreline development be sited and designed to restore and enhance the visual quality of the area. The views that exist on East Harbor Island are a valuable public resource and the development of the subarea must maintain views of the marina, boat masts, and city skyline by avoiding the creation of a wall of structures. In order to reduce the bulk and scale of the hotel structures and preserve public views, the building envelopes will not exceed 70% of each project site, not including ancillary uses.

The Port has asserted that the project will not significantly compromise existing views in the surrounding area. The development permitted in the PMPA would not be located in a designated scenic view corridor and would not obstruct a protected view of the ocean or downtown skyline from or through the project sites. Viewing opportunities are available along Harbor Island Drive. The Sunroad hotel project is visually compatible with the character of the surrounding area and consistent with patterns of development. Additionally, public access corridors that provide views will be located between hotel structures to allow visual and physical access and connectivity to the Harbor Island East Basin, San Diego Bay, and Harbor Island Drive. These public accessways will be kept free of obstructions. Public accessways may include public activation amenities such as benches, lighting, signage, parking, and landscaping, and these amenities shall not be considered obstructions.

Conclusion

Thus, as proposed, this area will indeed be more accessible to the general public than the existing conditions; however, substantial unmitigated impacts exist with regard to the provision of lower-cost overnight visitor serving accommodations. Therefore, as proposed, the impacts to public access and recreational opportunities associated with the proposed PMPA cannot be found consistent with the public access and recreation policies of Chapter 3 and Chapter 8 of the Coastal Act. The Commission therefore cannot support the proposed PMPA for East Harbor Island.

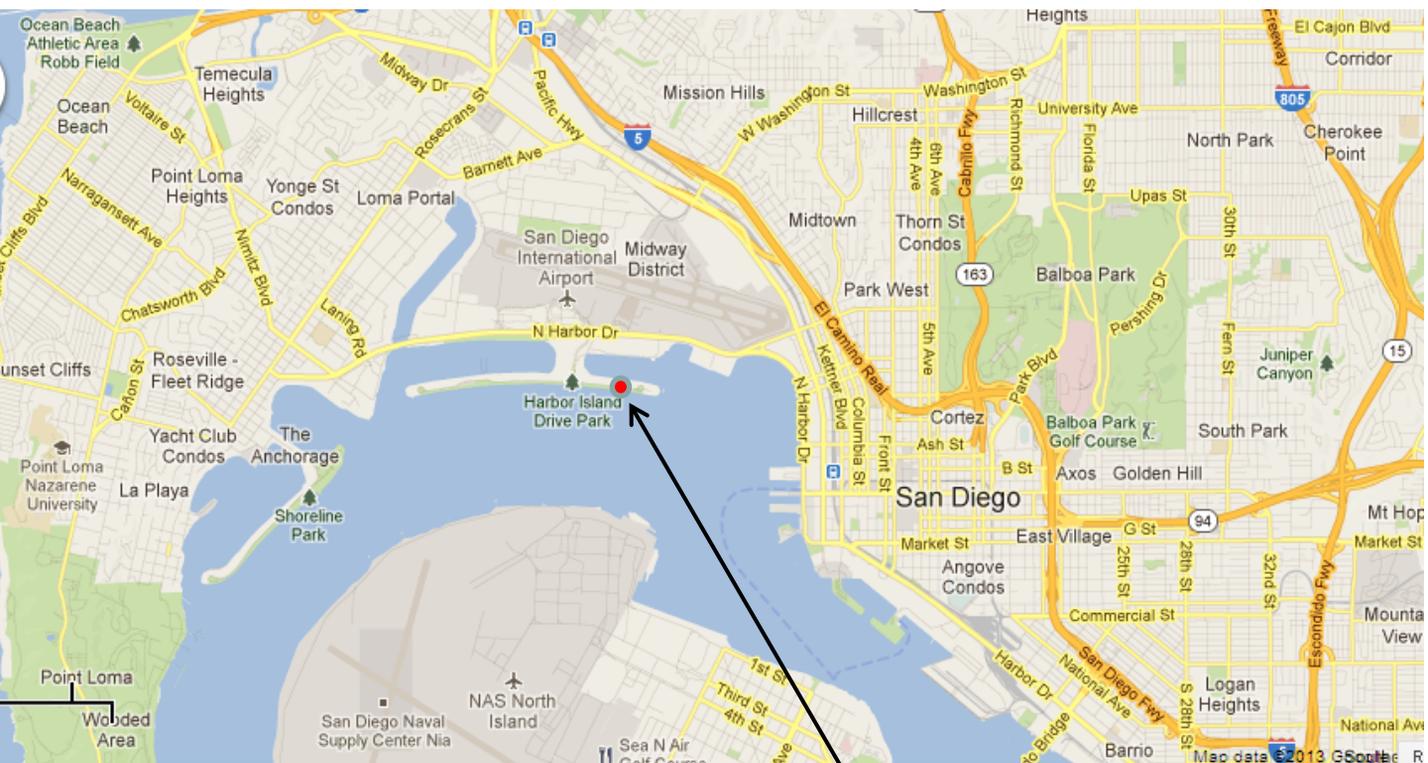
F. Consistency with the California Environmental Quality Act (CEQA).

The proposed amendment was the subject of an Environmental Impact Report under CEQA. The EIR was subject to public review and hearing and was adopted by the Board

of Port Commissioners. The Port of San Diego is the lead agency for purposes of CEQA. In the final EIR, the Port identified that even after adopting all feasible mitigation measures, there would be significant unavoidable environmental impacts on direct and cumulative Public Services and Utilities (Fire Protection Services) resulting from the primary responding fire station being above its workload capacity, and cumulative Transportation, Traffic, and Parking impacts resulting from the project's incremental contribution to project area intersections and roadway segments.

The Port determined that specific economic, social, and other benefits of the proposed project outweigh the project's unavoidable adverse environmental effects. In making this determination, the Port made a statement of overriding considerations. The Port identified the following overriding considerations: that the project would increase employment opportunities, create new and improved public access and shoreline enhancements in the project area, stimulate economic growth for the Port, the City of San Diego, and the overall region, and 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 equivalent to 15% in excess of standards required by Title 24 of the California Code of Building Regulations. Therefore, the Port determined that the benefits of the project outweigh its significant environmental impacts, and therefore, such impacts are considered acceptable.

However, the Commission has found that the PMPA cannot be found in conformance with the Chapter 3 and Chapter 8 policies of the Coastal Act due to the potential for significant adverse impacts to the environment of the Coastal Zone, including the potential to result in significant individual or cumulative impacts to public access and recreation in the coastal zone. There are feasible alternatives or feasible mitigation measures available, as described above, which would substantially lessen any significant adverse effect which the amendment may have on the environment. Therefore, the Commission finds that the PMPA is inconsistent with the California Environmental Quality Act.



Subject Site

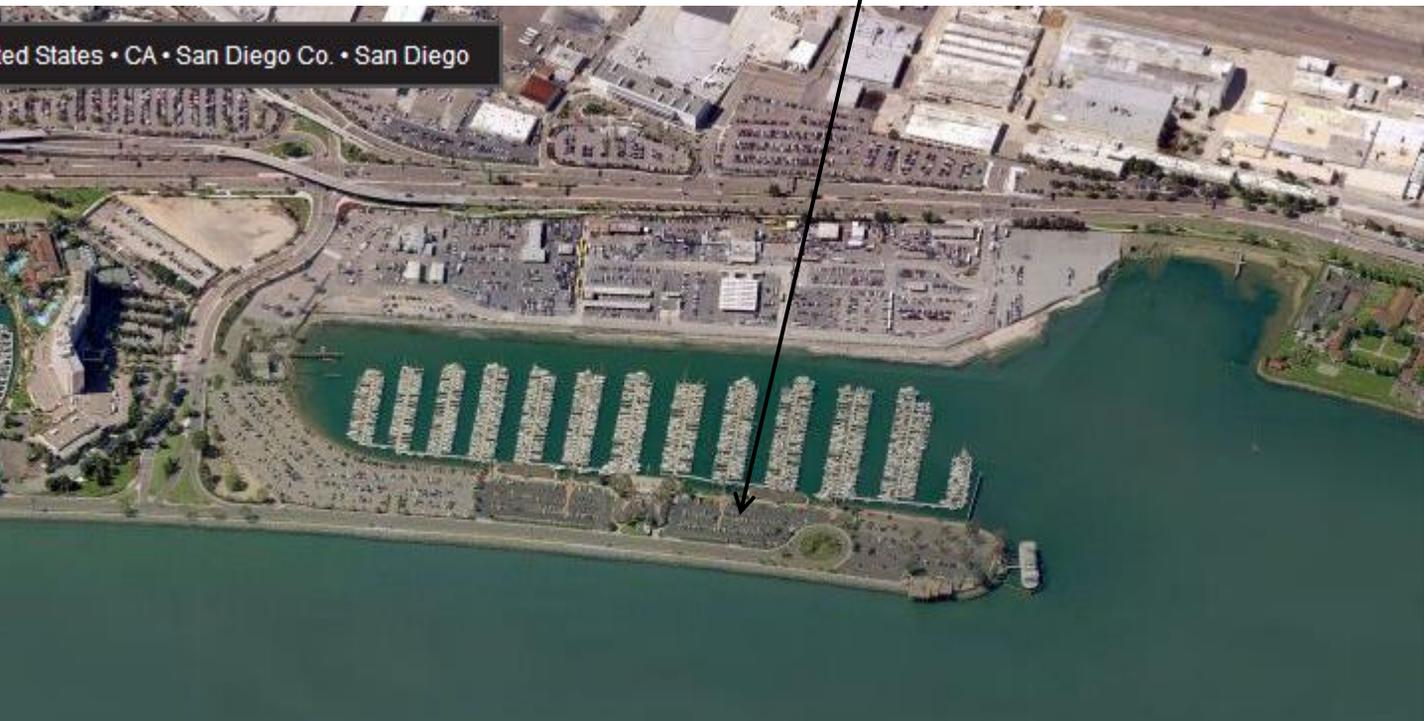


EXHIBIT NO. 1
Vicinity Map
MPMA #PMP-6-PSD-14-0003-2 California Coastal Commission

Potential Hotel Locations

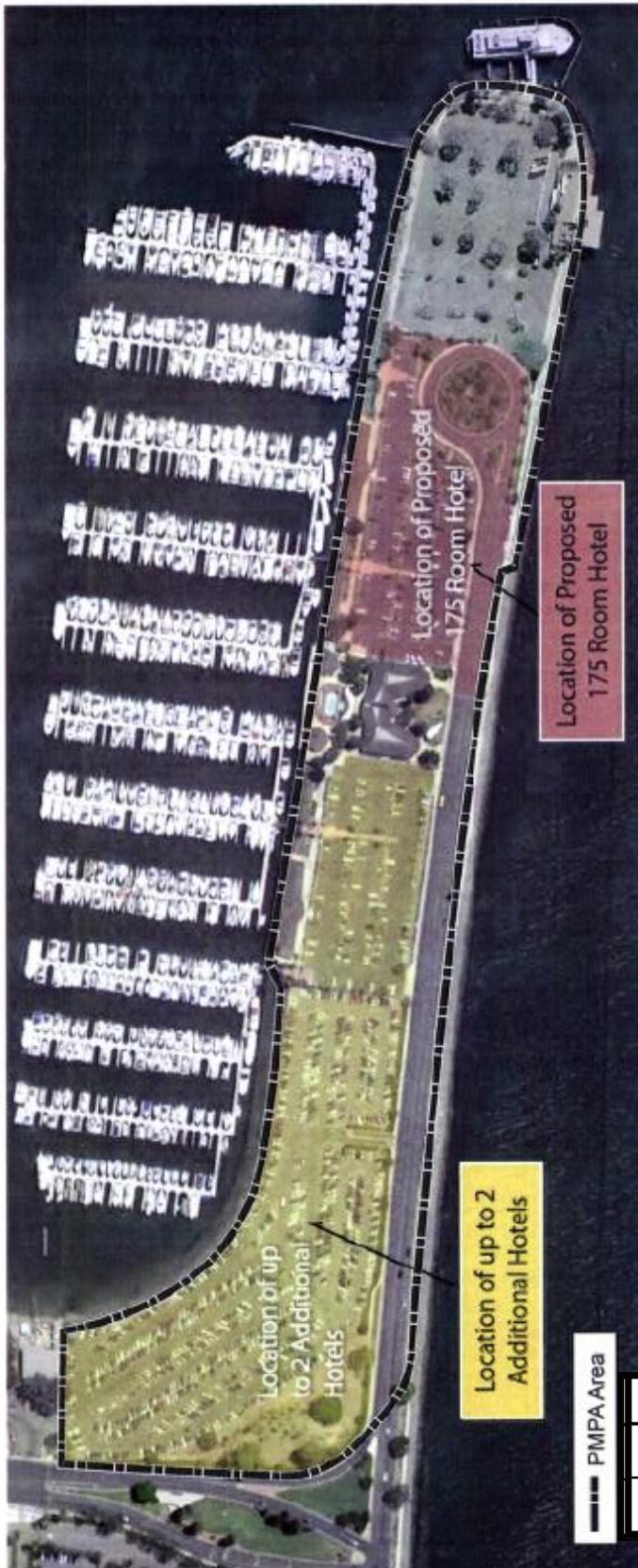


EXHIBIT NO. 2
Possible Hotel Locations
PMPA #PMP-6-PSD-14-0003-2
California Coastal Commission



LEGEND:

- PMP Amendment Area
- Location of Proposed 175 Room Hotel
- Possible Location for hotel
- Possible Location for hotel

Location of Proposed 175-Room Hotel and Possible Location for Up To Two Additional Hotels

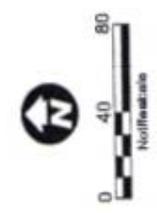
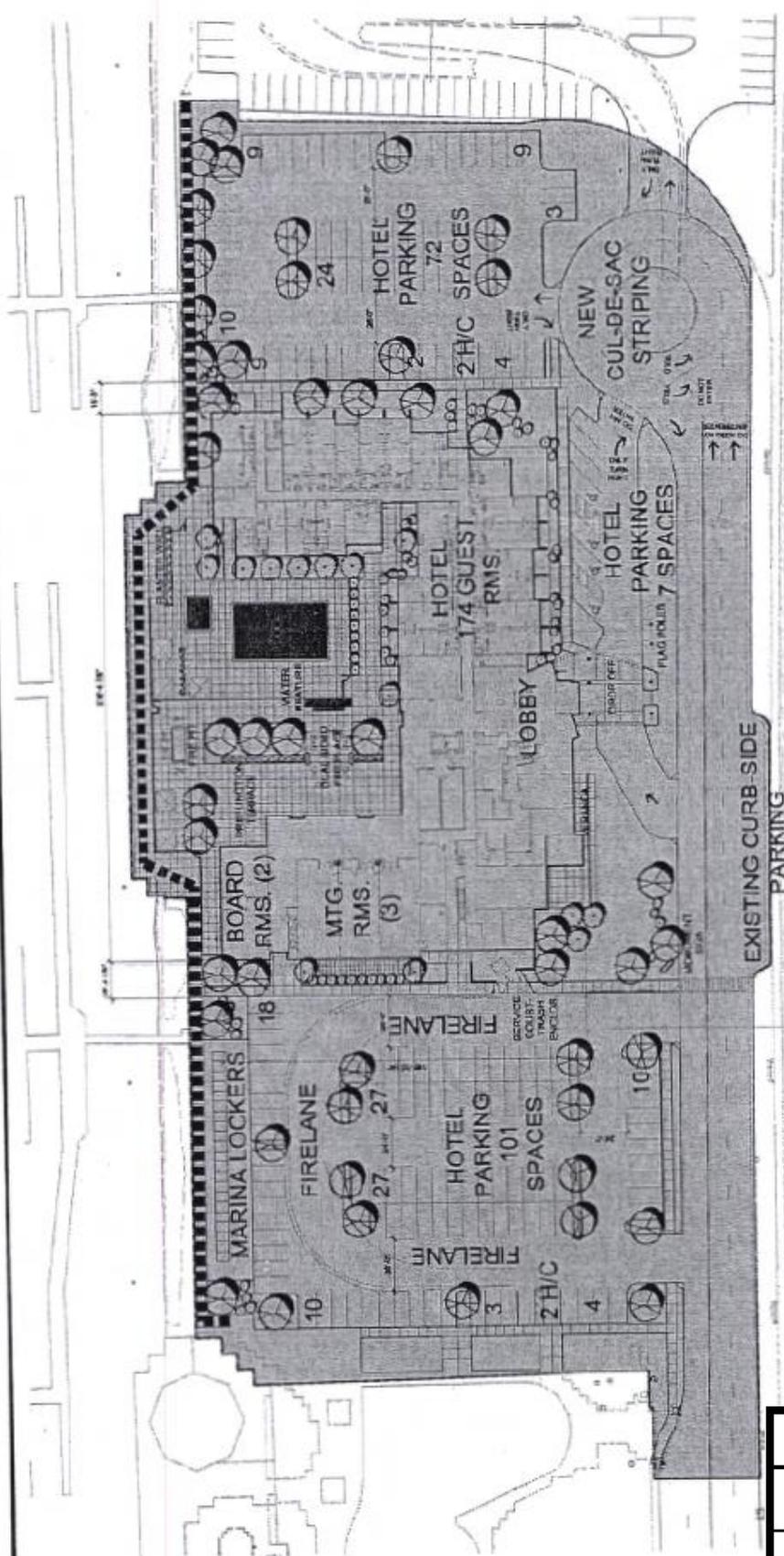
EXHIBIT NO. 2

Possible Hotel Locations

PMPA #PMP-6-PSD-14-0003-2



California Coastal Commission



Proposed Hotel Site Plan

(2009)

EXHIBIT NO. 3

Sunroad Hotel Site Plan

PMPA #PMP-6-PSD-14-0003-2
California Coastal Commission

*San Diego Unified Port District
Port Master Plan Amendment*



DRAFT

*East Harbor Island Subarea
Port Master Plan Amendment*

*Existing/Proposed Plan Text
and Plan Graphics*

March 2014

Approved by Board of Port Commissioners on 3/4/14

Revised 7/24/15

*Note: Text to be **deleted** shown ~~stricken~~ and text to be **added** shown underlined.*

EXHIBIT NO. 4

PMPA Text, Map & Project List



PMPA #PMP-6-PSD-14-0003-2
California Coastal Commission

The 1980 Port Master Plan was certified by vote of the California Coastal Commission (CCC) on January 21, 1981. Subsequent amendments, all of which have been incorporated into this copy, are listed below:

Amendment Title	BPC Res. No.	CCC Certification Date
Coronado Tidelands	83-133	12 Apr 1984
Convention Center and Option Site Hotel	84-290	14 Mar 1985
Bay Mooring and Anchorage Management Plan	84-304	25 Apr 1985
Chula Vista Bayside Park Extension	84-379	27 Aug 1985
Crosby Street Site	86-365	27 Feb 1987
Shelter Island Roadstead	88-212	15 Nov 1988
Coronado Boatyard/The Wharf	89-383	11 Apr 1990
East Harbor Island Hotel	90-170	14 Sep 1990
Seaport Village Street Relocation	92-74	11 Jun 1992
NASSCO Ways Modification	92-118	11 Jun 1992
Solar Turbines Incorporated	92-190	13 Oct 1992
Lindbergh Field Immediate Action Program	92-406	13 Apr 1993
Driscoll Boatyard Expansion	93-033	14 May 1993
National City Marina	94-152	11 Aug 1994
Design Refinements to IAP	95-223	15 Dec 1995
San Diego Convention Center Expansion	95-389	12 Jan 1996
A-9 Cruiser Anchorage	95-266	11 Apr 1996
Convair Lagoon	96-135	12 Nov 1996
Imperial Beach Oceanfront	97-187	10 Dec 1997
--Chula Vista Industrial Business Park Expansion	97-227	10 Mar 1998
South Embarcadero Redevelopment Program I	98-136	15 Oct 1998
North Embarcadero Alliance Visionary Plan	2000-83	14 Mar 2001
Former Naval Training Center Land Transfer	2000-166	12 Jun 2001
D Street Fill Mitigation Site	2001-86	11 Sep 2001
South Embarcadero Redevelopment Program 2	2001-72	12 Dec 2001
National Distribution Center, National City	2001-99	12 Dec 2001
South Bay Boat Yard, Chula Vista	2001-190	12 Dec 2001
Glorietta Bay Redevelopment	2001-65	05 Feb 2003
America's Cup Harbor	2002-120	12 Jun 2003
Fifth Avenue Landing Spinnaker Hotel	2004-66	12 Aug 2004
Old Police Headquarters	2006-29	10 Aug 2006
National City Aquatic Center	2006-162	15 Feb 2007
Broadway Pier Cruise Ship Terminal	2009-37	03 Feb 2009
Chula Vista Bayfront Master Plan	2010-79	09 Aug 2012
San Diego Marriott Improvements	2011-179	15 Nov 2012
East Harbor Island Subarea	2014-XX	XX XX 2014

**TABLE 4
PORT MASTER PLAN
LAND AND WATER USE ALLOCATION SUMMARY**

<u>LAND USE</u>	<u>ACRES</u>		<u>WATER USE</u>	<u>ACRES</u>		<u>TOTAL ACRES</u>		<u>% OF TOTAL</u>	
	Existing	Revised		Existing	Revised	Existing	Revised	Existing	Revised
COMMERCIAL	373.5	<u>374.2</u>	COMMERCIAL	383.0		756.5	<u>757.2</u>	14%	
Marine Sales and Services	18.8		Marine Services Berthing	17.7					
Airport Related Commercial	38.0								
Commercial Fishing	8.3		Commercial Fishing Berthing	18.8					
Commercial Recreation	304.4	<u>304.8</u>	Recreational Boat Berthing	335.4					
Sportfishing	4.3		Sportfishing Berthing	11.1					
INDUSTRIAL	1206.4		INDUSTRIAL	217.7		1424.1		26%	
Aviation Related Industrial	152.9		Specialized Berthing	170.5					
Industrial Business Park	113.7		Terminal Berthing	47.2					
Marine Related Industrial	322.1								
Marine Terminal	149.6								
International Airport	468.1								
PUBLIC RECREATION	280.5	<u>279.9</u>	PUBLIC RECREATION	681.0		961.5	<u>960.9</u>	18%	
Open Space	49.0	<u>17.6</u>	Open Bay/Water	681.0					
Park/Plaza	146.4								
Golf Course	97.8								
Promenade	47.3	<u>18.1</u>							
CONSERVATION	399.2		CONSERVATION	1058.6		1457.8		27%	
Wetlands	304.9		Estuary	1058.6					
Habitat Replacement	94.3								
PUBLIC FACILITIES	222.9	<u>222.8</u>	PUBLIC FACILITIES	394.3		647.2	<u>617.1</u>	12%	
Harbor Services	2.7		Harbor Services	10.5					
City Pump Station	0.4		Boat Navigation Corridor	284.6					
Streets	219.8	<u>219.7</u>	Boat Anchorage	25.0					
			Ship Navigation Corridor	50.0					
			Ship Anchorage	24.2					
MILITARY	25.9		MILITARY	125.6		151.5		3%	
Navy Fleet School	25.9		Navy Small Craft Berthing	6.2					
			Navy Ship Berthing	119.4					
TOTAL LAND AREA	2508.4		TOTAL WATER AREA	2860.3					
MASTER PLAN LAND AND WATER ACREAGE TOTAL						5368.6		100%	

Draft

Development of ~~unleased~~ parcels on Harbor Island is expected to be completed with the construction of the hotels on the east basin. Along Harbor Drive, from the Navy Estuary to the Coast Guard facility, planning concepts focus on providing a sense of entry into downtown San Diego for travelers coming via Lindbergh Field and Point Loma, with activities and landscape features that strengthen the image of San Diego as a pleasant place to visit. Considerable attention must be paid to improvements in the general appearance of existing industrial uses and the planned expansion of these uses. Public park, pedestrian promenade and open space are reserved on the bayside and in the circulation gateway of Harbor Island. Coastal access along San Diego Bay is enhanced by a shoreline park with leisure facilities, including restroom, and a 1.3 mile bayside public pathway.

Individual public access plans will be prepared concurrent with the coastal development permit application for each hotel development on Harbor Island and implementation of such will be a special condition of the hotel's coastal development permit for the development or redevelopment project(s). The public access plans will include information on signage, amenities, and public information to inform and invite the public to and around Harbor Island and downtown San Diego.

All hotel developments on Harbor Island shall provide or participate in shuttle service to and from the airport. All development shall provide information regarding other transit opportunities. The District's bayside shuttle system will be expanded to serve Harbor Island. The bayside shuttle system is intended to serve visitors as part of an integrated waterfront access and parking program that the Port District will develop in coordination with the City of San Diego and San Diego Metropolitan Transit System. All hotel developments or redevelopments on Harbor Island shall participate on a fair share basis in the cost

of the District's implementation of its transportation system. The fair share will be determined by the District according to the nature, size and scope of the proposed development or redevelopment and the District's transportation system in operation at the time an application for a coastal development permit is submitted. Participation in a shuttle program will be required as a special condition of the coastal development permit.

A parking management plan will be prepared for each hotel development on Harbor Island as the hotels are developed or redeveloped to maximize public access and recreational opportunities. The tenant shall submit their parking management plan for review and written approval of the District prior to the issuance of the respective coastal development permit for any hotel development or redevelopment on Harbor Island. All required parking must be accommodated on-site and address all development on the hotel project site and may include shared or joint-use parking. In addition, to facilitate public recreational waterfront access opportunities, each of the proposed hotels is required to provide public parking. The 175-room hotel will provide a minimum of 5 public parking spaces, and the remaining one or two hotels will provide a cumulative total of at least 10 public parking spaces, for a total of 15 public parking spaces on the hotel project sites. Signage for the public parking spaces will be visible from the public roadway.

As a special condition of the coastal development permit for any hotel development or redevelopment that adds hotel rooms to Harbor Island, the hotel developer or redeveloper will develop or designate its fair-share of on-site or off-site lower cost visitor accommodations or pay an in-lieu fee based on a study conducted by the District.

Land and Water Use Allocations

The Harbor Island/Lindbergh Field Planning District contains an approximate

total of 996 acres, consisting of about 816 acres of tidelands and 180 acres of submerged tidelands. **Table 8** summarizes the land and water use allocations proposed in the Precise Plan. As in the Shelter Island Planning District, a significant portion of the area is already developed and is under long term lease commitment. ~~The east end of the Harbor Island peninsula is vacant and thus offers development potential uncomplicated by the presence of structures or lease interest.~~ A balanced allocation of use activities is provided within the major use categories of commercial, industrial, public recreation, and public facilities.

The use allocation table, the **Precise Plan Map**, and the following text supplement the general plan guideline presented in the preceding part of this document.

Harbor Island/Lindbergh Field Planning Subareas

Planning District 2 has been divided into nine subareas (**Figure 10**) to provide a more specific explanation of the intent of the Plan.

Spanish Landing Park

Spanish Landing Park, subarea 21, extends along the north bank of the Harbor Island West Basin and occupies 11.2 acres of land. Another 1.3 acres is designated for promenade in the form of a bicycle and pedestrian path. This area is completely developed except for the possibility of a fishing pier near the west end. Approximately one mile of public access to the shore is provided by this park. Historic markers located in the park commemorate Juan Rodriguez Cabrillo's discovery of San Diego Bay in 1542, and the exploratory party of Gaspar de Portola in 1769-70.

West Harbor Island

West Harbor Island, subarea 22, has been completely developed with commercial

recreational uses such as hotels, restaurants, marinas, and marine related commercial business. No changes to this 37.7-acre commercial recreation area are anticipated.

East Harbor Island

The east end of Harbor Island, subarea 23, ~~has been~~ is the last subarea to complete phased development and is designated for Commercial Recreation uses. ~~The last project, a~~ Future development in this subarea includes up to three hotels with a combined total of no more than high quality hotel of approximately 500 rooms. ~~The hotels would be located on the marina parcel or west of the marina parcel (former airport employee parking lot); no hotels would be sited on the restaurant parcel on the easternmost end of the island. These hotels is will be sited to be responsive to views of San Diego Bay, the airport, and the downtown San Diego skyline. Maximum building heights will be establish consistently with adopted aircraft approach paths and Federal Aviation Administration (FAA) regulations. The hotel~~ Hotels complex may include typical supporting facilities and ancillary uses such as swimming pools, spas, commercial retail shops, restaurants, cocktail lounges, meeting and conference space, and recreational facilities, including piers, and ancillary uses. A marina of approximately 550 slips is located adjacent to the hotels and occupies most of the basin.

The eastern end of the peninsula is anchored by restaurants in two structures, which are uniquely sited on the water's edge.

The existing promenade along the southern side of Harbor Island Drive will be extended to the eastern portion of the East Harbor Island subarea and along Harbor Island East Basin. The extended promenade will be located to provide views of the San Diego Bay, the downtown San Diego skyline, and the

Harbor Island East Basin. It will be located immediately adjacent to the shoreline except at the southeast end of the peninsula where it moves inland briefly due to an existing restaurant structure. At such time when the cumulative redevelopment of the restaurant structures exceeds demolition or relocation of more than 50% of the major structural components including exterior walls, floor and roof structure, and foundation (excluding maintenance and repairs), the promenade will be relocated adjacent to the shoreline.

The promenade will provide pedestrian access around East Harbor Island and will connect the hotel developments, marina, and restaurants to the rest of Harbor Island. For each development or redevelopment on the western half of East Harbor Island, completion of the public bayside promenade along that development or redevelopment site will be required by the Port. On each hotel project site, the shoreline promenade will be a minimum of 10-foot wide and that respective portion must be fully completed prior to the completion of any new structure requiring the issuance of a final Certificate of Occupancy on that hotel project site. The promenade will include connections across the hotel project sites to the public sidewalk adjacent to the north side of Harbor Island Drive.

At such time as the current leases for the western half of the subarea terminate or are amended or concurrent with the development of the 175-room hotel, whichever occurs first, a provision for the construction of a temporarily aligned 10-foot wide shoreline promenade, which may include a fence and will include coastal access signage, indicating that the promenade is open and accessible to the public will be required. The temporary promenade will be installed by the developer of the adjacent marina and up to 175-room hotel, as a special condition of that hotel's coastal development permit, if a hotel development has not been selected for the one or two hotels with up

to 325 remaining hotel rooms on the western half of the subarea. If a temporarily aligned 10-foot wide shoreline promenade is installed on the western half of the subarea, it will be required to be replaced with a permanent 10-foot wide shoreline promenade, as a special condition of the coastal development permit(s) for the one or two hotels with up to 325 rooms, prior to issuance of a coastal development permit for that hotel site.

At the Sunroad Resort Marina, the 10-foot wide promenade will be continued on the shoreline side of the marina office and west locker buildings when the cumulative redevelopment of the marina office and west locker buildings exceeds demolition of more than 50% of the exterior walls and substantial structural components.

Any hotel project on the Sunroad Resort Marina leasehold that is developed before the aforementioned cumulative marina office and west locker buildings redevelopment shall provide public access along the bayside length of the marina leasehold. Within the marina's existing swimming pool enclosure and bayward of the west locker building, the walkway may be reduced to a minimum 5-foot wide shoreline public promenade which will be open for public use prior to the issuance of a final Certificate of Occupancy for that hotel project.

When the promenade is located within a private leasehold or on a Port development site, improvements and the promenade will be sited to allow uninterrupted pedestrian flow. Benches and viewing decks adjacent to the promenade will be sited to provide multiple viewing opportunities in a manner that does not obstruct pedestrian flow. Public access and other path-finding signage, as well as signage identifying that the promenade is open to the public, will be placed at strategic locations throughout East Harbor Island to guide guests and visitors to and from public use areas, restaurants, and other facilities.

Public access corridors that provide views will be located between hotel structures to allow visual and physical access and connectivity to the Harbor Island East Basin, San Diego Bay, and Harbor Island Drive. These public accessways will be kept free of obstructions. Public accessways may include public activation amenities such as benches, lighting, signage, parking, and landscaping and these amenities shall not be considered obstructions. In order to preserve views and encourage public access, building envelopes will not exceed seventy percent (70%) of each project site. Public activation amenities shall not be considered part of the building envelope.

All public access improvements (i.e., promenade, accessways, public art, signage, seating) on each respective hotel site shall be completed and open to the public at the time that each respective hotel begins occupancy. The one or two hotels with a combined total of up to 325 rooms shall provide activating uses, such as food service (e.g., restaurant(s), walk-up café, coffee shop, cocktail lounge), outdoor seating and dining areas, and retail shops open to the public, which will be integrated into the hotel(s), proportionate to the type and extent of development or redevelopment.

As the East Harbor Island subarea is developed or redeveloped, Harbor Island Drive may be resized and realigned to optimize use of East Harbor Island. This may allow for increased and enhanced public enjoyment of the bay. The promenade and new public access features (e.g., benches) will provide enhanced open space and public access opportunities within the East Harbor Island subarea.

If the District issues a Request for Proposals (RFP) to develop the one or two hotels (up to 325 rooms) on the southwesternmost area of Subarea 23 before the District has completed a lower cost visitor accommodations study, the RFP shall specify that no less than 25% of

the hotel rooms will be midscale or economy, as defined by Smith Travel Research. The developer of the midscale or economy hotel rooms shall be required to include amenities that lower the cost of stay. Examples of amenities that could lower the cost of stay may include the provision of kitchenettes, refrigerators and/or microwaves in guest rooms, it could also include provision of complimentary services such as Wi-Fi, continental breakfast and/or parking. If a hotel is developed at a midscale or economy product, it need not pay the in-lieu fee identified earlier in this precise plan.

A public promenade parallels the active ship channel of the bay and ensures pedestrian and bicycle coastal access. Landscaped open space on Harbor Island Drive is retained with the street design of an upgraded and modified "T" intersection. Utility capacity is expanded to meet increased service needs

**TABLE 8
Precise Plan Land and Water Use Allocation**

HARBOR ISLAND/LINDBERGH FIELD: PLANNING DISTRICT 2

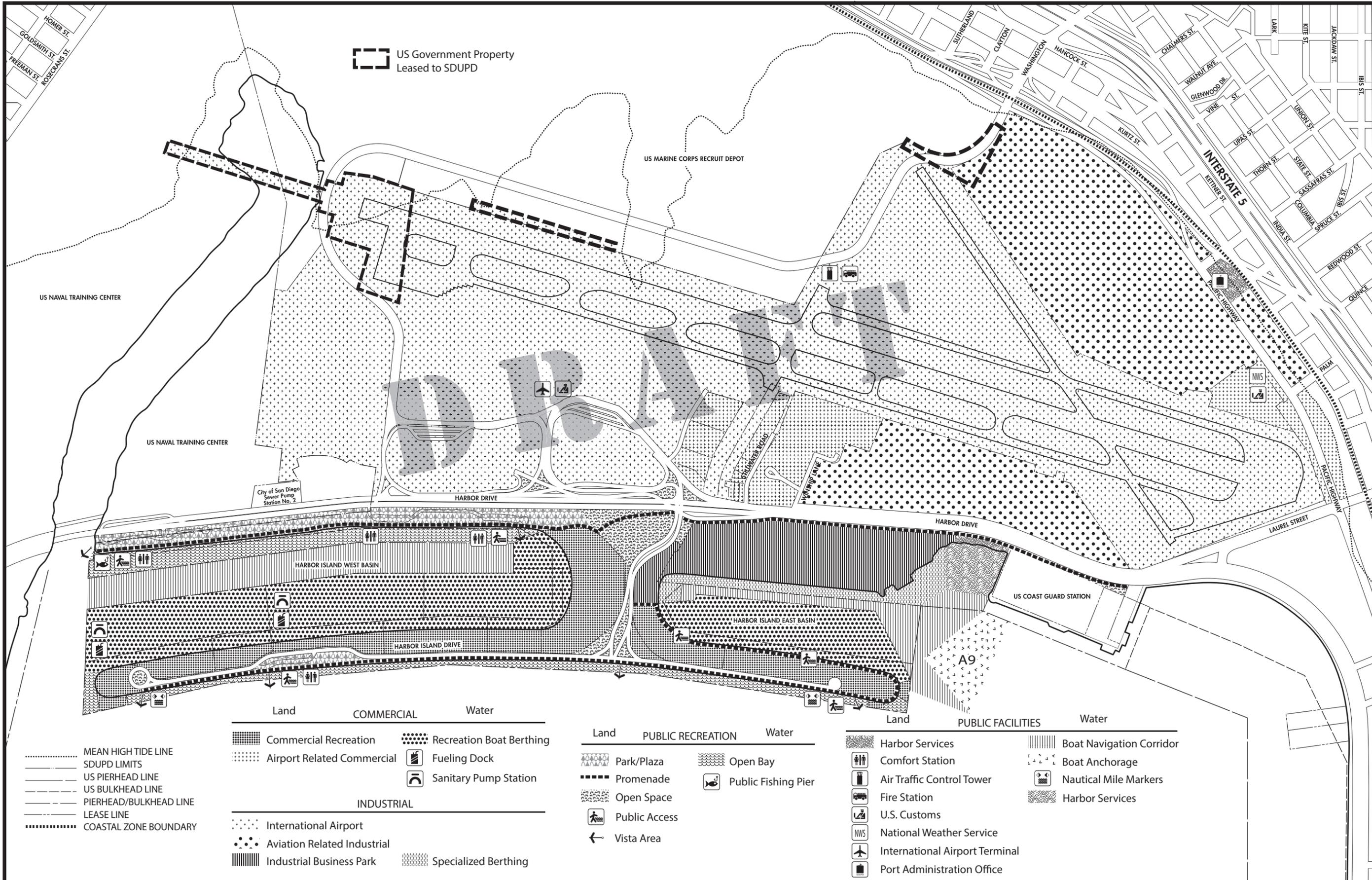
LAND USE	ACRES		WATER USE	ACRES	TOTAL ACRES		%OF TOTAL
	Existing	Revised			Existing	Revised	
COMMERCIAL	90.6	<u>91.3</u>	COMMERCIAL	105.8	496.4	<u>197.1</u>	20%
Airport Related Commercial	38.0						
Commercial Recreation	52.6	<u>53.3</u>	Recreational Boat Berthing	105.8			
INDUSTRIAL	631.8		INDUSTRIAL	11.2	643.0		65%
Aviation Related Industrial	130.6						
Industrial Business Park	33.1		Specialized Berthing	11.2			
International Airport	468.1						
PUBLIC RECREATION	26.2	<u>25.6</u>	PUBLIC RECREATION	45.0	71.2	<u>70.6</u>	7%
Open Space	7.5	<u>6.1</u>	Open Bay/Water	45.0			
Park	16.4						
Promenade	2.3	<u>3.1</u>					
PUBLIC FACILITIES	66.8	<u>66.7</u>	PUBLIC FACILITIES	18.0	84.8	<u>84.7</u>	8%
Harbor Services	1.3		Harbor Services	5.3			
Streets	65.5	<u>65.4</u>	Boat Navigation Corridor	12.7			
TOTAL LAND AREA	815.4		TOTAL WATER AREA	180.0			
PRECISE PLAN LAND AND WATER ACREAGE TOTAL					995.4		100%

Note: Does not include:
 Leased Federal Land 22.5 acres
 State Submerged Tidelands 41.3 acres
 Leased Uplands 4.1 acres

Revised acreage includes:
 East Harbor Island Subarea PMPA – CCC on XXXX XX, 2013

Revised: 06-20-13

Draft



US Government Property Leased to SDUPD

..... MEAN HIGH TIDE LINE
 - - - - - SDUPD LIMITS
 - - - - - US PIERHEAD LINE
 - - - - - US BULKHEAD LINE
 - - - - - PIERHEAD/BULKHEAD LINE
 - - - - - LEASE LINE
 COASTAL ZONE BOUNDARY

<p>COMMERCIAL</p> <p> Commercial Recreation</p> <p> Airport Related Commercial</p>	<p>INDUSTRIAL</p> <p> International Airport</p> <p> Aviation Related Industrial</p> <p> Industrial Business Park</p>	<p>Water</p> <p> Recreation Boat Berthing</p> <p> Fueling Dock</p> <p> Sanitary Pump Station</p> <p> Specialized Berthing</p>
---	---	--

<p>Land</p> <p> Park/Plaza</p> <p> Promenade</p> <p> Open Space</p> <p> Public Access</p> <p> Vista Area</p>	<p>Water</p> <p> Open Bay</p> <p> Public Fishing Pier</p>
---	--

<p>Land</p> <p> Harbor Services</p> <p> Comfort Station</p> <p> Air Traffic Control Tower</p> <p> Fire Station</p> <p> U.S. Customs</p> <p> National Weather Service</p> <p> International Airport Terminal</p> <p> Port Administration Office</p>	<p>Water</p> <p> Boat Navigation Corridor</p> <p> Boat Anchorage</p> <p> Nautical Mile Markers</p> <p> Harbor Services</p>
---	---

scale approx.
 0 200' 400'
 Land Use Planning

**Planning District 2
LINDBERG FIELD/HARBOR ISLAND**

PRECISE PLAN

FIGURE 9

DATE: June 2014
 DRWN / CHK: T.O. - A.B.

FILE TITLE:
 PPdist2_pmpa_DRAFT_HI
 hotel plan



Project List

A listing of projects and appealable classifications is shown in Table 9.

TABLE 9: PROJECT LIST				APPEALABLE ↓	FISCAL YEAR
HARBOR ISLAND/LINDBERGH FIELD: PLANNING DISTRICT 2			DEVELOPER ↓		
			SUBAREA ↓		
1.	HOTEL(S)-COMPLEX: <u>on western half of Subarea 23: up to two hotels 500 with a combined total of no more than 325 rooms, food service (e.g., restaurant(s), walk-up café, coffee shop, cocktail lounge), meeting and conference space; parking; landscaping; bayside public promenade</u>	23	T	Y	1993- 94 2017- <u>2020</u>
2.	PORT ADMINISTRATION BUILDING RENOVATION: Renovate building; Construct parking structure; install landscaping	29	P	N	1993-95
3.	AIRPORT ACCESS ROAD: Construct	27	P	Y	1995-96
4.	FUEL FACILITY: Expansion to north side of airport	25	P	N	1992-93
5.	ACCESS ROADS: Revise airport internal road system	26	P	N	1993-94
6.	LAUREL STREET: Widen between Harbor Drive and Pacific Highway	27	P	Y	1994-95
7.	NEW AIRPORT TERMINAL: Construct facility; apron; taxiway	26	P	N	1993-95
8.	ANCHORAGE FACILITY: Install perimeter marker buoys at Anchorage A-9	23	P	Y	1995-96
9.	CONVAIR LAGOON: Sediment remediation	24	T	N	1996-97
10.	INTERIM EMPLOYEE PARKING LOT: Construct airport employee parking lot and staging area for taxis, shuttle vans and charter buses; replace storm drain	26	P	N	2001-03
11.	<u>HOTEL: up to 175 rooms adjacent to marina, including limited meeting space; surface parking; landscaping; bayside public promenade; realignment of traffic circle and roadway</u>	<u>23</u>	<u>I</u>	<u>Y</u>	<u>2014-</u> <u>2016</u>

P- Port District	N- No
T- Tenant	Y- Yes

Draft

RESOLUTION 2014-53

**RESOLUTION APPROVING PORT MASTER PLAN
AMENDMENT AND DIRECTING FILING WITH THE
CALIFORNIA COASTAL COMMISSION FOR
CERTIFICATION**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, the District has a certified Port Master Plan, which was prepared, adopted and certified pursuant to the Port District Act, the California Coastal Act and other applicable laws; and

WHEREAS, Sunroad Marina Partners, LP (Sunroad) currently has a 50-year lease with the District for a 600-slip marina at 955 Harbor Island Drive, in the City of San Diego, on east Harbor Island (Existing Leasehold) that will expire in 2037; and

WHEREAS, on June 14, 2011, the Board of Port Commissioners (Board) granted an option to lease agreement with Sunroad for a new 55-year lease located on the Existing Leasehold site for development of a 175-room, four-story limited service hotel with ancillary meeting and fitness space, common areas, an exterior pool, and surface parking (Sunroad Hotel Project) and the Sunroad Hotel Project would remove 111 parking spaces, an existing locker building and some parking, with the existing marina offices to remain; and

WHEREAS, the existing certified Port Master Plan allows for commercial recreational use at the Sunroad Hotel Project site and allows for a hotel of up to 500 rooms on the westernmost parcel of East Harbor Island (located west of the Sunroad Hotel Project site), which is currently used for temporary rental car parking and was formerly used by the San Diego International Airport for employee parking; and

WHEREAS, a Port Master Plan amendment is required for the Sunroad Hotel Project to be developed; and

WHEREAS, the proposed Port Master Plan amendment (Port Master Plan Amendment) includes, among other things, revisions to the precise plan text and maps, land use acreage tables, and project list for Planning District 2 and more specifically, the proposed Port Master Plan Amendment revises the precise plan text to (a) allow for development of two or three hotels on East Harbor Island, including the Sunroad Hotel Project, with a combined total of not more than 500



rooms, rather than a single 500-room hotel, (b) include the proposed road and traffic circle realignment, (c) revise the Project List to add the Sunroad Hotel Project and the other up to two hotels, and (d) revise land use acreage table to reflect proposed changes to the commercial recreation, promenade, open space (traffic circle), and street land use designations; and

WHEREAS, proposed Port Master Plan Amendment has been prepared and processed in accordance with the Port Act, Coastal Act and other applicable laws; and

WHEREAS, the Sunroad Hotel Project and proposed Port Master Plan Amendment are collectively referred to as the "Project"; and

WHEREAS, Sunroad is the applicant for the Sunroad Hotel Project; and

WHEREAS, a Revised Final Environmental Impact Report pursuant to the California Environmental Quality Act (CEQA), CEQA Guidelines, and District procedures relative to the Project, has been prepared and certified and its contents considered.

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

That the Port Master Plan Amendment pertaining to the Sunroad Hotel Project, on file in the office of the District Clerk as Document No. 61419 is approved, that the Executive Director or his designated representative is hereby authorized and directed to transmit said Port Master Plan Amendment, together with all relevant factual information, the certified Revised Final Environmental Impact Report, and the Coastal Act consistency analysis to the California Coastal Commission for its review, approval and certification pursuant to Public Resources Code Section 30714 and that the Executive Director or his designated representative is hereby authorized to amend the Port Master Plan application prior to the California Coastal Commission's certification; provided, however, that the Port Master Plan Amendment, as certified by the California Coastal Commission, shall be presented to the Board of Port Commissioner's for its final approval at a subsequent date.

BE IT FURTHER RESOLVED, consistent with Public Resources Code Sections 30714 and 30716, and California Code of Regulations Title 14, Section 13632(e), the Port Master Plan Amendment shall not be effective until: (a) the California Coastal Commission certifies the Port Master Plan Amendment; (b) the Board adopts the Port Master Plan Amendment as certified by the California Coastal Commission; and (c) the California Coastal Commission has received notice of such Board action and accepts the same as consistent with its certification.

BE IT FURTHER RESOLVED, that the Port Master Plan Amendment shall not be effective unless and until an indemnity agreement, as approved by the Executive Director or his designated representative, is entered into by Sunroad and the District, which provides for Sunroad to indemnify the District for all attorneys' fees, costs and other expenses incurred by the District in the event of any third party legal challenge to the Final Environmental Impact Report or the Master Plan Amendment.

APPROVED AS TO FORM AND LEGALITY:
PORT ATTORNEY

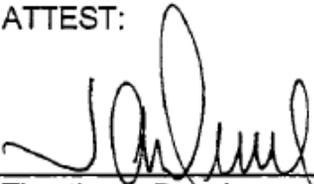

By: ~~Assistant~~ Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 4th day of March, 2014, by the following vote:

AYES: Bonelli, Malcolm, Merrifield, Moore, Nelson, and Valderrama
NAYS: None.
EXCUSED: None.
ABSENT: None.
ABSTAIN: Castellanos.


Robert E. Nelson, Chairman
Board of Port Commissioners

ATTEST:


Timothy A. Deuel
District Clerk

(Seal)

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



March 10, 2015

Lesley Nishihira
Manager, Land Use Planning
Port of San Diego
3165 Pacific Highway
San Diego, CA 92112-0488

Subject: Comments on the Draft San Diego Unified Port District Lower Cost Overnight Accommodations Study

Dear Ms. Nishihira:

Commission staff appreciates the opportunity to review and provide comment on the Draft San Diego Unified Port District Lower Cost Overnight Accommodations Study dated December 2014. While we will offer more detailed comments as the Port's work continues, we offer the following initial comments regarding the draft study which was undertaken by the San Diego Unified Port District (District) to establish a baseline of existing lower cost overnight accommodations within the District and to create the framework for a future policy addressing the provision of lower cost overnight accommodations within Port tidelands. Additional and more thorough review will be provided as we work with you and other Port representatives to develop the appropriate policies to be incorporated into a Port master plan amendment.

As an overriding comment, we are concerned that there is no clear directive in the draft study that the Port will provide lower cost overnight accommodations within the District. One of the guiding principles proposed for establishing a policy framework, on Page 60, is that the combined percentage of lower and moderate cost overnight accommodations shall not be less than 10% of the total hotel submarket. This target seems especially low and will not assure that land area will be set aside for provision of a lower cost overnight option within Port tidelands. Coastal Act Section 30213 protects and provides for lower cost visitor serving facilities and this mandate is even more compelling when looking at public tidelands. Thus, we believe the study should provide a goal specifically related to providing lower cost accommodations that is distinguishable from the goal for moderate cost accommodations and include analysis of how this goal is consistent with the Public Trust Doctrine and the Coastal Act.

In addition, the study's short term goal to provide 225 new lower cost accommodations (relocation of 125 existing hostel units in the downtown area onto Port lands, 50 new hostel units at a yet-to-be-determined site, 50 new campsites at a yet-to-be-determined site) appears to be low, particularly given the study's finding that the only existing lower cost overnight accommodations within the District are 237 RV sites in Chula Vista. This goal translates to a total of 462 lower price accommodations out of 12,360 total

EXHIBIT NO. 6

CCC Comment Letter

RMPA #PMP-6-PSD-14-0003-2
California Coastal Commission

accommodations on Port lands, or 3.7% with only 1.4% being actual rooms (hostel rooms) and 78% consisting of existing hostel units or RV sites rather than new inventory. Furthermore, the study's long term goals, on Page 49, do not provide any discussion of the provision of new lower cost accommodations and instead focus on new and expanded public amenities such as the bayfront shuttle system. Again, the lack of any clear long term goal for the provision of new lower cost overnight accommodations appears to be inconsistent with what we believed to be the purpose of the study. The study briefly discusses the market and demand for new hotel development, but it is not clear if any analysis was conducted to determine the existing and future demand for new lower cost overnight accommodations within Port tidelands. If not, we believe it should be included in the final study and the short and long term goals should be reevaluated based on the findings. As a part of this reevaluation, a variety of lower cost accommodations discussed in the study, including hostels, tent camping, RV camping, cabins, and yurts, should be considered for inclusion in the District's short and long term goals for providing new lower cost overnight accommodations within the Port District.

On Page 4, another key finding of the study is that: "Fees collected through the program would be allocated toward new lower cost overnight accommodations projects and shuttle support at a 90/10 ratio." In addition, on Page 48, the study states: "Once the near-term goal has been met, the fees could be directed toward other public amenities that serve the overnight visitor. These may include rent subsidies or property improvement grants to District tenants wishing to upgrade existing lower cost facilities. Other ideas may include water taxis and other facilities that offer a no or low cost benefit to the visitor." Finally, on Page 49, the study states: "Once the initial demand is met and new overnight accommodations have been constructed, it may be reasonable to consider providing other public amenities that are designed to provide access to the waterfront, beyond lower cost overnight accommodations and the bayfront shuttle system. This may include water taxi services and/or waterfront enhancements such as wayfinding and signage and passive and active programs intended to attract visitors to the waterfront and provide them a no or low cost recreational opportunity." It is important to note that previous Commission actions have, for the most part, required that in-lieu fees collected in conjunction with impacts to lower cost overnight accommodations be utilized for the development of new lower cost overnight accommodations – not for public access and recreation amenities. Generally, the Commission has addressed mitigation for impacts to lower cost overnight accommodations separate from, and in addition to, other types of impacts to public access and recreation.

The use of in-lieu fees for an expanded shuttle service, water taxi service, signage, and other amenities does not address the impact of future high cost hotel development in-lieu of lower cost accommodations and the mitigation that is appropriate to offset those impacts. As discussed at our January 12, 2015 meeting, public access and recreation amenities that provide for and minimize impacts to coastal access should be required and funded separately. The one element that may warrant further deliberation is the possible use of mitigation monies for maintaining existing lower cost overnight accommodations as part of the Port's inventory. If the Port wishes to retain this concept, further documentation on the identification of selected units and how the mitigation monies will be used to secure and maintain lower cost rates will be needed.

On Page 59, the tiered system for project selection does not reflect the goal of first providing, at a minimum, 225 units of lower cost overnight accommodations. It appears that the Board could use discretion to fund any of these types of projects at any time during the process. In addition, Tier 2 (new lower or moderate cost hotel suite products providing a lower cost of stay to the visitor) and Tier 3 (rehabilitation of existing lower or moderate overnight accommodations) were not discussed in adequate detail in the study. Please provide additional information about these options. Finally, as discussed above, Tier 4 (water taxi service throughout the Bay) and Tier 5 (waterfront access public amenity such as seating areas, walkways, signage, etc.) should be discussed separately.

The study proposes to use PKF Consulting's (PKF) classification of "upper-priced" and "lower-priced" accommodations to determine the appropriate Average Daily Rate (ADR) range for lower, moderate, and higher cost hotel accommodations. However, the study does not provide a detailed explanation of PKF's methodology for classifying upper- and lower-priced accommodations. Although the current PKF rate categories are similar to those used in previous Commission actions, relying on a private consultant's determination of rate categories rather than publicly available data sources, without clear information about how the determination is made, is problematic. This issue could potentially be addressed by limiting future increases in the rate categories (e.g., limiting the increase as compared to the consumer price index), or by capping the rates (e.g., capping the lower cost category at some percentage of the statewide average room rate). In any event, we need greater understanding of the methodology that has been used to create these classifications.

On Page 44, the study states that the cost of land included in Hosteling International's 2014 estimate should not be factored into the cost estimate for the construction of new hostel facilities since the District can only lease Port lands: "Land cost will be removed from the \$54,120 figure in the current study because land cost would change depending on location and is not appropriate for District property, which is leased and not purchased. For purposes of this study, \$42,120 will be used to estimate cost of each hostel bed in the Port jurisdiction." Based on our conversations with Port staff, even though Port lands will be leased instead of purchased, there will still be a cost associated with the lease of Port lands for a future hostel or other lower cost overnight accommodations. Therefore, unless the District intends to fully subsidize leasing costs, any costs associated with the lease of Port lands should be estimated and included in the cost to construct new lower cost accommodations in order to more accurately determine the cost of mitigation. In addition, any in-lieu fee should be reassessed and updated on a regular basis to reflect the current cost of constructing new lower cost overnight accommodations.

On Page 42, the study describes that the current occupancy for the existing 153-bed hostel in downtown San Diego is 61% but it is expected to increase as a result of a recent remodel of the facility. The study states that "HI representatives are predicting a demand for an additional 50 hostel beds in the downtown San Diego market in the future" – which would result in a total of 203 beds in the downtown area. However, the study only recommends relocation of 125 of these existing 153 beds and 50 new hostel beds for a total of 175 total hostel beds (125 new hostel beds in a relocated Downtown facility and 50 additional hostel beds on a yet-to-be-determined site) instead of the 203 projected.

Please correct and/or explain this discrepancy. Also, the study should include a detailed discussion of how HI representatives predicted hostel demand for the downtown San Diego market, including the timeframe that was used, whether Port lands were included in the area that was considered, and any other data or evidence to support this projection. At this point in time, it may be somewhat premature to be identifying an exact number of hostel units that should be planned for on Port lands if thorough analysis on the demand for such units has not been completed. On Page 43, the study states: “However because there is no precise way to project demand, it is reasonable to assume a more conservative growth in hostel development within the Port jurisdiction over the near term.” In the absence of more information and justification, this assumption is not supportable and the study should include further consideration and analysis of the short and long term demand for hostel rooms, taking into account the projected population growth, the anticipated increase in tourism, and the increase in projected demand for a new hostel facility located in downtown San Diego on Port property – closer to the water than the existing facility.

In general, we appreciate that suite hotels may serve as a part of the effort to address the need for more affordable accommodations because they are typically less costly or are more reasonably priced for larger groups and families; however, they are not considered lower cost overnight accommodations. We agree that a mix of overnight accommodations types and rate levels should be provided within the Port to serve the public; however, the focus of this study should be the provision of new lower cost overnight accommodations, including hostels, camping, cabins/yurts, and lower cost hotels. Perhaps the final study could address the District’s goals for the provision of new moderate cost overnight accommodations separately as a new section. Thus, the study’s proposal on Page 47 to allow the District to reclassify hotels into the “lower” or “moderate” rate category if they provide suite-style amenities is not supportable. Furthermore, on Page 47, the study states that “some suite product is marketed to business travelers or designed as luxury suites, which would not qualify.” This statement is supported by the fact that all of the existing suite style hotels within the Port are moderate or high cost hotels that would not be considered a lower priced overnight accommodation.

In past actions, the Commission has taken into consideration the affordability of suite hotel rooms that accommodate large families who would otherwise need to reserve two standard rooms. The Commission’s action for a new hotel development at Liberty Station (ref. to CDP #6-13-0407) involving a reduction of the in-lieu fee is referenced in the study; however, it is important to note that this is only one of many Commission actions and the subject hotel development has yet to be built so it remains to be seen whether the actual rates charged by the hotel operator will be consistent with those projected by the developer. In the case of the Legoland Hotel (ref. to City of Carlsbad LCP 1-09B), the in-lieu fee was not applied because the applicant proposed that all 250 rooms within the hotel would accommodate at least 5-7 people, and even though the projected rate was \$220 per night, the cost of the room would be reduced to within the moderate cost range when packaged with admission to Legoland. However, the significant discrepancy between the projected and actual room rates for this hotel – approximately \$329-369 for a standard room, \$405.67-\$469 for a premium room, and \$505.67-\$569 for a suite room – demonstrates the challenges associated with determining

when elimination or reduction of an in-lieu fee is appropriate. It is important to note that the District will face the same challenges, especially since Port lands are situated along the highly desirable waterfront adjacent to downtown San Diego. Thus, when determining the appropriate rate category, the District should not solely rely upon projected hotel rates but should also take into consideration actual rates of comparable hotels within the immediate vicinity. In addition, the reduction of in-lieu fees should not be considered or permitted without clear criteria and evidence of how suites will be designed and maintained as truly affordable accommodations.

Additionally, it is unclear whether the proposed menu of options to reduce the in-lieu fee on Page 53 would actually result in lower cost accommodations. In staff's research, many hotels within San Diego County at a variety of different price points provide amenities such as the ones proposed (complimentary breakfast or free Wi-Fi) as part of the daily rate. Thus, these amenities are often included with the price of the room, especially for hotels that are already low or moderate cost, and are not necessarily associated with whether a hotel is low, moderate, or high cost. Therefore, detailed criteria for any reduction of the in-lieu fee should be carefully outlined and justified to ensure a reduction in the fee is warranted.

Given the finite amount of land available to develop or redevelop new lower cost overnight accommodations and the Port's role as the manager of this land, it is unclear why it would be premature to identify sites that are appropriate for such development. The proposed recommendation to identify general siting criteria and encourage development on sites that meet those criteria will likely result in undue delays to the development of lower cost accommodations. We encourage a revision to the study at this time to include recommendations regarding specific sites that would be potential sites for lower cost accommodations.

Thank you again for the opportunity to provide review and comment on the draft study. If you have any questions or require further clarification, please do not hesitate to contact us.

Sincerely,



Kanani Brown
Coastal Program Analyst III

Cc (copies sent via email):

Sherilyn Sarb (CCC)
Deborah Lee (CCC)
Madeline Cavalieri (CCC)
Tinya Hoang (CCC)
Penny Maus (Port)



Re: August 13, 2015, Agenda Item 22.d.

July 27, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Dear Chair Kinsey and Members of the Commission:

Founded in 1995, San Diego Coastkeeper protects and restores fishable, swimmable, drinkable water in San Diego County. As the region's leading water quality watchdog, our staff and volunteers conduct monthly water quality monitoring of inland streams, creeks and rivers and weigh in during policy and regulatory processes, with particular attention to industrial and municipal storm water issues.

For the past four and a half years, we have been aware of projects managed or proposed on Port of San Diego Tidelands by Sunroad Enterprises, particularly Sunroad Marina and a proposed hotel project on East Harbor Island. Often, in our experience, environmental issues represent no more than a check box on permit forms, but Sunroad Enterprises sought to improve their projects to the extent possible by seeking San Diego Coastkeeper's input early in the planning process. While we did not offer specific project recommendations or review detailed plans, we commend the company's transparency and proactive approach to working with environmental advocates.

San Diego Coastkeeper understands and respects that the Coastal Commission must consider a variety of factors in its approval process. Indeed, we often avail ourselves of the public process the Commission undertakes in order to express our dismay at shortcomings in projects' water quality protections and protection of the marine environment. Conversely, we find it important to also communicate positively. In this case, when early indications point to a project that meets water quality standards and a company that expresses its commitment to the environment and demonstrates the resources to address any issues that might arise in the future, we hope the Commission will not delay its consideration of the merits of the permit application.

Thank you for the important role you play protecting our coastline. Should you have any questions, please do not hesitate to contact me by phone to 619-758-7743 ext 103 or email to meganb@sdcoastkeeper.org.

Sincerely,

Megan Baehrens

Megan Baehrens
Executive Director

FISHABLE. SWIMMABLE. DRINKABLE.



San Diego Coastkeeper is a registered trademark of the Waterkeeper Alliance

EXHIBIT NO. 7

Support Letters (Pg 1 of 37)



PMPA #PMP-6-PSD-14-0003-2
California Coastal Commission



402 West Broadway, Suite 1000
San Diego, CA 92101-3585
p: 619.544.1300

www.sdchamber.org

July 27, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor
Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

On behalf of the San Diego Regional Chamber of Commerce (Chamber), I am writing to express my strong support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment (amendment). With approximately 2,500 members representing nearly 400,000 employees, the Chamber is dedicated to growing commerce in the San Diego region and maintaining our legacy as a premiere tourist destination. The Chamber is acutely aware of the benefit of the proposed amendment for our local economy and business community.

The amendment and the Sunroad Harbor Island Hotel project will add another vibrant tourist destination on East Harbor Island by enhancing the visitor serving opportunities. Public access will be improved for visitors and locals as the existing shoreline promenade is extended along the entire perimeter East Harbor Island. The promenade extension, coupled with the addition of public parking and public amenities on the hotel sites, will activate a portion of the waterfront that has long been underutilized by residents and visitors. The hotel projects contemplated by the amendment will also create economic benefits for the region through the creation of short term construction jobs and long term hospitality jobs.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea. If you have any questions or concerns, please contact Stefanie Benvenuto at (619) 544-1378 or sbenvenuto@sdchamber.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Sanders', is written over a horizontal line.

Jerry Sanders
President & CEO
San Diego Regional Chamber of Commerce

CC: Commissioners

California Coastal Commission
San Diego Coast District Office

Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



3462 Malito Drive | Bonita, California 91902 | 619.475.8524 | 619.475.9807 Fax | mabpa@cox.net | www.mabpasandiego.com

FOUNDED IN 1978

2015 EXECUTIVE BOARD

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RAY ARAGON, Secretary

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EDWARD BARBAT
JOSIE FLORES CLARK
DIANA GRUALVA
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VICTOR NUNEZ
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MOISES AGUIRRE

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CLAUDIA VALENZUELA

CARLOS VARELA

NORA VARGAS

JASON WELLS

DINA YORBA

July 22, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission,

On behalf of the Mexican American Business & Professional Association (MABPA), I would like to express our strong support for the Sunroad Harbor Island Hotel Project and urge you to approve the East Harbor Island Subarea Port Master Plan Amendment.

The Amendment and the Sunroad Harbor Island Hotel project will add another vibrant tourist destination on East Harbor Island by enhancing the visitor serving opportunities and public amenities on the hotel sites. Public access and enjoyment of coastal resources will also be significantly improved for visitors and locals as the existing shoreline promenade will be more than doubled in length through its extension around the entire perimeter of East Harbor Island. The promenade extension, coupled with the addition of public parking and public amenities, will activate a portion of the waterfront that is underutilized by residents and visitors, and will further enhance active transportation access to coastal resources and maritime employment. Additionally, the projects contemplated by the Amendment will generate substantial economic benefits for the community through the creation of short term construction jobs and long term hospitality jobs.

Sunroad is recognized for its quality projects and it's architecturally and efficient buildings, in particular, they developed the first Spec LEED certified office building in San Diego. Sunroad is also recognized as an exemplary corporate citizen, a role model for our Latino community, that routinely donates to community causes such as their donation of \$1M to the San Diego Fire Department to secure its first permanent fire helicopter for the region. For these reasons, MABPA proudly supports Sunroad, the largest Hispanic business on the tidelands, and this project. Sunroad will provide East Harbor Island with its first Hispanic owned waterfront hotel and tourist destination for our diverse communities.

MABPA has a long history of supporting environmentally sound coastal projects that provide employment to local workers, contract opportunities for small and minority businesses and bring economic benefits and prosperity to our coastal communities and the region, while maintain the delicate balance of preserving coastal access and resources.

Given the environmental, economic, and cultural benefits this project will provide to our community and visiting tourists, we again ask you to please approve the East Harbor Island Subarea Port Master Plan Amendment. Thank you for your time and consideration.

Sincerely,

Josie Calderon-Scott
President



July 22, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Letter of Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission,

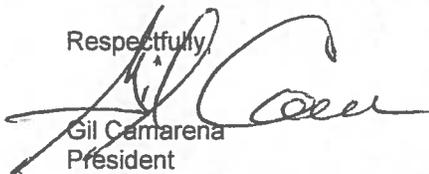
Sunroad is a well respected leader of our community providing support, guidance and job opportunities to local small businesses. On behalf of the members of the US Hispanic Contractors and Professionals Association—San Diego (USHCPA), we submit this letter of support for Sunroad and the Sunroad Harbor Island Hotel Project and request the approval of the East Harbor Island Subarea Port Master Plan Amendment.

We recognize the benefits and opportunities the project would create for the community including: the extension of the promenade that will more than double in length and will significantly improve public access, public parking and enhance visitor-serving amenities overseeing San Diego's stunning waterfront. It would also have a positive economic impact on the region through the creation of short term construction jobs, and long term hospitality jobs.

USHCPA strongly supports and commends Sunroad for being an exemplary role model for our community by being the first Hispanic owned hotel on the waterfront. The Mission of the USHCPA is to help provide the necessary resources to ensure the continued progress of its members while promoting the long term success of Hispanic owned construction and professional businesses in San Diego. The USHCPA is a diverse group which includes business leaders, entrepreneurs, and community advocates and is committed to connecting commerce, culture, and community.

USHCPA support the Sunroad Harbor Island Hotel Project and the many benefits it would bring to the community. We respectfully request that the California Coastal Commission approve the Port Master Plan Amendment. Thank you for your consideration.

Respectfully,



Gil Camarena
President

CC: USHCPA Officers
Commissioners, California Coastal Commission

San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

CHICANO FEDERATION OF SAN DIEGO COUNTY, INC.

ADMINISTRATIVE OFFICE: 3180 University Avenue Ste. 317 San Diego, CA 92104
MAILING ADDRESS: P.O. BOX 40508 SAN DIEGO, CA 92164-0508
(619) 285-5600 FAX (619) 285-5616

July 28, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Coastal Commission Application PMP -6-PSD-14-0003-2 (Sunroad's Harbor Island Hotel and Port Master Plan Amendment)

Dear Chairman Kinsey and Coastal Commissioners:

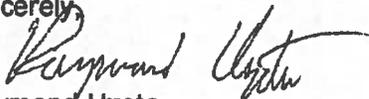
On behalf of the Chicano Federation of San Diego County, we join other San Diego organizations in support of the Sunroad Harbor Island Hotel Project and encourage you to approve the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

We San Diegans live in one of the most beautiful areas of the country with a wonderful climate, beautiful beaches and bay, waterfront hotels, and many other water oriented businesses and amenities. It is no wonder that San Diego is a very desirable tourist destination. The Sunroad Harbor Island Hotel Project and the Subarea Port Master Plan Amendment will enhance the utility and amenities on East Harbor Island that will benefit not only our local residents but also the thousands of tourists who visit San Diego each year.

Sunroad is an experienced developer with many fine buildings to its credit. The company also exercises corporate responsibility through its charitable contributions. In addition, the Sunroad Harbor Island Hotel Project will provide jobs for local workers as well as contract opportunities for small minority businesses.

For the reasons cited above, I hope that the California Coastal Commission will approve the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

Sincerely,



Raymond Uzeta
President & CEO





7/27/15

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Coastal Commission Application PMP -6-PSD-14-0003-2 (Sunroad's Harbor Island Hotel and Port Master Plan Amendment)

Dear Chair Kinsey and Members of the Commission:

On behalf of Flagship Cruises & Events we strongly support the Sunroad Harbor Island Hotel Project and encourage you to approve of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment. The scope of this amendment is rather limited in that it will allow several hotels totaling no more than 500 rooms instead of a single 500 room hotel. In addition, the existing public promenade which is limited to the bayside of East Harbor Island Dr. will be more than doubled in length through its extension around the entire perimeter of East Harbor Island.

I understand that a key issue in processing this project is determining the amount and method for providing lower cost over-night accommodations. It is commendable that both the Coastal Commission and the San Diego Unified Port District are drafting policies and procedures to more effectively deliver lower cost accommodations, however approval of hotel projects currently being processed through the Coastal Commission should not be withheld while updated policies and procedures are being developed. To withhold approvals amounts to a de facto moratorium on hotel development. This is contrary to the goal of increasing public access and visitor serving commercial uses within the Coastal Zone.

As proposed by the Port District, the amendment will allow for construction of a long awaited new hotel on East Harbor Island and, consistent with past practice it, establishes clear requirements for creating new lower cost over-night accommodations. We urge you to approve the Port Master Plan Amendment without further delay.

Sincerely,

A handwritten signature in blue ink, appearing to read "BE", is written over a large, stylized blue scribble.

Brad Engel
Vice President
Flagship Cruises & Events

CC: Commissioners

California Coastal Commission
San Diego Coast District Office



Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

July 22, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am writing to express my strong support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

I am a union worker, and the hotel projects proposed on East Harbor Island will create short-term construction jobs and long-term hospitality jobs. These jobs then create economic benefits for the region. We need these kinds of jobs.

We also need these improvements for San Diego families and tourists alike. The extension of the promenade will provide the public with free access to all of East Harbor Island, additional parking and other amenities. Cost-free recreational uses can only enhance San Diego's reputation.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,



Kaylake Reinforcing Inc

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

**This is 1 of 14 support letters
submitted by Kaylake.**

July 22, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am writing to express my strong support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

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We also need these improvements for San Diego families and tourists alike. The extension of the promenade will provide the public with free access to all of East Harbor Island, additional parking and other amenities. Cost-free recreational uses can only enhance San Diego's reputation.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

LUIS VALENCIA

Kaylake

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

J.R. CONSTRUCTION, INC.

8123 ENGINEER ROAD • SAN DIEGO, CALIFORNIA 92111
OFFICE (858) 505-4760 • FAX (858) 505-4761

July 22, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Freemont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am a union contractor and I am writing to express my enthusiastic support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

The hotel projects contemplated by the amendment will create economic benefits for the region by creating short-term construction jobs and long-term hospitality jobs. As an employer, I know that to maintain San Diego's diverse population and an affordable lifestyle for all families in the region, these are exactly the kind of jobs we need.

As a local resident, I also support improving East Harbor Island for visitors and locals alike. We all benefit from improvements like extending the shoreline promenade additional public parking and public amenities on the hotel sites.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,



Ray Camacho – President

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

**This is 1 of 45 support letters
submitted by J.R. Construction.**

July 22, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

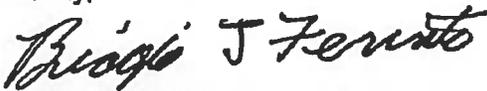
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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,



J.R. Construction

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



* Acoustical Ceilings * Acoustical Wall Panels * FFF Panels * Fabric

July 21, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am a union contractor and I am writing to express my enthusiastic support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

The hotel projects contemplated by the amendment will create economic benefits for the region by creating short-term construction jobs and long-term hospitality jobs. As an employer, I know that to maintain San Diego's diverse population and an affordable lifestyle for all families in the region, these are exactly the kind of jobs we need.

As a local resident, I also support improving East Harbor Island for visitors and locals alike. We all benefit from improvements like extending the shoreline promenade additional public parking and public amenities on the hotel sites.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Marie Purdy
Office Manager

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



**CONDON-JOHNSON
& ASSOCIATES, INC.**
CONTRACTORS AND ENGINEERS

7/22/15

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

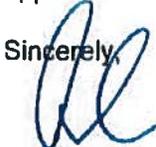
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The hotel projects contemplated by the amendment will create economic benefits for the region by creating short-term construction jobs and long-term hospitality jobs. As an employer, I know that to maintain San Diego's diverse population and an affordable lifestyle for all families in the region, these are exactly the kind of jobs we need.

As a local resident, I also support improving East Harbor Island for visitors and locals alike. We all benefit from improvements like extending the shoreline promenade additional public parking and public amenities on the hotel sites.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,


Gerard J. Condon, President – Condon-Johnson & Associates, Inc.

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

GENERAL ENGINEERING . SHORING . CAISSONS . GROUND IMPROVEMENT

480 ROLAND WAY, SUITE 200
OAKLAND, CA 94621
TEL (510) 838-2100
DIR # 1000004443

CA License # 300068 (CLA & C57)
OAKLAND OFFICE
FAX: (510) 588-9318
ESTIMATING FAX: (510) 588-8569

3125 E. GUASTI ROAD
ONTARIO, CA 91761
TEL: (909) 390-0268
FAX: (909) 605-7629

9012 SOUTH 208TH STREET
KENT, WA 98031
TEL (425) 988-2150
FAX (425) 988-2151

9885 VIA EXCELENCIA, SUITE 108
SAN DIEGO, CA 92126
TEL: (658) 530-9165
FAX: (658) 530-9171



07/23/15



Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am a union contractor and I am writing to express my enthusiastic support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

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As a local resident, I also support improving East Harbor Island for visitors and locals alike. We all benefit from improvements like extending the shoreline promenade additional public parking and public amenities on the hotel sites.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Richard Allen
Guida Surveying Inc.
Director of Operations (San Diego)
760-624-8432

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



Dynalectric
San Diego

9505 Chesapeake Drive
San Diego, CA 92123
Phone: 858-712-4700
Fax: 858-712-4701
www.dyna-sd.com

July 21, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Channey Doud, Executive Vice President
Dynalectric San Diego

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



SUNSET GLAZING

July 23, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Don E. Witte
President
SUNSET GLAZING

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



SUNSET GLAZING

July 23, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

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Sincerely,

Don E. Witte
President
SUNSET GLAZING

CC: Commissioners

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7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

Bonelli & Brown Acoustics & Accessories, Inc.

Dbas: **B & B Acoustics**

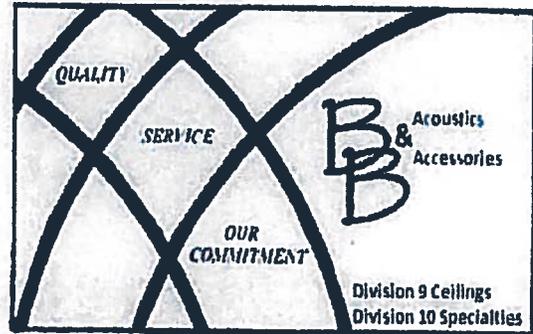
10036 Maine Avenue

Lakeside, CA 92040

CA License #976841

P: 619-390-70014

F: 619-390-7577



July 21, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

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Sincerely,

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
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Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



Johnson, Finch & McClure

CONSTRUCTION, INC.

Drywall & Metal Studs / Lath & Plaster / Doors, Frames & Hardware / Acoustic Ceilings & Wall Panels

July 23, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Scott McClure
President/CFO

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

Floyd &
Howerton
Plumbing Inc.



July 21, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am a union contractor and I am writing to express my enthusiastic support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

The hotel projects contemplated by the amendment will create economic benefits for the region by creating short-term construction jobs and long-term hospitality jobs. As an employer, I know that to maintain San Diego's diverse population and an affordable lifestyle for all families in the region, these are exactly the kind of jobs we need.

As a local resident, I also support improving East Harbor Island for visitors and locals alike. We all benefit from improvements like extending the shoreline promenade additional public parking and public amenities on the hotel sites.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Cindy A. Fulton
President

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
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Via email to: abuzati@portofsandiego.org

**Floyd &
Howerton
Plumbing Inc.**



July 21, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

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I am a union worker, and the hotel projects proposed on East Harbor Island will create short-term construction jobs and long-term hospitality jobs. These jobs then create economic benefits for the region. We need these kinds of jobs.

We also need these improvements for San Diego families and tourists alike. The extension of the promenade will provide the public with free access to all of East Harbor Island, additional parking and other amenities. Cost-free recreational uses can only enhance San Diego's reputation.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

CC: Commissioners

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San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzalis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzali@portofsandiego.org



MORROW-MEADOWS CORPORATION

Electrical / Datacom Contractors and Engineers

13000 Kirkham Way, Poway, CA. 92064

Tel: (858) 974-3650 Fax: (858) 974-3660

www.morrow-meadows.com

License No. 230813-C10

DIR #SB 854: 1000000078

July 22, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am a union contractor and I am writing to express my enthusiastic support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

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As a local resident, I also support improving East Harbor Island for visitors and locals alike. We all benefit from improvements like extending the shoreline promenade additional public parking and public amenities on the hotel sites.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Craig Earley', is written over the word 'Sincerely,'.

Craig Earley
Vice President / General Manager

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



ABC CONSTRUCTION CO., INC.

*3120 National Avenue
San Diego, California 92113-2597
Phone (619) 239-3428 • Fax (619) 239-6614*

License No. A-254763

July 23, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am a union contractor and I am writing to express my enthusiastic support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

**Wayne Czubernat, CEO
ABC Construction Co., Inc.**

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

July 21, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Kenn Rood (LU 669 member) *Bradshaw Eng.*
Chief estimator

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



GEOTECHNICAL ■ MATERIALS ■ SPECIAL INSPECTION
SBE ■ SLBE ■ SCOOP

July 24, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am a union contractor and I am writing to express my enthusiastic support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

The hotel projects contemplated by the amendment will create economic benefits for the region by creating short-term construction jobs and long-term hospitality jobs. As an employer, I know that to maintain San Diego's diverse population and an affordable lifestyle for all families in the region, these are exactly the kind of jobs we need.

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Dan J. Barnett, President/CEO

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

**This is 1 of 2 support letters
submitted by Nova.**



GEOTECHNICAL ■ MATERIALS ■ SPECIAL INSPECTION
SBE ■ SLBE ■ SCOOP

July 24, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Daniel Wyman

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

AAA Environmental Contracting Inc.



September 23, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

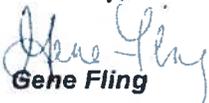
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As a local resident, I also support improving East Harbor Island for visitors and locals alike. We all benefit from improvements like extending the shoreline promenade additional public parking and public amenities on the hotel sites.

I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,


Gene Fling

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

7905 Silverton Avenue, Suite 117, San Diego, CA 92126

(858) 699-8323

AAA Environmental Contracting Inc.

September 23, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

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Sincerely,



Anthony Fling

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101

Via email to: abuzati@portofsandiego.org

7905 Silverton Avenue, Suite 117, San Diego, CA 92126

(858) 699-8323

7/22/15

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

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Sincerely,



Pete Spencer, President
Audio Associates of San Diego

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
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Via email to: abuzati@portofsandiego.org

7/22/15

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

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Pete Spencer, President
Audio Associates of San Diego

CC: Commissioners

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San Diego Coast District Office
Deborah Lee, District Manager
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San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



July 21, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole A. Caya-Winfield".

Nicole A. Caya-Winfield, President
Onyx Building Group, Inc.

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org



7/21/2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Freemont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

Brian J Hudak
President
HMT Electric

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

July 21, 2015



Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

A handwritten signature in blue ink that reads "Mark E. Payne". The signature is stylized and includes a large, circular flourish at the end.

Mark E. Payne
Vice President, Division Manager

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

Swinerton Builders, CA Lic. No. 92
16798 West Bernardo Drive, San Diego, California 92127
t - 858.622.4040 f - 858.622.4044
www.swinerton.com

**This is 1 of 55 support letters
submitted by Swinerton Builders**

July 21, 2015



Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

**RE: Support for East Harbor Island Subarea Port Master Plan Amendment and
Sunroad Harbor Island Hotel Project**

Dear Chair Kinsey and Members of the Commission:

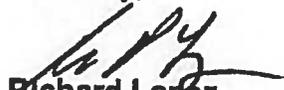
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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,


Richard Lopez
Senior Project Manager

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

Swinerton Builders, CA Lic. No. 92
16798 West Bernardo Drive, San Diego, California 92127
t - 858.622.4040 f - 858.622.4044
www.swinerton.com

July 20, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105



Brady SoCal, Inc.

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am a union contractor and I am writing to express my enthusiastic support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,


Brady SoCal, Inc.
Rick Marshall
President
CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

Brady SoCal, Inc.

8100 Center Street • Post Office Box 968 • La Mesa, CA 91944-0968 • 619-462-2600 • FAX: 619-465-3805

**This is 1 of 272 support letters
submitted by Brady SoCal, Inc.**

July 21, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105



Brady SoCal, Inc.

RE: Support for East Harbor Island Subarea Port Master Plan Amendment and Sunroad Harbor Island Hotel Project

Dear Chair Kinsey and Members of the Commission:

I am writing to express my strong support for the Sunroad Harbor Island Hotel Project and approval of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

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I thank you for your consideration and respectfully request the California Coastal Commission approve the Port Master Plan Amendment for the East Harbor Island Subarea.

Sincerely,

A handwritten signature in black ink that reads "Joel S. Matthews". The signature is written in a cursive style.

CC: Commissioners

California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste, 103
San Diego, CA 92108
Via email to: Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
Via email to: abuzati@portofsandiego.org

Brady SoCal, Inc.

8100 Center Street • Post Office Box 968 • La Mesa, CA 91944-0968 • 619-462-2600 • FAX: 619-465-3805



July 29, 2015

Mr. Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Dear Chair Kinsey and Members of the Commission:

On behalf of the San Diego Tourism Authority, I am writing to you in support of the Sunroad Harbor Island Hotel Project - Coastal Commission Application PMP -6-PSD-14-0003-2. This amendment is rather limited in that it will allow several hotels totaling no more than 500 rooms instead of a single 500-room hotel. We encourage you to approve of the San Diego Unified Port District's East Harbor Island Subarea Port Master Plan Amendment.

It is commendable that both the Coastal Commission and the San Diego Unified Port District are drafting policies and procedures to more effectively deliver lower cost accommodations, however approval of hotel projects currently being processed through the Coastal Commission should not be withheld while updated policies and procedures are being developed. This is contrary to the goal of increasing public access and visitor serving commercial uses within the Coastal Zone.

As proposed by the Port District, the amendment will allow for construction of a long awaited new hotel on East Harbor Island and help to create new lower cost hotel accommodations. We urge you to approve the Port Master Plan Amendment as soon as possible.

Best regards,

Joe Terzi
President & CEO

CC: Commissioners - California Coastal Commission
San Diego Coast District Office
Deborah Lee, District Manager
7575 Metropolitan Drive, Ste., 103
San Diego, CA 92108
Deborah.Lee@coastal.ca.gov

San Diego Unified Port District
Anna Buzatis, Associate Redevelopment Planner
3165 Pacific Highway
San Diego, CA 92101
abuzati@portofsandiego.org