

**STAFF REPORT
C72**

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G10-08
R. Boggiano

CONSIDER APPROVAL OF A PROPOSED EXPENDITURE OF PUBLIC TRUST FUNDS BY THE SAN DIEGO UNIFIED PORT DISTRICT TO ACQUIRE A 4-ACRE PARCEL LOCATED ADJACENT TO EXISTING PUBLIC TRUST LAND IN THE CITY OF CHULA VISTA, SAN DIEGO COUNTY

TRUSTEE:

San Diego Unified Port District

LOCATION:

Granted sovereign tide and submerged lands located in the City of Chula Vista, San Diego County.

INTRODUCTION:

The San Diego Unified Port District (District) is trustee of sovereign tide and submerged lands granted by the Legislature under Chapter 67, Statutes of 1962, First Extraordinary Session as amended (the Port Act). The District requests approval of the expenditure of trust funds to acquire approximately 4 acres of property located near the Chula Vista waterfront, known as the Triangle Parcel to facilitate redevelopment of the area consistent with the Chula Vista Bayfront Master Plan.

PROPOSED ACQUISITION:

The Triangle Parcel is located at the intersection of Marina Parkway and G Street in Chula Vista and is an integral part of the District's plan to realign ownership interests to facilitate the development of a 500-acre waterfront development project. The property is owned by Rohr, Inc., (Rohr) and is primarily used for ancillary parking for an adjacent industrial facility. The Parcel was once District-owned tidelands but was freed from the Public Trust through a prior land exchange. ([Item 73, December 3, 1999](#)). In 1999, and as part of the land exchange agreement, the District conveyed the 4-acre Triangle Parcel to Rohr. The relocation agreement that was part of the exchange required the District to realign Marina Parkway. Since 1999, the Chula Vista waterfront redevelopment plan changed significantly. Instead of realigning Marina Parkway, the District desires to obtain the 4-acre Triangle Parcel back from Rohr, so it can develop

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one large continuous parcel into a resort convention center consistent with the Chula Vista Bayfront Master Plan.

On April 14, 2016, the Port Commission adopted a Resolution of Necessity authorizing acquisition of the Triangle Parcel by the District through eminent domain at a cost of \$1,595,000, or other amount as determined by the Court as just compensation, which represented an approximately \$2.4 million property valuation with a reduction due to environmental issues. In June 2016, the Commission approved the District's request to spend up to \$2.5 million to acquire the Triangle Parcel ([Item C90, June 28, 2016](#)). Rohr disagreed with the District's appraisal and valuation reduction for environmental issues and filed counterclaims.

After mediation and subsequent negotiations, the District and Rohr agreed to a \$4 million acquisition price. Taking into account the costs and risks of litigation and increases in real estate value between the District's initial appraisal and the legally relevant date of evaluation in the lawsuit, the District believes \$4 million is an acceptable price for the parcel.

The District is thus requesting approval for an additional \$1.5 million, for a total of \$4 million, to acquire the Triangle Parcel.

STAFF ANALYSIS AND RECOMMENDATION:

The Port's granting statute, known as the Port Act, authorizes the District to acquire real property with trust revenue, including acquisitions through eminent domain. This particular transaction involves the District making a capital expenditure in excess of \$1,000,000 for adjacent property, which means that the Commission must review and approve the expenditure.

In order to approve the proposed expenditure, the Commission must make the following findings pursuant to Public Resources Code section 6702, subdivision (b):

- 1) That such lease, contract, or other instrument is in accordance with the terms of the grant or grants under which title to the tide or submerged lands in question is held.
- 2) That the proceeds of such lease, contract, or other instrument shall be deposited in an appropriate fund expendable only for statewide purposes authorized by the legislative grant.
- 3) That such lease, contract, or other instrument is in the best interests of the State.

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The acquisition of the 4-acre Triangle Parcel is a necessary part of the Chula Vista Bayfront project. The project consists of approximately 535 acres of waterfront development designed to promote public access to and engagement with the water and to preserve and promote the environmental habitat near Sweetwater Marsh. Key features include a reconfigured marina and improved commercial harbor and navigation channel, public parks and open space, habitat restoration and preservation, public promenades, bike trails, hotels, a convention center, and public access areas connecting the entire Chula Vista Bayfront. The project is consistent with the Chula Vista Bayfront Master Plan adopted in 2010. The Master Plan was approved by the District, the City of Chula Vista and the California Coastal Commission. Although the Triangle Parcel has groundwater contamination from the Rohr facility, the California Regional Water Quality Control Board issued a Cleanup and Abatement Order in 2014 requiring Rohr to remediate the contamination associated with waste discharges from its manufacturing operations. The District's acquisition of the property will not affect Rohr's responsibility to address the contaminated groundwater.

Staff reviewed the information the District submitted for the proposed acquisition. Staff believes that the proposed acquisition is consistent with the Public Trust needs in the area, is in the best interests of the State, and that the District will manage the Parcel in a manner that is consistent with its statutory trust. The Triangle Parcel will be held subject to the Public Trust and all revenues generated from the Parcel will be expendable only for statewide purposes as authorized in the District's granting statute. Staff recommends the Commission approve the District's expenditure of Public Trust funds to acquire the 4-acre parcel located adjacent to Public Trust lands in Chula Vista.

OTHER PERTINENT INFORMATION:

1. Sections 25 and 27 of Chapter 67, Statutes of 1962, allow the District to acquire and dispose of real and personal property including through eminent domain.
2. In 2002, the Commission approved an expenditure for the District to acquire a 1.8-acre parcel located at the northwest corner of J Street and Bay Boulevard ([Item C52, April 9, 2002](#)).
3. In 2010, the Commission approved a land exchange agreement between the District, North C.V. Waterfront L.P., and the Commission to facilitate the Chula Vista Bayfront Master Plan ([Item 48, December 10, 2010](#)). The Commission found the exchange and the implementation of the Master Plan to be in the best interests of the State and the Public Trust because it would provide low-cost, visitor-serving opportunities, enhanced public access to the water, develop recreational amenities and shoreline

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enhancements, while protecting biological resources and open space, create an active commercial harbor and increase recreational boating opportunities. Implementation of the Master Plan would also generate substantial additional revenue for the District and the people of California.

4. The proposed action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign lands and resources and granted lands, including through strategic partnerships with trustee ports and harbor districts, are consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning and marine freight transportation systems.
5. An Environmental Impact Report (EIR), State Clearinghouse No. 2005081077, was prepared by the District and certified on May 19, 2010. Staff reviewed the EIR and Mitigation Monitoring Program that was adopted by the District. Findings and a Statement of Overriding Considerations made in conformance with the State California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096, and 15093) are on file in the Sacramento office of the Commission. The Commission relied on this environmental document when it approved the land exchange agreement between the Commission, North C.V. Waterfront L.P., and the District in 2010. The Commission also adopted the Mitigation Monitoring Program, Findings, and a Statement of Overriding Consideration. ([Item 48, December 10, 2010.](#))
6. Staff reviewed the District's proposed Public Trust revenue expenditure to acquire the 4-acre Triangle Parcel and determined that it does not involve any substantial changes or new information of substantial importance that would result in any new or substantially more severe significant impacts. Therefore, no additional CEQA analysis is required as specified in Public Resources Code section 21166 and section 15162, subdivision (a) of the State CEQA Guidelines.

EXHIBIT:

- A. Location and Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2005081077, was prepared for this Project by the San Diego Unified Port District and that the EIR was

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certified on May 19, 2010, and that the Commission has reviewed and considered the information contained therein. The Commission adopted the Mitigation Monitoring Program, Findings, and Statement of Overriding Considerations at its December 10, 2010 meeting.

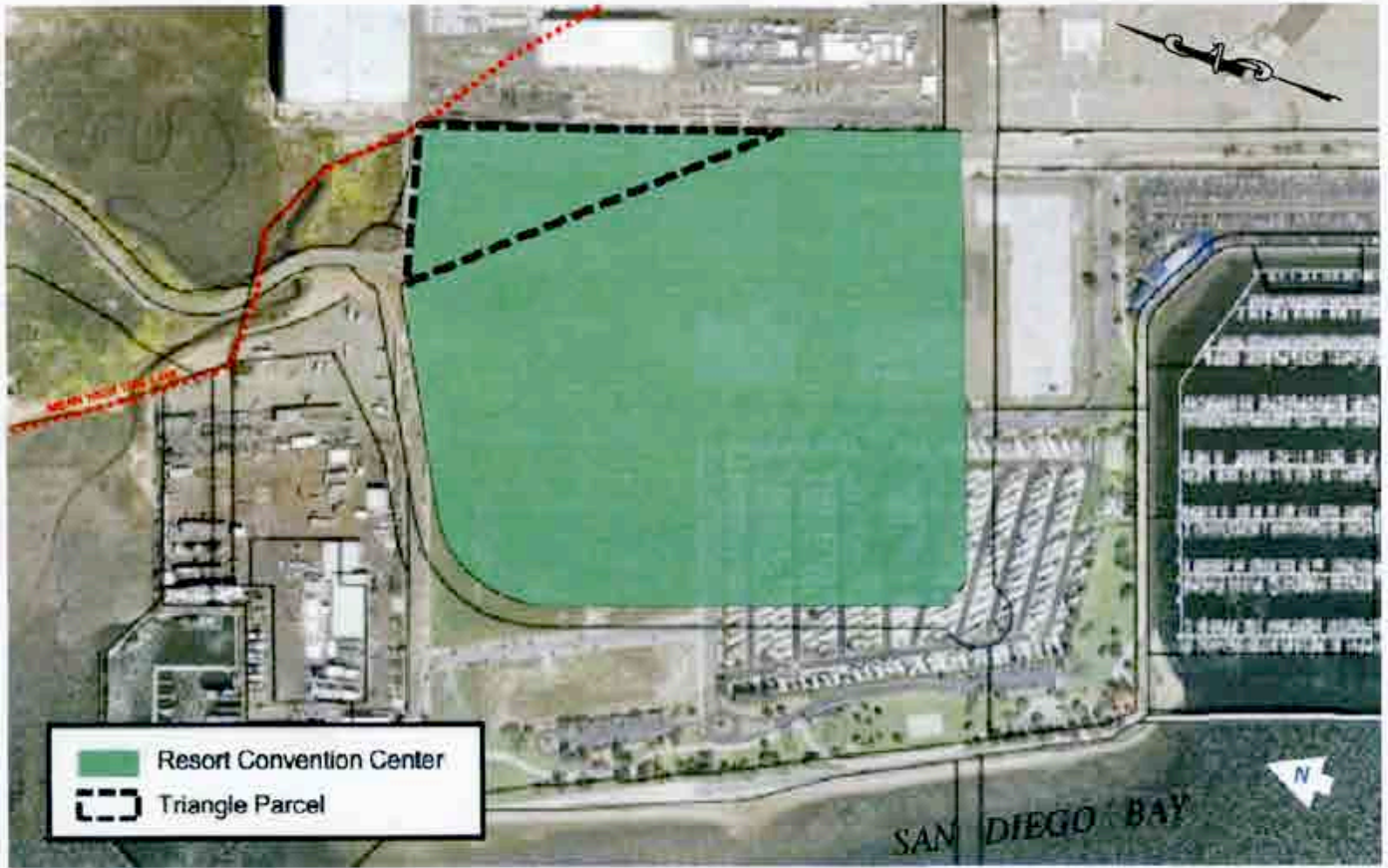
Find that in its independent judgment, none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis is required.

AUTHORIZATION:

1. Find that acquisition of the 4-acre Triangle Parcel by the San Diego Unified Port District is in accordance with the terms of the statutory trust grant pursuant to Chapter 67, Statutes of 1962, First Extraordinary Session, as amended.
2. Find that the acquisition of the 4-acre Triangle Parcel by the San Diego Unified Port District as set forth in the documents on file in the Commission's office is in the best interests of the State.
3. Find that the revenue generated on the land acquired will be deposited in an appropriate fund expendable only for Public Trust purposes of statewide benefit as authorized by Chapter 67, Statutes of 1962, First Extraordinary Session, as amended.
4. Approve the expenditure of an additional \$1.5 million, for a total of \$4 million of Public Trust funds, for the proposed acquisition of the 4-acre Triangle Parcel by the San Diego Unified Port District.

NO SCALE

SITE



SAN DIEGO BAY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit A

G10-08
SAN DIEGO UNIFIED
PORT DISTRICT
EXPENDITURE OF
TRUST FUNDS
SAN DIEGO COUNTY



TS 06/01/16