

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AFFIRMING THE CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT FOR THE GERALD DESMOND BRIDGE REPLACEMENT PROJECT (SCH No. 2002101141) BY THE BOARD OF HARBOR COMMISSIONERS AND MAKING CERTAIN FINDINGS

WHEREAS, the City of Long Beach, acting by and through its Board of Harbor Commissioners (Board), has authority over the City of Long Beach Harbor District, commonly known as the Port of Long Beach (Port); and

WHEREAS, the Chief Harbor Engineer of the Long Beach Harbor Department (Harbor Department) submitted an application for a Harbor Development Permit (HDP) for the Gerald Desmond Bridge Replacement Project (Project); and

WHEREAS, the Project consists of construction of a modern, seismically sound bridge located approximately 140 feet north of the existing Gerald Desmond Bridge (together with the associated roadway connectors), demolition of the existing bridge and relocation of certain electric transmission lines that cross the Cerritos Channel in the Port north of the new bridge site; and

WHEREAS, the Harbor Department is the lead agency for California Environmental Quality Act (CEQA) (Public Resources Code §§ 21000 *et seq.*) compliance for the Project, and the Board is the decisionmaking body for the Harbor Department; and

WHEREAS, the California Department of Transportation (Caltrans) is the lead agency for National Environmental Policy Act (NEPA) (42 USC §§ 4321, *et seq.*) compliance for the Project pursuant to a delegation of authority from the Federal Highway Administration (23 USC § 327); and

WHEREAS, the Harbor Department determined that because the Project

1 could have a significant effect on the environment under the definitions in CEQA, an
2 environmental impact report (EIR) should be prepared to assess the environmental
3 impacts associated with the construction and operation of the Project; and

4 WHEREAS, Caltrans determined that an environmental assessment was
5 required under NEPA to assess the environmental impacts associated with construction
6 and operation of the Project; and

7 WHEREAS, the Harbor Department and Caltrans decided to jointly prepare
8 a combined Draft EIR/EA in the interest of efficiency and to avoid duplication of effort;
9 and

10 WHEREAS, Caltrans will consider approval of the EA separate from the
11 actions taken by the Board and the City Council with regard to the EIR; and

12 WHEREAS, on October 24, 2002, the Harbor Department, in cooperation
13 with Caltrans, issued a Notice of Preparation (NOP) to prepare an EIR/EA and
14 application summary report for the Project; and

15 WHEREAS, two scoping meetings for the Project were held on
16 November 12, 2002, and eight written comments were received during the scoping period
17 that covered a variety of topics including oil operations, traffic, utilities, geotechnical
18 issues, hazardous waste, air quality, and water quality; and

19 WHEREAS, the Harbor Department and Caltrans thereafter jointly caused
20 the Draft EIR/EA to be prepared, which took into account the comments received on the
21 NOP and described the Project, the environmental impacts resulting therefrom, and the
22 proposed mitigation measures; and

23 WHEREAS, on June 14, 2004, the Draft EIR/EA was circulated for public
24 and agency review and comment; and

25 WHEREAS, two public hearings were held on the Draft EIR/EA on July 19,
26 2004, which hearings were noticed by publication in the Press-Telegram, a newspaper of
27 general circulation, and by publication in the Phillipine Times and Mundo LA; and

28 WHEREAS, the public comment period closed on August 13, 2004; and

1 WHEREAS, after reviewing and considering the comments received on the
2 Draft EIR/EA, the Long Beach Harbor Department and Caltrans decided to revise the
3 EIR/EA and recirculate it for additional public review and comment; and

4 WHEREAS, a NOP of the Revised Draft EIR was mailed to public agencies,
5 organizations and persons likely to be interested in the proposed Project on December 5,
6 2005; and

7 WHEREAS, the Harbor Department and Caltrans thereafter jointly prepared
8 the Revised Draft EIR/EA, which took into account the comments received on the NOP
9 and described the Project, the environmental impacts resulting therefrom, and the
10 proposed mitigation measures; and

11 WHEREAS, on February 4, 2010, the Revised Draft EIR/EA was circulated
12 for public review and comment; and

13 WHEREAS, public hearings were held on the Revised Draft EIR/EA on
14 February 17, 2010, and February 24, 2010, which hearings were noticed by publications
15 in the Press-Telegram, a newspaper of general circulation, and by news releases in the
16 Press-Telegram, the Business Journal and the Gazettes, as well as through letters, email
17 blasts, postings on the Port's website and contacts with over 100 organizations; and

18 WHEREAS, the public comment period on the Revised EIR/EA closed on
19 March 22, 2010; and

20 WHEREAS, On August 9, 2010, the Final EIR for the Project was presented
21 to the Board, as the decision making body of the lead agency, for certification as having
22 been completed in compliance with the provisions of CEQA and the state and local
23 CEQA Guidelines; and

24 WHEREAS, the Board carefully reviewed and considered all environmental
25 documentation comprising the Final EIR, including the Revised Draft EIR/EA and the
26 comments and the responses thereto, and found that the Final EIR considers all
27 potentially significant environmental impacts of the proposed project and is complete and
28 adequate, and fully complies with all requirements of CEQA and the State and local

1 CEQA Guidelines; and

2 WHEREAS, prior to action on the Project, the Board considered all
3 significant impacts, mitigation measures, and Project alternatives identified in the Final
4 EIR and found that all potentially significant impacts of the Project have been lessened or
5 avoided to the extent feasible; and

6 WHEREAS, on August 9, 2010, the Board pursuant to Resolution No.
7 HD-2576 certified the Final EIR, made certain findings and determinations relative
8 thereto, adopted a statement of overriding considerations, adopted a mitigation
9 monitoring and reporting program, approved the Project, adopted the application
10 summary report for the Project and approved a HDP for the Project; and

11 WHEREAS, on August 23, 2010, the Coalition for a Safe Environment, the
12 Long Beach Coalition for a Safe Environment and Jesse N. Marquez (collectively,
13 "Appellant") appealed the certification of the Final EIR by the Board pursuant to California
14 Public Resources Code section 21151(c) and Long Beach Municipal Code section
15 21.21.507; and

16 WHEREAS, on September 13, 2010, Appellant received notice pursuant to
17 Long Beach Municipal Code section 21.21.507 that the appeal of the certification of the
18 Final EIR would come before the Long Beach City Council on September 28, 2010.

19 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
20 follows:

21 Section 1. Based on its independent review and consideration of
22 Resolution No. HD-2576, the Final EIR, the appeal filed by Appellant and all written
23 communications and oral testimony regarding the Project which have been submitted to
24 and received by the Council, the City Council finds as follows:

25 1.1 Recitals. The above recitals are true and correct.

26 1.2 Scope of Appeal. California Public Resources Code section
27 21151(c) provides that if a nonelected decisionmaking body of a local agency certifies an
28 environmental impact report, that certification may be appealed to the agency's elected

1 decisionmaking body, if any. Pursuant to Long Beach Municipal Code section 21.21.507,
2 any person who appeared before the Board and objected to the Board's certification of
3 the Final EIR may appeal that determination to the City Council. Following the hearing,
4 the City Council may either (1) deny the appeal and affirm the certification of the Final
5 EIR, or (2) grant the appeal, set aside the certification of the Final EIR and remand to the
6 Board.

7 1.3 Certification. The Final EIR for the Project has been
8 completed in compliance with CEQA and the State and local CEQA Guidelines. The
9 Board, having final approval authority over the Project, properly adopted and certified as
10 complete and adequate the Final EIR, which reflected the independent judgment and
11 analysis of the Board. The Board further certified that the Final EIR was presented to the
12 Board and the Board reviewed and considered the information contained in it prior to
13 approving the Project.

14 1.4 The Challenge by Appellant Is Without Merit. All grounds
15 raised during the appeal process have been adequately addressed in the Final EIR.
16 Attachment 7 to the staff report to the City Council fully addresses the issues raised by
17 the appeal.

18 Section 2. Based on its independent review and consideration of the
19 Final EIR, all grounds raised during the appeal process, all written communications and
20 oral testimony regarding the appeal, the transcript of the August 9, 2010 Board meeting,
21 the reports and presentations by City Staff, including the reports, written communications,
22 and presentations by the Harbor Department, and the findings and determinations set
23 forth above, the City Council of the City of Long Beach hereby:

24 2.1 Affirms the certification by the Board that the Final EIR for the
25 Project has been completed in compliance with CEQA and the State and local CEQA
26 Guidelines promulgated pursuant thereto, and denies the appeal filed by Appellant.

27 2.2 Affirms the certification by the Board that the Final EIR was
28 presented to the Board, that the Board reviewed and considered the information

1 contained in it prior to approving the Project, and that the Final EIR reflects the Board's
2 independent judgment and analysis.

3 2.3 Affirms that the City Council has independently reviewed and
4 considered the information contained in the Final EIR and that the Final EIR reflects the
5 City's independent judgment and analysis.

6 2.4 Adopts and makes, to the extent required by law, the findings
7 set forth in the Findings of Fact and Statement of Overriding Considerations for the
8 Project attached as Exhibit "A" to Resolution No. HD-2576 of the Board, which is
9 incorporated herein by reference as though set forth in full.

10 Section 3. The Harbor Department Director of Environmental Planning,
11 whose office is located at 925 Harbor Plaza, Long Beach, California 90802, is hereby
12 designated as the custodian of the documents and other materials which constitute the
13 record of proceedings upon which the City Council decision is based, which documents
14 and materials shall be available for public inspection and copying in accordance with the
15 provisions of the California Public Records Act (Cal. Government Code section 6250 et
16 seq.)

17 Section 4. The Harbor Department Director of Environmental Planning
18 shall file a notice of determination with the County Clerk of the County of Los Angeles
19 and with the State Office of Planning and Research within five (5) working days after
20 adoption of this resolution.

21 Section 5. This resolution shall take effect immediately upon its adoption
22 by the City Council, and the City Clerk shall certify to the vote adopting this resolution.

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I hereby certify that the foregoing Resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2010 by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

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BJM:arh 09/17/10 #A10-02667