

RESOLUTION NUMBER R- 311156

DATE OF FINAL PASSAGE MAY 23 2017

ITEM # 339B

5/23/17

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING SITE DEVELOPMENT PERMIT NO. 1928412 FOR MISSION BAY DREDGING – PROJECT NO. 520687.

WHEREAS, City of San Diego, Owner and Permittee, filed an application for a Site Development Permit to perform maintenance dredging within Mission Bay for a total of 63 acres of dredging within 14 dredge sites locations, creating 122,000 to 220,850 cubic yards of dredge material and restoration of habitat known as the Mission Bay Dredging project (Project), located within the Mission Beach, Pacific Beach, and Mission Bay Park Community Plan areas, in the Mission Bay Park Improvement Zone as set forth in Charter section 55.2, in the zones RS-1-7, IL-3-1, and un-zoned areas; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on May 23, 2017, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 1928412:

SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)
SECTION 126.0504

Findings for all Site Development Permits

1. The proposed development will not adversely affect the applicable land use plan. The City of San Diego's General Plan Land Use Element classifies Mission Bay Park/Mission Bay as Dedicated Park Land and Open Space which is set aside for park and recreation purposes. The Mission Bay Park is the largest aquatic park of its kind in the country and consist of over 4,600 acres in roughly equal parts land and water with 27 miles of shoreline. Mission Bay was originally a marshy lagoon, which was dredged and developed into a resource-based park to accommodate aquatic recreation: water skiing, swimming, boating, small boat harboring, and tourist-based leaseholds. The Open Space land use classification designation provides for the preservation of land that applies to both land and/or water areas. In addition, the Conservation Element designates Mission Bay as a coastal resource and adopted numerous conservation policies to protect, preserve, restore and enhance Mission Bay. Over the years, recreational boating, storms and water currents have impacted the bottom of Mission Bay causing sediment travel and creation of shoals (built up areas of sand) and deep basins in other areas. In order to maintain the navigational water safety in the bay, the intent of the Project is to dredge the bottom of the bay to the original survey elevation and utilize the dredged material to fill the depleted basins/reuse areas within the bay in accordance with the Mission Bay Baseline Chart. The Project implements the Conservation Element's policy to ensure that Mission Bay is accessible and available for recreational uses, while ensuring the navigational safety of the water areas.

The Project work area includes approximately 82.83 acres of bay waters and sand beach, as well as temporary staging areas within approximately 2.50 acres of bay waters and 1.55 acres of vacant upland/disturbed land at south shores. A total of 63.36 acres of dredging would occur as part of this project, creating approximately 122,000 to 220,850 cubic yard of dredged material which would be used onsite including beach and subtidal borrow site fill areas totaling 19.47 acres. Borrow site fill areas will be planted to develop eelgrass habitat, as will dredged areas. The Project provides for a 100 percent reuse of dredged materials with no material being exported from the bay.

The Project will result in improvements to maintain navigational and public health and safety within Mission Bay Park, and will not change the land use of the site or adjacent uses. The Project is consistent with the goals and objectives of the Mission Bay Park Master Plan Update (adopted 1994, amended 2002), including the goals for water use listed in Appendix A. The Project is also consistent with the City of San Diego City Charter, Section 55.2 and is listed as a priority project for the restoration of navigable waters within Mission Bay Park and elimination of navigational hazards. The proposed dredging and maintenance of Mission Bay, a dedicated parkland and Open Space, will not adversely affect the applicable land use plan or the elements of the City's General Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Project would remediate an adverse current condition throughout

portions of Mission Bay occurring as a result of recreational boating, storms and water currents that have impacted the bottom of Mission Bay over time by causing sediment travel and creation of shoals (built up areas of sand) and deep basins in other areas. In order to maintain the navigational water safety in the bay, the Project is to dredge the bottom of the bay to the original survey elevation and utilize the dredged material to fill the depleted/reuse areas within the bay in accordance with the Mission Bay Baseline Chart in order to improve and maintain navigational and public health and safety throughout affected areas in the bay.

Project construction will include construction Best Management Practices (BMPs) stipulated in the required Water Pollution Control Plan and within the Mitigated Negative Declaration (MND) No. 520687 Mitigation, Monitoring, and Reporting Program (MMRP) for water quality. In addition, traffic controls to include temporary park pathway diversions or closures lasting no more than 1-hour would be included as part of this Project. Proposed work is to be completed outside of the summer season to avoid impacts to sensitive species and so as to not disrupt normal park use activities and events. As such, the Project will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code (LDC). This Capital Improvement Project to conserve, preserve, enhance the City of San Diego's most precious assets (Open Space and Coastal Resources) will comply with all applicable regulations of the Land Development Code, and allowable deviation. The Project involves maintenance dredging within the waters of Mission Bay and environmentally sensitive lands and within the sensitive Coastal Overlay Zone, thereby a Site Development Permit (SDP) and Coastal Development Permit (CDP) will be required. The Project as conditioned within the SDP and MND will comply with all applicable regulations of the LDC, Biology Guidelines, and work within the Coastal Overlay Zone. Staff has determined that with compliance and implementation of these conditions, the Project will comply with the allowable deviations of the Land Development Code.

Supplemental Findings--Environmentally Sensitive Lands

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. Over the years, recreational boating, storms and water currents have impacted the bottom of Mission Bay causing sediment travel, the creation of shoals (built up areas of sand) and deep basins. In order to maintain navigational water safety in the bay, this essential public project proposes to dredge the bottom of the bay back to its original survey elevation and utilize the dredged material to fill the depleted basins/reuse areas within the bay in accordance with the Mission Bay Baseline Chart.

The Project work area includes approximately 82.83 acres of existing bay waters and sand beach, as well as temporary staging areas within approximately 2.50 acres of bay waters and 1.55 acres of vacant upland/disturbed land at south shores. A total of 63.36 acres of dredging would occur as part of this Project, creating approximately 122,000 to 220,850 cubic yard of

dredged material which would be used onsite including beach and subtidal borrow site fill areas totaling 19.47 acres.

The Project provides for a 100 percent reuse of dredged materials with no material being exported from the bay. This is the minimal disturbance required in order to maintain the navigational water safety in the bay by dredging the bottom of the bay to the original survey elevation and utilizing the dredged material to fill the depleted/reuse areas within the bay in accordance with the Mission Bay Baseline Chart.

As a result of project activities, approximately 42.93 acres of eelgrass would be impacted. Mitigation of eelgrass impacts is governed by multiagency adopted mitigation standards established in the California Eelgrass Mitigation Policy (CEMP) (National Marine Fisheries Service 2014). This policy requires either pre-developed eelgrass mitigation at a 1:1 ratio, or mitigation implemented coincident with impacts requiring successful establishment at a 1.2:1 mitigation ratio resulting in approximately 51.51 acres of shallow bay eelgrass mitigation. A comprehensive eelgrass mitigation plan has been developed that meets the CEMP mitigation requirements, and is required to be implemented in accordance with MND No. 520687 MMRP requirements.

The project location is adjacent to the Multiples Species Conservation Program's (MSCP) Multi-Habitat Planning Area (MHPA). Compliance with the Land Use (MHPA Adjacency) mitigation requirements outlined in MND No. 520687 MMRP would minimize the potential for indirect impacts. No dredging activities are proposed during the least tern nesting season. Any dredging activities occurring during the least tern nesting season would require prior approval by the applicable resource agencies. Project construction will include construction BMPs stipulated in the required Water Pollution Control Plan and within the MND No. 520687 MMRP for water quality. Therefore, the Project has been designed and conditioned to adequately minimize disturbance to environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The Project work area includes approximately 82.83 acres of existing bay waters and sand beach, as well as temporary staging areas within approximately 2.50 acres of bay waters and 1.55 acres of vacant sand beach/disturbed land at south shores. A total of 63.36 acres of dredging would occur as part of this project, creating approximately 122,000 to 220,850 cubic yard of dredged material which would be used onsite including beach and subtidal borrow site fill areas totaling 19.47 acres. Borrow site fills will be planted to develop eelgrass habitat, as will dredged areas. The Project provides for a 100 percent reuse of dredged materials with no material being exported from the bay. This is the minimal disturbance required in order to maintain the navigational water safety in the bay by dredging the bottom of the bay to the original survey elevation and utilizing the dredged material to fill the depleted basins/reuse areas within the bay in accordance with the Mission Bay Baseline Chart. Staging areas would require standard storm water and construction BMPs to prevent erosion or flood hazards. Dredging activities within the bay waters would minimize accidental boating or fire hazards.

The Project and methods of implementation are intended to minimize the alteration of remaining natural land forms in the area and vicinity of the Project site except to restore the original survey elevation of the bottom of the bay to pre-existing conditions, and will not result in undue risk from geologic and erosional forces, flood and/or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands (ESL). The Project is located adjacent to the City's MHPA, and would be consistent with MHPA Land Use Adjacency Guidelines through compliance with the Land Use (MHPA Adjacency) mitigation requirements in accordance with MND No. 520687 MMRP. Potential indirect impacts to nesting least tern will be avoided by conducting dredging activities outside the least tern nesting season. Any dredging activities occurring during the least tern nesting season would require prior approval from the applicable resource agencies. The work will include implementation of BMPs to be stipulated in the Water Pollution Control Plan to minimize adverse effects related to erosion and water pollution. Construction lighting will be directed away/shielded from construction areas adjacent to the MHPA. The Project has been sited and designed to prevent adverse impacts to any adjacent environmentally sensitive lands. Monitoring will be provided to ensure that construction impacts do not occur in sensitive areas.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. Portions of the Project are located adjacent to the MHPA as identified in the City of San Diego's MSCP Subarea Plan. Project implementation will not result in an increase in paved areas draining to the MHPA, or otherwise cause additional runoff or toxins to drain to the MHPA. Any temporary construction lighting will be directed/shielded away from the MHPA. The Project will not result in indirect impacts from the introduction of non-native species into native habitats, as the project would occur within open waters and would not include any revegetation other than planting native eel grass in accordance with the CEMP and MND No. 520687 MMRP. Project dredging will not include the creation of manufactured slopes within the MHPA. The Project will not result in new development adjacent to the MHPA, as all dredge/reuse areas are located outside the limits of the MHPA. Access, trails, and pathways are not proposed into the MHPA. Implementation of the MSCP Subarea Plan MHPA Land Use Adjacency Guidelines as outlined in the MMRP would avoid/minimize indirect impacts to the MHPA. Therefore, the Project is consistent with the City of San Diego's MSCP Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. Construction BMPs will be implemented during construction in accordance with the required Water Pollution Control Plan (WPCP) in order to prevent runoff to surrounding areas and erosion. The Project will also include placement of dredged materials on three shoreline reuse areas occurring on Crown Point and Vacation Isle in order to repair eroded shorelines. The Project and methods of implementation are intended to prevent erosion of public beaches and adverse impacts to local shoreline sand supply, and would improve overall public beach and shoreline conditions within Mission Bay Park.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. An Environmental Initial Study concluded that implementation of the Project would result in impacts to biological resources, water quality and land use (MHPA Land Use Adjacency). These impacts are noted and discussed in detail in MND No. 520687. The MND concluded that impacts would be reduced to a level below significance through implementation of the MMRP.

The Project and Project-related impacts analyzed within MND No. 520687 have been prepared in accordance with the provisions of the California Environmental Quality Act (CEQA). Mitigation measures have been incorporated into the Site Development Permit as conditions, and are designed to reduce Project-related impacts to below a level of significance. The mitigation is directly related to the Project, its requirements, and the need to construct the Project, while at the same time it alleviates any negative impacts that may occur as a result of this Project because the appropriately developed mitigation will satisfy all such requirements.

Supplemental Findings--Environmentally Sensitive Lands Deviations

1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands. The Project has been designed and conditioned to include the least adverse effect on environmentally sensitive lands through implementation of a comprehensive eel grass mitigation plan prepared in accordance with the CEMP, conformance with the MSCP MHPA Land Use Adjacency Guidelines, and compliance with the water quality mitigation measures outlined in the MND No. 520687 MMRP. In addition, a Water Pollution Control Plan will also be required to prevent pollutant runoff and erosion at construction areas, and dredging activities would occur outside the least tern breeding season. Any dredging activities occurring during the least tern breeding season would require prior approvals from the applicable resource agencies. Therefore, the Project, avoidance/minimization measures, and mitigation requirements outlined in the MND No. 520687 MMRP, have been prepared to ensure minimal potential adverse effects to environmentally sensitive lands.

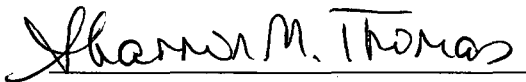
2. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making. The Project work area includes approximately 82.83 acres of existing bay waters and sand beach, as well as temporary staging areas within approximately 2.50 acres of bay waters and 1.55 acres of vacant upland/disturbed land at south shores. A total of 63.36 acres of dredging would occur as part of this project, creating approximately 122,000 to 220,850 cubic yard of dredged material which would be used onsite including beach and subtidal borrow site fill areas totaling 19.47 acres. Borrow site fill areas will be planted to develop eelgrass habitat, as will dredged areas. The Project provides for a 100 percent reuse of dredged materials with no material being exported from the bay. Over the years, recreational boating, storms and water currents have impacted the bottom of Mission Bay causing sediment travel and creation of shoals – built up of areas with and deep basins in other areas. This is the minimal disturbance required in order to maintain the navigational water safety in the bay by dredging the bottom of the bay to the original survey elevation and utilizing the dredged material to fill the depleted/reuse areas within the bay in

accordance with the Mission Bay Baseline Chart. A comprehensive eelgrass mitigation plan has been developed that meets the CEMP mitigation requirements and fully mitigates all eel grass impacts within Mission Bay. Therefore, the Project deviations are the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Site Development Permit No. 1928412 is granted to the City of San Diego, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Shannon M. Thomas
Deputy City Attorney

SMT:als
05/04/2017
Or.Dept:DSD
Doc. No.: 1497767

Attachment: Site Development Permit No. 1928412

Passed by the Council of The City of San Diego on MAY 23 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 23 2017.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By *Aty Beach*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 311156

**RECORDING REQUESTED
BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE
MAIL STATION 501**

**WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A**

WBS Number B-10163.02.06

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SITE DEVELOPMENT PERMIT NO. 1928412
MISSION BAY DREDGING PROJECT NO. 520687
CITY COUNCIL**

This Site Development Permit No. 1928412 is granted by the City Council of the City of San Diego to the City of San Diego, Owner and Permittee, pursuant to San Diego Municipal Code (SDMC) Section 126.0504. The project site is located within Mission Beach, Pacific Beach, and Mission Bay Park Community Plan areas, in the Mission Bay Park Improvement Zone as set forth in Charter section 55.2, in the zones RS-1-7, IL-3-1, and un-zoned areas.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to perform maintenance dredging within Mission Bay for a total of 63 acres of dredging within 14 dredge sites locations, creating 122,000 to 220,850 cubic yards of dredge material and restoration of habitat within the Mission Bay Recreational Area described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 23, 2017, on file in the Development Services Department.

The project shall include:

- a. Approximately 63.36 acres of maintenance dredging within Mission Bay;
- b. Reuse of dredged sediment (to fill deep basins and level out raised areas back to the baseline chart). The dredged material will fill and rehabilitate areas totaling 19.47 acres of borrow site fills to develop eelgrass habitat; and
- c. Temporary contractor staging within approximately 2.5 acres of bay waters, and 1.5 acres of vacant beach at South Shores; and
- d. Restoration of approximately 43.92 acres of wetlands.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 120 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by May 23, 2020.
2. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
3. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
4. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
5. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (ESA) and any amendments thereto (16 U.S.C. § 1531 et seq.).
6. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
7. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

8. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program (MMRP) shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
9. The mitigation measures specified in the MMRP and outlined in **MITIGATED NEGATIVE DECLARATION NO. 520687**, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
10. The Owner/Permittee shall comply with the MMRP as specified in **MITIGATED NEGATIVE DECLARATION NO. 520687**, to the satisfaction of the Development Services

Department and the City Engineer. Prior to the issuance of the "Notice to Proceed" with construction, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas: **Biological Impacts, Water Quality, and MHPA Land Use Adjacency.**

11. Encountering buried solid waste, landfill gas, or leachate during this project is not anticipated. If solid waste, landfill gas, or leachate is encountered, plan to notify the City of San Diego Solid Waste Local Enforcement Agency (LEA) immediately at 619-533-3688.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

APPROVED by the City Council of the City of San Diego on May 23, 2017 and by Resolution No R- 311156.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Angela Nazareno
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

City of San Diego
Owner/Permittee

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**