

San Diego Unified Port District

CEQA and COASTAL DETERMINATIONS and NOTICE OF APPROVAL

Project: Right of Entry License Agreement to Protea Waterfront Development for Installation of Wave Attenuation Sensors at Seaport Village and Tuna Harbor
Location(s): G Street Mole, 3 Tuna Lane, San Diego, CA 92101; Seaport Village, 849 W. Harbor Drive, San Diego, CA 92101; and Tuna Harbor, 1325 Pacific Highway, San Diego, CA 92101
Parcel No.(s): 018-000, 018-039, and 018-054,
Project No.: 2018-006
Applicant: Yehudi Gaffen, Gafcon, 5960 Cornerstone Court West #100, San Diego, CA 92121
Date Approved: January 18, 2018

Project Description

The proposed project is a Right of Entry License Agreement (ROELA) to Protea Waterfront Development, LLC. (Protea) to enter upon certain property located at G Street Mole, Tuna Harbor, and Seaport Village in San Diego, California. The land proposed for use under this ROELA would be used by Protea, its authorized agent(s), and contractor(s) for the purpose of the installation of seven RBR*solo* Wave Attenuation Sensors. The purpose of the proposed work would be to obtain wave frequency and size information within Tuna Harbor and the surrounding areas so that Protea can formulate an informed solution of how to address wave activity. The ROELA would allow for ingress and egress in support of the installation, maintenance and removal of the seven RBR*solo* Wave Attenuation Sensors. The proposed work consists of installation, data gathering, relocation and removal of the seven sensors in and around the Tuna Harbor area, including:

- Mounting seven approximately 1-foot-long cylindrical RBR*solo* Wave Attenuation Sensors onto the side of seven existing piles within Tuna Harbor;
- Gathering and downloading wave attenuation data for an approximately 2 to 3-month period;
- Relocating the seven RBR*solo* Wave Attenuation Sensors to the following locations:
 - The side of four additional existing piles within Tuna Harbor;
 - The side of an existing concrete pile at Fish Market Restaurant on the G Street Mole;
 - The side of an existing concrete pile at the Market Pier; and
 - The side of an existing pile at the Market Café Pier in Seaport Village.
- Gathering and downloading wave attenuation data for an additional 9 to 10-month period; and
- Removing all seven sensors from the piles.

Construction of the work allowed under this ROELA would involve a crew of two or three workers in a small watercraft. The workers would dispatch a free diver to fix all seven RBR*solo* Wave Attenuation Sensors to the existing piles via zip ties. The free diver would place the sensors below water line at Mean Low Lower Water (MLLW). Mounting of the sensors, relocation of the sensors, and removal of the sensors would each take one day to complete. Due to its nature and limited scope, construction of the proposed project would generate a minor amount of vehicle trips and would require limited use of equipment. It is anticipated that the proposed project would generate an average of approximately two vehicle trips per day. Vehicle trips would be associated with delivery of materials and transport of workers to the project site. Finally, the Applicant would be responsible for complying with all applicable federal,

state, and local laws regarding construction demolition debris, hazards and hazardous materials, and stormwater.

The ROELA is anticipated to commence February 1, 2018 and terminate on January 31, 2019, or upon completion of the work, whichever occurs earlier. The ROELA may be terminated by the District as a matter of right or without cause at any time upon providing twenty-four (24) hours' written notice to Protea of such termination.

The following categorical determinations are based on the project submittal and all project information known to the District as of the date of this determination.

CEQA DETERMINATION

Based upon the above description, the project is determined to be Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities) and/or 15306 (Information Collection) and Sections 3.a. (4) and/or 3.f. of the District's *Guidelines for Compliance with CEQA* because the project is the installation of seven RBRsolo Wave Attenuation Sensors for the purpose of conducting scientific research that would involve no expansion of use beyond that previously existing, would not result in a serious or major disturbance to an environmental resource, and would not result in a significant cumulative impact due to the continuation of the existing use. Sections 3.a. (4) and 3.f. of the District's CEQA Guidelines are as follows:

- 3.a. Existing Facilities (SG § 15301) (Class 1): Includes operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:
 - (4) New and renewed short-term tenancy agreements which do not result in change in the existing use. This exemption does not apply to any new development associated with the activities of the tenant. This exemption is also inapplicable if the cumulative impact of continuing the existing use or conditions in the same place, over time, is significant.

AND/OR

- 3.f. Information Collection (SG § 15306) (Class 6): Includes basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be for information gathering purposes, or as part of a study leading to an action which has not yet been approved, adopted or funded.

The Categorical Exemptions listed above are appropriate for the proposed project because it is the installation of seven RBRsolo Wave Attenuation Sensors for the purpose of conducting scientific research that would involve no expansion of use beyond that previously existing, would not result in a serious or major disturbance to an environmental resource, and would not result in a significant cumulative impact due to the continuation of the existing use. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

Pursuant to CEQA Guidelines Section 15062, a 35-day statute of limitations for this CEQA exemption shall apply from the date a Notice of Exemption is posted with the San Diego County Clerk, or a 180-day statute of limitations for this CEQA exemption shall apply if no Notice of Exemption is filed.

The proposed project complies with Section 87 of the Port Act, which allows for the

construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed project is consistent with the Public Trust Doctrine.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN

The project is located in Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified Port Master Plan. The Port Master Plan land and water use designations within the limits of the proposed project are Boat Navigation Corridor, Commercial Fishing, Commercial Fishing Berthing, Commercial Recreation, Park/Plaza, Promenade, and Specialized Berthing. The project conforms to the certified Port Master Plan because it is the installation of seven RBRsolo Wave Attenuation Sensors below the water line for the purposes of conducting scientific research consistent with the existing certified land and water use designations. The project would not change the project site nor would it interrupt or expand the existing conforming use of the site.

CATEGORICAL DETERMINATION

The above project proposes the installation of seven RBRsolo Wave Attenuation Sensors for the purpose of conducting scientific research that would involve no expansion of use beyond that previously existing and would not result in a serious or major significant disturbance to an environmental resource. This project is consistent with the existing certified land and water use designations and is Categorically Excluded under Sections 8.a. and/or 8.e. of the *District's Coastal Development Permit Regulations*, as follows:

- 8.a. Existing Facilities: The operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing.


AND/OR

- 8.e. Information Collection: Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major significant disturbance to an environmental resource.

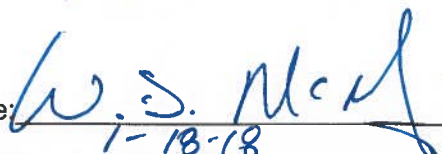
Pursuant to California Coastal Act Section 30717, there is a 10-working-day period to appeal this "Coastal Act Categorical Determination of Exclusion" to the California Coastal Commission.

RANDA CONIGLIO
President/CEO

Determination by:
Cameron McLeod
Assistant Planner
Development Services

Signature: 
Date: 1/18/18.

Deputy General Counsel

Signature: 
Date: 1-18-18