



**SAN DIEGO UNIFIED PORT DISTRICT
DEVELOPMENT SERVICES DEPARTMENT**

P.O. BOX 120488
SAN DIEGO, CA 92112-0488
(619) 686-6419

COASTAL DEVELOPMENT PERMIT AMENDMENT NO. 1

Permittee: ~~Todd Roberts, General Manager~~ President Byron “Chip” Besse
South Bay Boatyard (Marine Group Boat Works)
997 G Street
Chula Vista, California 91910

Project: South Bay Boatyard (Marine Group Boat Works) Improvements Project
(UPD#83356-MND-660)

Location: 997 G Street, Chula Vista, California 91910

You are hereby granted an amendment to Coastal Development Permit (CDP or Permit) CDP-2005-04 (Non-Appealable). The original CDP, Clerk Document No. 49916, was issued on December 14, 2005 in conformance with the California Coastal Act of 1976 and the Coastal Permit Regulations of the San Diego Unified Port District (District), as adopted by the Board of Port Commissioners on July 1 1980, Resolution No. 80-193, and as amended on December 2, 1980, Resolution No. 80-343, and on February 14, 1984, Resolution No. 84-62. The District has determined that this amendment to the original CDP-2005-04 is a material change to the Permit. On [Insert Date], the Board of Port Commissioners approved issuance of Amendment No. 1 to CDP-2005-04 (Resolution No.: xxxx)

The proposed project is located between the sea (as defined in the Coastal Act) and the first inland continuous public and road paralleling the sea. The project is fully consistent with Public Resources Code Sections 30604(c), 30210-30224, and the Coastal Act public access and recreation policies referenced herein.

This amendment is limited to the modifications described below in ~~strikeout~~/underline format and set forth in material on file with the San Diego Unified Port District (District). All remaining terms, conditions, limitations and provisions of CDP-2005-04 (as amended), is also hereby assigned to Byron “Chip” Besse and unless shown as deleted in this amendment, are to remain in effect.

DEVELOPMENT

The ~~project site~~ Marine Group Boat Works’s site located at 997 G Street, Chula Vista, California 91910 (Site) consists of approximately 371,000 square feet of water area referred to as the boat basin, and approximately 412,000 square feet of land area referred to as the boatyard.

The proposed project is the placement and operation of a new 820-ton travelift, as specified in Exhibit B, programed and operated with a maximum capacity of 660-ton vessel displacement weight and the removal of the existing 660-ton travelift. Other than a second 100-ton capacity travelift and the 820-ton travelift, no other travelifts are authorized to be placed or operated on the Site.

The proposed project also includes boat basin improvements involving the construction of two steel fingers to support a Travelift and the removal of five floating docks. The 820-ton travelift operated at no more than 660-tons capacity boat hoist (Travelift) will enable the removal of large vessels (in excess of 100-feet in length) from the water for repair. The fingers would be mounted upon pilings, which would be driven into the seabed. The steel will be lifted into position and secured to the pilings such that they can be removed and relocated in the same manner if desired. The piles cannot be relocated. In addition, five existing floating docks and associated anchor piles in the eastern portion of the boat basin will be removed. See attached maps and drawings. Boat basin modifications will take place entirely within the leased area that is protected by a wave attenuation wall.

Boatyard improvements include general site modifications and replacement of the existing office building and workshop with a new 16,690 square foot modular office building and workshop. With the exception of the largest building located in the southwestern portion of the boatyard, all other existing buildings will be removed. General site modifications include replacement of all interior fences and landscaping, relocating the existing stormwater collection and control facilities, resurfacing the entire boatyard, paving a 45,000 square foot area, removal of existing crane foundations, and establishment of a reinforced pathway on which the Travelift would traverse. As part of the resurfacing activities, the existing 150 on-site parking spaces will for formalized, including the striping of parking spaces. Parking would be located on-site between the proposed modular building and G Street, and also just north of the large building remaining. All boatyard improvements will take place within the perimeter of the boatyard's lease area.

The Site is a non-conforming use and hence, other than the 660-ton displacements of vessels, no intensification of use is part of the DEVELOPMENT. DEVELOPMENT may be referred to as the "Project" in the conditions set forth below.

PRIOR TO ISSUANCE

1. Marine Group Boat Works, LLC shall transfer its interest in the Marine Group Boat Works to Marine Group Global Holdings, LLC (MGGH) and MGGH shall enter into an Amended, Restated and Combined Lease (ARC Lease) with the District within six (6) months of approval of this Coastal Development Permit Amendment No. 1. This Prior to Issuance Condition shall be satisfied upon the effectiveness and full execution of the ARC Lease.

STANDARD PROVISIONS

1. Permittee shall adhere strictly to the current plans for the Project DEVELOPMENT as approved by the District and the Project features DEVELOPMENT, described above, for the Project.
2. Permittee shall notify the District of any changes in the DEVELOPMENT Project. Notification shall be in writing and be delivered to the District prior to any changes to the DEVELOPMNET. The District shall determine whether or not District approvals of the change(s) is required prior to implementation of any changes, and if the Project change will require environmental review in accordance with the California Environmental Quality Act, an amendment to this Permit or a new Coastal Development Permit. Implementation of the change without prior District review and approval shall be a violation of this Permit.
3. Any questions of intent or interpretation of any condition shall be resolved by the District Executive Director or the Board of Port Commissioners and NOT the Permittee.
4. Permittee and the Project shall meet all applicable codes, statutes, ordinances and regulations, and Permittee shall obtain all necessary permits from local, regional, state, and federal agencies prior to implementation of the DEVELOPMENT.
5. Permittee shall conform to, and this Permit is subject to, the permit rules and regulations of the District, including, but not limited to, the District's Coastal Development Permit Regulations and Port Code, as well as the California Coastal Act.
6. Permittee shall be responsible for compliance with ADA and Title 24 specifications.
7. Permittee shall commence development within two (2) years following the date of the permit issuance by the District. Construction shall be pursued in a diligent manner and completed within a reasonable period of time.
8. The Permit is in no way intended to affect the rights and obligations heretofore existing under private agreements nor to affect the existing regulations of other public bodies.
9. This Permit shall not be valid unless two copies have been returned to the Land Use Planning Development Services Department of the District, upon which copies the Permittee has signed a statement agreeing that the Permittee will abide by the terms, conditions, limitations, and provisions of the permit.
10. The Permittee and contractor shall implement all best management practices (BMPs) must be performed during construction and maintenance operations. This includes no pollutants in the discharges to storm drains or to San Diego Bay, to the maximum

extent practicable. No non-stormwater (irrigation, wash water, etc.) may discharge to the District's storm drains. Storm water discharges to storm drains or to Pacific Ocean are allowable, if they do not contain pollutants.

- ~~11. All Port of San Diego tidelands are regulated under Regional Water Quality Control Board Order No. R9-2007-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District (Municipal Permit). The Municipal Permit prohibits any activities that could degrade stormwater quality. On May 8, 2013, the San Diego Regional Water Quality Control Board adopted No. R9-2013-0001, NPDES No. CAS0109266, Waste Discharge Requirements for Discharges from the Municipal Separate Storm System draining the watersheds within the San Diego Region. However, the Jurisdictional Urban Runoff Management Program (JURMP) requirements of the 2007 permit will remain in effect until the water Quality Improvement Plans are approved approximately two years from the effective date.~~

~~The Permittee shall ensure that post-construction/operational use of this Project site complies with the Municipal Permit and District direction related to permitted activities including the requirements found in the District Jurisdictional Urban Runoff Management Document (JURMP). The JURMP is available on the District website: <http://www.portofsandiego.org/environment/stormwater.html> or by contacting the Environmental and Land Use Management Department, (619) 686-6254.~~

- ~~11. All District tidelands are regulated under Regional Water Quality Control Board Order No. R9-2013-0001, as amended by Order Nos. R9-2015-001 and R9-2015-0100, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0109226, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds Within the San Diego Region (Municipal Permit). The Municipal Permit prohibits any activities that could degrade stormwater quality.~~

~~The Permittee shall ensure that post-construction / operational use of this Project site complies with the Municipal Permit and District direction related to permitted activities including the requirements found in the District's Jurisdictional Runoff Management Program (JRMP). The JRMP is available on the District website: <https://www.portofsandiego.org/environment/environmental-protection/stormwater> or by contacting the Environmental Protection Department at (619) 686-6254.~~

- ~~12. This Project may be subject to the Port Standard Urban Stormwater Mitigation Plan (SUSMP) process. As such, approval of the Project by the District is necessarily conditioned upon submission by the Permittee of a project specific Urban Stormwater Mitigation Plan (USMP) that meets District requirements. The Permittee shall implement all USMP structural and non-structural best management practices (BMPs) throughout the life of the Project. A link to the District's SUSMP guidance documents~~

is _____ posted _____ on _____ the _____ District _____ website:
<http://www.portofsandiego.org/environment/stormwater.html>

~~The Implementation and maintenance of the USMP BMPs constitute regulatory obligations for the Permittee, and failure to comply with the Municipal Permit, the JURMP, or the Port approved USMP, including the specific BMPs contained therein, may be considered a violation of the permit.~~

12. This Project may be subject to the District post-construction BMP requirements. If so, approval of the Project by the District is necessarily conditioned upon submission by the Permittee of a specific Stormwater Quality Management Plan (SWQMP) for the Project that meets District requirements and is compliant with the District BMP Design Manual (JRMP Appendix D). If required, the Permittee shall implement all post-construction structural and non-structural BMPs in perpetuity.

The implementation and maintenance of the post-construction BMPs constitute regulatory obligations for the Permittee, and failure to comply with the Municipal Permit, the JRMP, or the District approved SWQMP, including the specific BMPs contained therein, may be considered a violation of the permit and a violation of District Code.

13. In the discretion of the District, prior to commencement of construction, Permittee may be required to require that their contractor(s) furnish security, naming the District as a dual obligee, in the form of a performance bond and a payment bond, each in an amount deemed appropriate by the District to guarantee payment of the subcontractors, completion of the approved work under this permit, and compliance with the conditions and limitations upon which such permit is granted. Prior to commencement of construction, Permittee may also be required by the District to furnish security in the form of a payment bond in an amount deemed appropriate by the District to guarantee payment to the contractor(s) for work performed under this permit.

14. By accepting this Permit, Permittee acknowledges and agrees (a) that the Project site may be subject to environmental conditions and hazards; (b) to assume the risks to the Permittee of injury and damage from such conditions in connection with the implementation or operations of the Project; (c) to unconditionally waive any claim of damage or liability against the District, its Board of Port Commissioners, officers, agents and employees ("District" for purposes of this condition) for injury or damage from such conditions to persons performing the development for which this Permit is issued or operating on the Project site under this Permit; (d) to defend, indemnify and hold harmless, and require that Permittee's contractor(s) engaged to perform the development on the Project defend, indemnify and hold harmless, the District from any claim, demand, liability, loss, action, administrative agency appeal, damage, cost, expense (including all attorneys' fees and consultant/expert fees), award, fine, penalty or judgment (collectively, Claims) arising out of, resulting from, or in any way related to the performance of the development by Permittee's contractor(s) for which

this Permit is issued, with the exception of any claim, action, damages, liability or costs arising or resulting from the project caused by the gross negligence or willful misconduct of the District; (e) to defend, indemnify and hold harmless the District from any Claims arising out of, resulting from, or in any way related to Permittees operation of the Project site with the exception of any claim, action, damages, liability or costs arising or resulting from the project caused by the gross negligence or willful misconduct of the District; (f) to defend, indemnify and hold harmless the District from any Claims arising out of, resulting from, or in any way related to the District's approval of the Project, the granting of this Permit, and the District's adoption of the Final Negative Declaration; and (g) that Permittee will require Permittee's contractors to name the District as an additional insured on all policies of insurance, now in existence or to be obtained by them, for the work conducted pursuant to this Permit.

15. Permittee acknowledges and agrees that: (a) it is the sole and exclusive responsibility of Permittee, and not the District, to ensure that all persons and/or entities who provide any labor, services and/or equipment in connection with the project, shall comply with the requirements of California's prevailing wage laws (the "PWL"), to the extent such laws are applicable; and (b) it is the sole and exclusive responsibility of Permittee, and not the District, to determine whether the Project is subject to the PWL by obtaining a determination by means that do not involve the District. If the Project is determined to be subject to the PWL, Permittee shall comply with all applicable provisions of the PWL, and shall take reasonable steps to ensure that all persons and/or entities who provide any labor, services, equipment and/or materials in connection with the Project shall likewise comply with all applicable provisions of the PWL.

Permittee further acknowledges and agrees that Permittee's failure to comply with all applicable provisions of the PWL, and/or their failure to take reasonable steps to ensure that all persons and/or entities who provide any labor, services, equipment and/or materials in connection with the Project comply with all applicable provisions of the PWL, shall render Permittee, and not the District, liable for all remedies (inclusive of all applicable fines and penalties), afforded by law as a consequence of such non-compliance. Permittee expressly agrees to defend, indemnify and hold harmless the District, from any claim, demand, liability, loss, action, damage, cost, expense (including all attorneys' fees and consultant/expert fees), award, fine, penalty or judgment arising out of, resulting from, or in any way related to the PWL (collectively "PWL Claim") made against or incurred by the District in any capacity (including, without limitation, as a real party in interest), except for any PWL Claim arising out of the sole negligence or willful misconduct of the District.

16. The conditions of this Permit are independent of, and in addition to, the obligations of the Permittee under any existing lease(s), Tidelands Use and Occupancy Permit(s), or other contractual agreement(s) with the District, and are binding upon Permittee and its agents, representatives, successors and permitted assigns.

SHORT TERM CONSTRUCTION MEASURES

1. To minimize noise during construction, the Permittee will require the construction contractor to (a) restrict normal construction activities from 7:00 am to 7:00 pm; (b) keep construction equipment as far as possible from sensitive receptors; and (c) provide acoustical shielding around equipment operating at night, from 10:00 pm to 7:00 am.
2. To minimize fugitive air emissions during construction, the Permittee will require the construction contractor to keep fugitive dust down by regular watering.
3. To minimize nuisance effects from lights or glare during construction, the ~~contractor~~ Permittee will require the construction contractor to shield and direct night lighting away from adjacent areas.
4. All trucks hauling loose material during Project construction, either on-site or off-site, shall be adequately covered, and adhere to adopted truck routes.
5. Suspend all ground-disturbing activities when wind speeds (As instantaneous gusts) exceed 25 mph at a portable weather station on the Project site.
6. Access points onto local paved roads shall be kept clean and swept as necessary. If visible soil material is carried onto adjacent public paved roads, use of a water sweeper will be required to clean the public road.
7. Traffic speeds on all unpaved surfaces shall be limited to 15 mph.
8. Permittee shall prevent inactive trucks from idling more than 10 minutes during construction once they arrive on the construction site.
9. All construction equipment shall be maintained in peak condition to reduce operational emissions.
10. Diesel equipment shall use low-sulfur diesel fuel.
11. Electric equipment shall be used to the maximum extent feasible during construction.
12. ~~Construction employees shall be provided~~ The Permittee shall require the construction contractor to provide construction employees with transit and ride share information.
13. The Permittee shall ensure that any site contamination is identified and a site restoration plan, acceptable to the appropriate regulatory agencies, is prepared and implemented to reduce any existing contamination to a level that has no potential to threaten employee or human health as defined under existing regulations. If any

potential exists for impacts to employee health from exposure to ~~acidic or caustic soils, hazardous materials~~, workers shall be provided with adequate protective gear.

14. The Permittee shall require all employees that are exposed to noise levels in excess of Occupational Safety and Health Administration hearing protection thresholds, during construction or operation, to wear noise protection devices (ear plugs and covers) that are protective of individual hearing.
15. Permittee and/or contractor shall comply with State Water Resources Control Board Order No. ~~99-08-DWQ~~ 2022-0057-DWQ (National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002), and Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (commonly known as the “ ~~General Construction Storm Water~~ General Permit”), as adopted, amended, and/or modified. ~~The District is responsible for submitting the Notice of Intent to comply with the General construction Storm Water Permit. The Permittee and/or contractor must comply with the General Construction Storm Water Permit and District direction related to permitted activities.~~ Construction activity subject to the ~~General Construction Storm Water~~ General Permit requires development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). ~~The Permittee and/or contractor must prepare and submit the SWPPP for review and approval by the District prior to site work~~ are responsible for submitting to the District a SWPPP that is compliant with the Construction General Permit and District required minimum BMPs. The District requires the use of District SWPPP templates. Once approved, the SWPPP document shall be maintained on the construction site at all times and made available for review by the District or other regulatory agencies.

The Permittee and/or contractor is responsible for ensuring that the SWPPP document is maintained on the site, implemented, and amended as required throughout construction. No discharges of any material or waste, including potable water, wash water, dust, soil, trash, and debris, may contaminate stormwater or enter the stormwater conveyance system. Any such material that inadvertently contaminates stormwater or enters the stormwater conveyance system as part of site operations shall be removed immediately. All unauthorized discharges to the stormwater conveyance system or the Bay or the ocean shall be reported immediately to the District Stormwater Department, in order to address any regulatory permit requirements regarding spill notifications.

A project’s total disturbed soil area (DSA) shall not exceed 5 acres during the rainy season (October 1 - April 30) and 17 acres during the non-rainy season (May 1 - September 30). The District may temporarily increase these limits if the individual site is in compliance with applicable stormwater regulations and the site has adequate control practices implemented to prevent stormwater pollution.

SPECIAL PROVISIONS

1. This Coastal Development Permit Amendment No. 1 shall only apply to the Permittee and an amendment to this Permit shall be required to transfer the Permit to another person or entity.

2. Permittee shall comply with all applicable Mitigation Monitoring and Reporting Program requirements for the "South Bay Boatyard Improvements Project" Final Mitigated Negative Declaration (Document No. UPD #83356-MND-600). Mitigation measures are briefly outlined below. Permittee shall refer to the Mitigation Monitoring and Reporting Program for specific requirements (attached as Exhibit CA)
 - a) Biological Resources

Pile driving activities shall not occur between March 1st and September 15th, which represents the earliest and latest dates of the breeding season for the various sensitive species located in the project vicinity. If the breeding season is determined by a Port District approved biologist to have ended prior to September 15th construction will be permitted from that time forth.
 - b) Biological Resources

The 1,800 square feet of increased coverage over the San Diego Bay would require one of the following: 1) Removal of 1,800 square feet of additional existing docks, or 2) A comparable enhancement as determined by a Port approved biologist. Enhancement would be completed prior to construction of the fingers and to the satisfaction of a Port of San Diego and any applicable resource agencies.
 - c) Hydrology/Water Quality

Silt curtains shall be used around the submerged construction area to minimize sediment disturbances. Typically, the curtain is anchored along the ocean floor with weights (i.e. a chain) and is anchored to the top with a floating chain of buoys. The curtain wraps around the area of disturbance to prevent turbidity for traveling outside the immediate project area. Turbidity immediately outside of the silt curtains shall be monitored to determine if sediments have spread outside the curtains. If it has, work shall slow and the curtain will be inspected and repaired to limit the spread of sediments. Once the impacted region resettles the curtains are removed.

3. The 820-ton travelift is only allowed to service vessels with a displacement weight of 660 tons or less (Maximum Displacement). Any change to the travelift size or exceedance in service vessel over 660 tons shall require additional California Environmental Quality Act analysis, an amendment to this Coastal Development Permit, and the District's approval.

4. The Permittee or its successor shall allow authorized representatives from the District without prior notice to enter the Site for the purpose of inspection, compliance verification, or Permit enforcement. During inspection and upon request, Permittee shall show the inspector the travelift's displacement tonnage.
5. The District shall place noise monitors, at Permittee's expense, at location(s) on the façade of the Gaylord Hotel subject to the approval of the Gaylord Hotel or a location that is mutually acceptable by both Parties that is similarly situated, and at the boundary of the Refuge to monitor noise levels during operations. The noise monitoring shall be implemented in a manner that automatically sends alerts of noise exceedance of the Noise Standards, as that term is defined in Exhibit B, to at least two (2) designated personnel of the Permittee that are present at the MGBW facility during operations and at least two (2) designated personnel of the District ("Designated Personnel"). Within twenty-five (25) minutes of an alert to Permittee's Designated Personnel, Permittee shall promptly cease such operations causing the noise violation for the duration of the daytime or nighttime shift, as the case may be. Upon receiving an automated alert that Permittee's operations have exceeded the Noise Standards, Permittee shall promptly, but in no event more than seven (7) days after the date of the violation, propose a plan to the District to ensure that future operations will not violate the Noise Standards, which may include installation of noise buffering measures and/or relocation of offending operations to a different portion of the Premises. Permittee's plan shall be subject to the District's reasonable approval. The District may propose additional reasonable measures to ensure compliance with the Noise Standards, provided that District and Permittee shall cooperate, in good faith, to ensure a solution that (i) mitigates the noise from operations to a level that complies with the Noise Standards and (ii) does not unreasonably interfere with Permittee's ability to operate at the facility.
6. Within ten (10) business days of receipt of a written request from the District (that may be transmitted by electronic mail), Permittee shall provide to the District, operating logs for the previous six (6) months that consist of (i) the vessel's name, (ii) haul weight in tons, (iii) launch weight in tons, (iv) haul date and launch date. The operating log shall be submitted with a declaration under penalty of perjury that the information is accurate and that the vessels reported in the log are the only vessels serviced by the 820-ton travel lift.
7. The Permittee or its successor shall ensure that lighting does not spill over the property line and into adjacent properties. All lighting is required to be shielded downward, and away from the hotel and convention center, marsh land and sensitive habitats.
8. Permittee shall strictly comply with the "Use Restrictions" as specified in Exhibit B.
9. Any violation of the Maximum Displacement or Prohibited Nighttime Operations, as defined in Exhibit B, shall be subject to a \$100,000 penalty for each violation.

10. The District shall also have all other remedies available to it under law and equity for a violation of the "Use Restrictions" and this Permit, including without limitation an enforcement action either by the District or California Coastal Commission.

Exhibits:

- A. 820-Travelift Description
- B. "Use Restrictions"
- C. Mitigation Monitoring and Reporting Program

If you have any questions on this Permit, please contact the Development Services Department of the San Diego Unified Port District at (619) 686-6419.

SCOTT CHADWICK
President/Chief Executive Officer

By: _____
Wileen C. Manaois
Director, Development Services

I have read and understand the reasonable terms, conditions, limitations, and provisions of this Permit and agree to abide by them. I further understand that the reasonable terms, conditions, limitations, and provisions of the Permit are material to its issuance by the District, and that such terms, conditions, limitations, and provisions are included to ensure consistency with applicable laws and regulations, including the Coastal Act. Any failure to abide by the reasonable terms, conditions, limitations, and provisions may result in enforcement by the District and/or the California Coastal Commission, including revocation, as may be warranted.

Signature of Permittee
Todd Roberts
President, Marine Group Boat Works, LLC

Date

Exhibit A

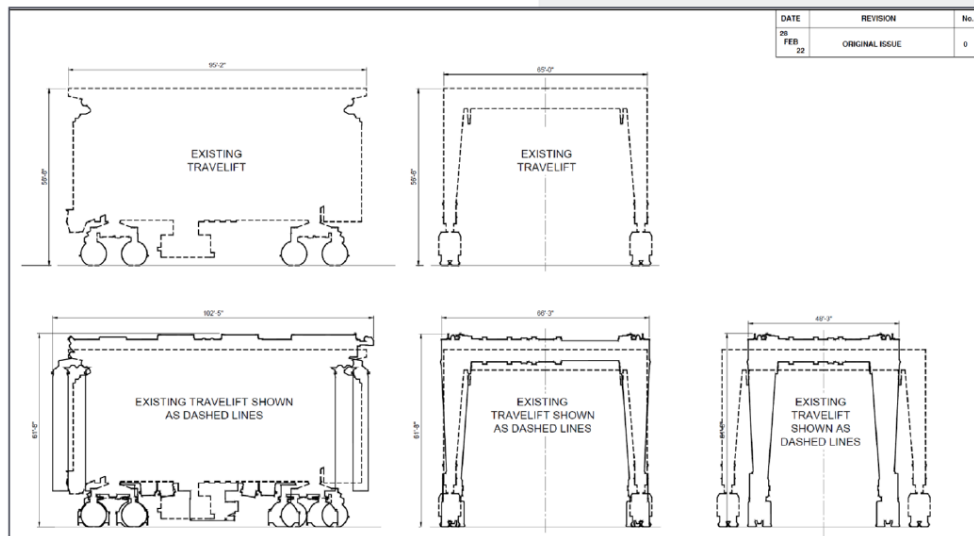
820-Ton Travel lift Replacement

MGBW seeks to replace its existing, outdated 660-ton travel lift with a more efficient and sustainable 820-ton variable width travel lift. The 820-ton mobile lift works with MGBW's existing infrastructure. In other words, the 820-ton lift will have the same footprint as our existing travel lift (See Figure 7). The mobile lift will be equipped with a variable width feature that allows MGBW to optimize spacing and blocking of vessels onshore to more efficiently to utilize the space on land. The amount the width is reduced is dependent on the beam of the boat being hauled.

With the new 820-ton Variable Width Travel lift, boats will be able to be placed closer together, while still leaving enough room between them to facilitate the required work.

Last, but not least, the new 820-ton travel lift will be equipped with Tier 4 engines, the most sustainable model on shelves today.

Figure 7: New Travelift Will Have Smaller Footprint than Existing Travelift



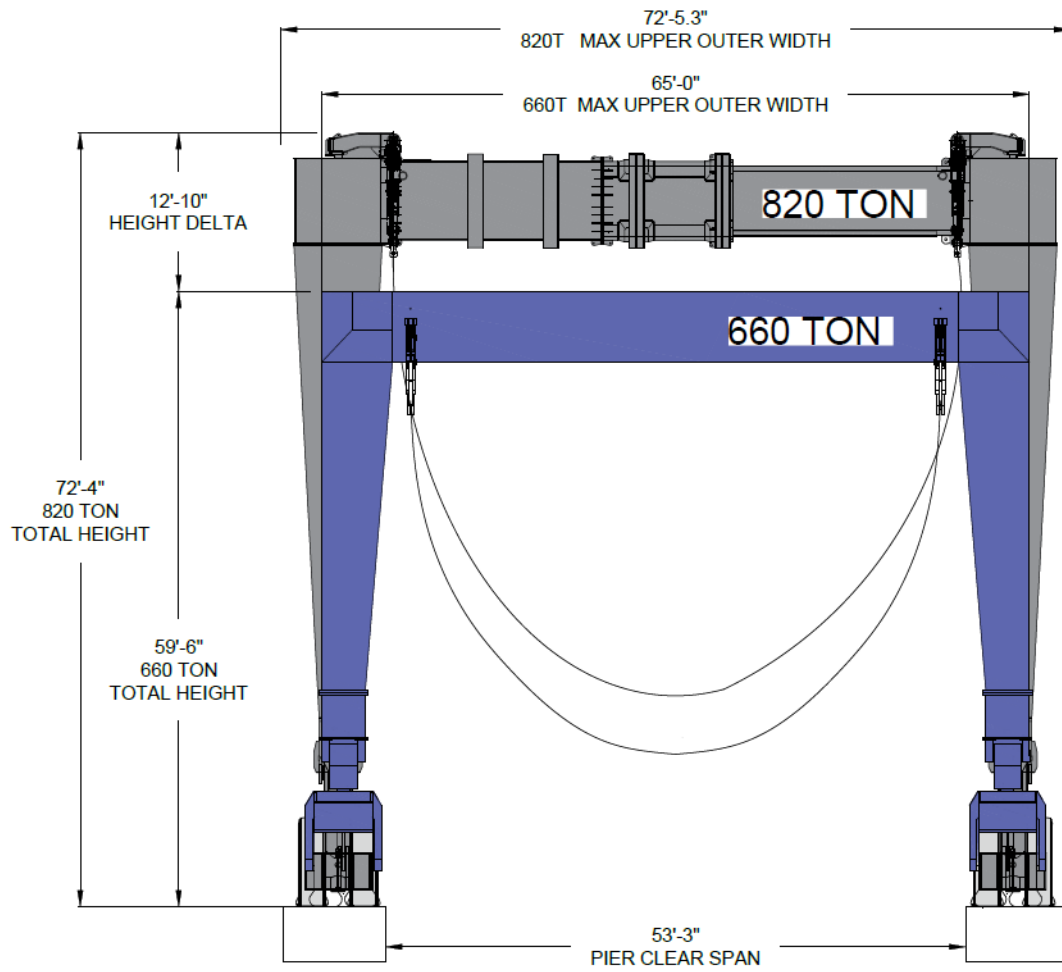


Exhibit B

Use Restrictions

The DEVELOPMNET and operations at the Site are subject to the following restrictions (collectively, "Use Restrictions"): (a) any change to the Permitted Use, travel lift size, or tonnage limit, including the Maximum Displacement Requirement, Prohibited Nighttime Operations, Lighting Requirement and Noise Standards, as those terms are herein defined, shall require BPC approval, to be granted or withheld in the BPC's sole and absolute discretion, (b) no greater than 660-ton travel lift displacements shall occur and Tenant shall provide Landlord, within five (5) business days of written request from Landlord, a signed declaration from the travel lift's manufacture that the travel lift on the Premises has been and remains electronically limited to a maximum lifting capacity of 660 tons displacement, (c) lighting on and from the Premises during night operations shall be directed away from the adjacent resort and convention center the, wildlife refuge, and wildlife habitat; (d) operations on the Premises shall be subject to the Chula Vista exterior noise limits in accordance with Table III of Chapter 19.68.030 of the Chula Vista Municipal Code, and in particular (i) the limits from 10:00 p.m. to 7:00 a.m. shall be those standards for Multiple Dwelling Residential exterior noise limits in accordance with Table III of Chapter 19.68.030 of the Chula Vista Municipal Code and (ii) the limits from 7:00 a.m. to 10:00 p.m. shall be those standards for Commercial exterior noise limits in accordance with Table III of Chapter 19.68.030 of the Chula Vista Municipal Code except, at the boundaries of the Refuge, during the typical avian breeding season of January 15 to August 31 noise levels shall not exceed 60 dB(A) (decibel, A-weighted) Leq (equivalent continuous sound level) (collectively, "Noise Standards"), and (e) Tenant shall not do any of the following between the hours of 10:00 p.m. and 7:00 a.m.:

- Sand blasting
- High pressure water jetting
- Travel lift operation*
- Crane operation
- Hammering or other banging on metal
- Metal cutting, except for metal cutting that can be accomplished without any appreciable noise, such as cutting with an acetylene torch
- Metal grinding
- Any other activity that would exceed the Noise Standards and Lighting Requirement

*There may be occasional urgent night-time requests from the U.S. Coast Guard to remove a vessel from the water that is in danger of sinking, in which case the travel lift may be used to remove the requested vessel.

The foregoing in subsection (e) with the exception of "any other activity that would exceed the Noise Standards and Lighting Requirement" are collectively referred herein as "Prohibited Nighttime Operations".

Exhibit C

MITIGATION MONITORING AND REPORTING PROGRAM FOR THE SOUTH BAY BOATYARD IMPROVEMENTS PROJECT MITIGATED NEGATIVE DECLARATION

PURPOSE OF THE MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) was prepared for the proposed South Bay Boatyard Improvements Project (Project) to comply with the California Environmental Quality Act (CEQA) mitigation monitoring statute (Public Resources Code Section 21081.6). This statute, entitled "Reporting or Monitoring Programs," requires public agencies to "adopt a reporting or monitoring program for the changes to the project, which it has adopted or made a condition of approval, in order to mitigate or avoid significant effects on the environment." This MMRP shall be made a requirement of project approval and shall be adopted by the Lead and Responsible Agencies upon formulation of Findings pursuant to Section 15091 of the State CEQA Guidelines. The Lead Agency for this project is the San Diego Unified Port District ("Port District").

The purpose of the MMRP is to ensure that the mitigation measures, required by the Mitigated Negative Declaration (MND) for the Port's requested actions, are properly implemented. As Lead Agency for the project under CEQA, the Port will monitor the mitigation measures for construction and operation of the project. The Mitigation Monitoring Checklist provides a mechanism for monitoring the mitigation measures in compliance with the MND. General guidelines for the use and implementation of the monitoring program are described below.

An effective reporting system shall be established prior to any monitoring efforts. Copies of the measures shall be distributed to the participants of the monitoring effort to ensure that all parties involved have a clear understanding of the mitigation monitoring measures adopted.

MITIGATION MONITORING CHECKLIST

The Mitigation Monitoring Checklist is organized by categories of environmental impacts, (e.g., Biological Resources, Water Quality, Land Use, and Noise). Potential impacts identified in the MND are summarized for each impact area and the required mitigation measures are listed. The checklist identifies the implementation schedule, who is responsible for implementing the measure, monitoring mechanism, and required monitoring and reporting frequency. A description of these items is provided below.

Mitigation Measure. The specific mitigation measure as outlined in the Mitigated Negative Declaration is described by category.

Monitoring Requirement. Specific requirements are provided for use by monitoring staff to ensure that measures are included on implementing maps and later installed on-site.

Responsible for Mitigation Implementation. The Responsible for Mitigation Implementation column explains who will ensure that the mitigation measures are properly implemented. The Port District shall be responsible for either monitoring each measure, or delegating to an agency or party, at their discretion.

Completion Requirement. The mitigation measures required for the project will be implemented at various times as construction proceeds and during operation. Some measures must be implemented before or during construction activities, while others must be implemented upon completion.

Agency Responsible for Verification. This column describes who will be ultimately responsible for ensuring that each mitigation measure is monitored and who will coordinate the final reporting program.

MITIGATION MONITORING CHECKLIST

Mitigation Measure	Monitoring Requirement	Responsible For Mitigation Implementation	Completion Requirement	Agency Responsible For Verification
Biological Resources				
BR1 Pile driving activities shall not occur between March 1st and September 15th, which represents the earliest and latest dates of the breeding season for the various sensitive species located in the project vicinity. If the breeding season is determined by a Port District approved biologist to have ended prior to September 15th construction will be permitted from that time forth.	Construction	South Bay Boatyard	Upon completion of pile driving.	Port District/ CDFG/ USFWS/ City of Chula Vista
BR2 The 1,800 square feet of increased coverage over the San Diego Bay would require one of the following: 1) Removal of 1,800 square feet of additional existing docks, or 2) A comparable enhancement to the satisfaction of a Port District approved biologist. Enhancement would be completed prior to construction of the fingers and to the satisfaction of a Port of San Diego and applicable resource agencies.	Construction	South Bay Boatyard	Prior to construction of fingers.	Port District/ CDFG/ USFWS
Water Quality				
WQ1 Silt curtains shall be used around the submerged construction area to minimize sediment disturbances. Typically, the curtain is anchored along the ocean floor with weights (i.e. a chain) and is anchored to the top with a floating chain of buoys. The curtain wraps around the area of disturbance to prevent turbidity for traveling outside the immediate project area. Turbidity immediately outside of the silt curtains shall be monitored to determine if sediments have spread outside the curtains. If it has, work shall slow and the curtain will be inspected and repaired to limit the spread of sediments. Once the impacted region resettles the curtains are removed.	Construction	South Bay Boatyard	Upon completion of in water improvements.	Port District/ RWQCB
Land Use				
BR1 Pile driving activities shall not occur between March 1st and September 15th, which represents the earliest and latest dates of the breeding season for the various sensitive species located in the project vicinity. If the breeding season is determined by a Port District approved biologist to have ended prior to September 15th construction will be permitted from that time forth.	Construction	South Bay Boatyard	Upon completion of pile driving.	Port District/ CDFG/ USFWS/ City of Chula Vista

Mitigation Measure	Monitoring Requirement	Responsible For Mitigation Implementation	Completion Requirement	Agency Responsible For Verification
Noise				
BR1 Pile driving activities shall not occur between March 1st and September 15th, which represents the earliest and latest dates of the breeding season for the various sensitive species located in the project vicinity. If the breeding season is determined by a Port District approved biologist to have ended prior to September 15th construction will be permitted from that time forth.	Construction	South Bay Boatyard	Upon completion of pile driving.	Port District/ CDFG/ USFWS/ City of Chula Vista