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## Santa Ana Regional Water Quality Control Board

March 16, 2015

Mr. Fong Tse  
Public Works Department  
City of Newport Beach  
100 Civic Center Drive  
Newport beach, CA 92660

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE PARK AVENUE BRIDGE OVER GRAND CANAL REPLACEMENT PROJECT, CITY OF NEWPORT BEACH, ORANGE COUNTY (ACOE REFERENCE NO. SPL-2014-00732) (SARWQCB PROJECT NO. 302014-18)**

Dear Mr. Tse:

On October 14, 2014, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for various improvements to the deteriorating Park Avenue Bridge in the City of Newport Beach (City), Orange County. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

**Project Description:** The City's existing Park Avenue Bridge does not meet current bridge design and seismic safety standards, per the California Department of Transportation (Caltrans) Sufficiency Rating process. Therefore, Caltrans has identified the bridge as "functionally obsolete". In response to this determination, the City is proposing to demolish the existing bridge, which spans over the Grand Canal at Park Avenue, and replace it with one that meets current engineering standards.

The scope of the project will include demolishing the existing subject bridge, which spans over the Grand Canal at Park Avenue. The existing concrete piles will be removed to just below the mud line, thereby preventing additional impacts associated with turbidity to the canal.

A temporary bridge will be installed at Balboa Avenue to facilitate vehicular and pedestrian traffic during the reconstruction of the Park Avenue Bridge. The installation of a temporary bridge at

Balboa Avenue will be "launched" via crane and from the canal approaches on Balboa Avenue. The temporary supports for the Balboa Avenue Bridge would consist of steel sheet piles. The steel sheet piles will be vibrated into place from locations on Balboa Avenue so that no equipment will be required within the canal. The sheet piles will be entirely removed once the Park Avenue Bridge is opened to traffic and the temporary bridge is no longer required.

The construction activities associated with the proposed temporary bridge installations will be facilitated from the Balboa Avenue approach. The new Park Avenue Bridge construction activities will be facilitated using the approach extending from Park Avenue. The proposed width of the new bridge will be 36 feet wide. Pile installation for the new Park Avenue Bridge will utilize cast-in-drilled-hole (CIDH) construction for implementation of each bridge pile, as part of new vertical curve profile concrete bridge design, with freeboard pier positions and connecting seawalls. 60-foot lengths of interlocking secant pile walls will replace the existing seawalls.

All construction activities within the Grand Canal will be limited to geotechnical investigations, reconstruction of the sea wall within the project limits, and for the removal and installation of bridge piers.

The work will take place within Section 35 of Township 6 South, Range 10 West, of the U.S. Geological Survey *Newport Beach, California*, 7.5-minute topographic quadrangle map (33.606411 degrees N/-117.888969 degrees W).

Receiving water:	Pacific Ocean, Newport Bay
Fill area:	6.45 CY
Dredge volume:	Not applicable
Federal permit: (Structural	U.S. Army Corps of Engineers Nationwide Permit No. 25 Discharges) and Section 10 Letter of Permission (LOP)

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Standard water quality related Best Management Practices (BMPs) will be employed onsite and will include site design features, as well as, source control and treatment control BMPs.
- As an additional BMP, a form will be vibrated down into the substrate around the proposed drilling location and extend above the water line, in order to control material (e.g. mud, concrete and sediment) associated with the drilling in and out of the hole. The installation of the piles will be a controlled operation in terms of the mud/soil removal associated with the drilled pile.
- Within the application materials, the Applicant has identified that eelgrass and the habitat it provides is prevalent throughout the Grand Canal, except in the shade beneath the existing bridge. The Applicant proposes to conduct a pre-Project, post-Project, and 12-month post-Project sequence of surveys to determine actual impacts to eelgrass. For anticipated impacts, compensatory mitigation will consist of eelgrass planting in the Grand Canal, conducted at no less than a 1:1 ratio in compliance with the Southern California Eelgrass Mitigation Policy (SCEMP) and the City's eelgrass mitigation Program. Mitigation will compensate for permanent and temporal losses of the beneficial uses Estuarine Habitat (EST), Wildlife habitat (WILD), Spawning, Reproduction, and Development (SPWN) listed in the Water Quality Control Plan for the Santa Ana River Basin, 1995 (Basin Plan).

Offsite Water Quality Standards Mitigation Proposed:

- No off-site water quality standards mitigation is proposed.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and NOAA will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2009-0030, commonly known as the Orange County Municipal Storm Water Permit. Order No. R8-2009-0030 requires that you substantially comply with the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity. For more information, please review Order No. R8-2009-0003 at: [www.waterboards.ca.gov/santaana/board\\_decisions/adopted\\_orders/orders/2009/09\\_003\\_deminimus\\_permit\\_wdr.pdf](http://www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2009/09_003_deminimus_permit_wdr.pdf).

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act (CEQA), the City of Newport Beach adopted a Mitigated Negative Declaration on November 25, 2014. Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as shown in the associated negative declaration prior to reaching a decision on the project. The Regional Board has independently considered the City's Mitigated Negative Declaration in the issuance of this Certification and finds that changes or alterations have been required, or incorporated into the proposed project, which avoid or mitigate impacts to water quality to a less than significant level.

**This 401 Certification is contingent upon the execution of the following conditions:**

1. Materials must not be placed in a manner where they could be discharged to surface waters except as authorized by this certification. In the event that trash or debris is discharged to surface waters, the discharger must recover the material to the maximum extent practical.
2. Project-related activities must not cause the background natural turbidity, as measured in Nephelometric Turbidity Units (NTUs), in the receiving waters to be increased by values greater than the following Basin Plan objectives at a distance of 100 feet from the activity:
  - a. If natural turbidity is between 0 and 50 NTU, the maximum increase must not exceed 20% of the measured natural turbidity.
  - b. If natural turbidity is 50 to 100 NTU, the increase must not exceed 10 NTU.
  - c. If natural turbidity is greater than 100 NTU, the maximum increase must not exceed 10% of the measured natural turbidity.
3. An effective monitoring plan must be developed and implemented to document compliance with conditions 1 and 2 above. Any suspected violation of these conditions must be reported to Regional Board staff in writing within 24-hours of discovery. The monitoring plan and records of monitoring activities must be maintained on site for the duration of the proposed discharge and be available for inspection by Regional Board staff.
4. Pre- and Post-Construction Eelgrass Surveys: The Applicants must conduct an eelgrass survey within two months of the commencement of dredging. Mitigation for identified eelgrass losses must be performed in accordance with the Southern California Eelgrass Mitigation Plan (SCEMP)  
[http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11\\_final.pdf](http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11_final.pdf).

5. Post-Construction Shading Effects Survey: The Applicants must conduct the post-construction shading effects survey specified in the Eelgrass Impact Assessment Report that was submitted with the Certification application. The Applicants must prepare and submit for approval an eelgrass mitigation plan consistent with the requirements of the SCEMP to address eelgrass losses due to shading caused by this project.
6. A copy of this Certification must remain at the project site for the duration of the work and be available for inspection upon request.
7. Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.
8. All materials generated from construction activities associated with this project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified.
9. Motorized equipment shall not be maintained or parked within or near any stream crossing, channel, shore line or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project.
10. Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities.
11. This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
12. A copy of this Certification and any subsequent amendments must be maintained at the project site for the duration of work.
13. The applicant must comply with the requirements of the Clean Water Act section 404 permits.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

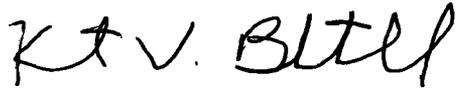
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401 (d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby certify that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at: [www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

March 16, 2015

Should there be any questions, please contact Marc Brown at (951) 321-4584.

Sincerely,



Kurt V. Berchtold  
Executive Officer  
Santa Ana Regional Water Quality Control Board  
cc (via electronic mail):

RBF Consulting – Regulatory Services Director – Richard Beck  
U. S. Army Corps of Engineers, Los Angeles Office – Gerry Salas  
State Water Resources Control Board, Office of Chief Counsel - David Rice  
State Water Resources Control Board, DWQ - Water Quality Certification Unit  
U.S. EPA - Supervisor of the Wetlands Regulatory Office WTR - 8