



## Legislation Details (With Text)

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**Title:** RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT FOR THE DEMOLITION OF STORAGE TANKS AND STORM WATER IMPROVEMENTS PROJECT AT THE TENTH AVENUE MARINE TERMINAL

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**Attachments:** 1. 5. 2022-0209 Attachment A, 2. 5. 2022-0209 Attachment B, 3. 5. 2022-0209 Attachment C, 4. 5. 2022-0209 Draft Resolution

Date	Ver.	Action By	Action	Result
8/9/2022	1	Board of Port Commissioners	adopted	

**DATE:** August 9, 2022

**SUBJECT:**

**RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT FOR THE DEMOLITION OF STORAGE TANKS AND STORM WATER IMPROVEMENTS PROJECT AT THE TENTH AVENUE MARINE TERMINAL**

**EXECUTIVE SUMMARY:**

The Demolition of Storage Tanks and Stormwater Improvements Project (project) will demolish and remove three existing steel storage tanks and make storm drain and storm water quality improvements for ultimate use as laydown area to allow for Tenth Avenue Marine Terminal (TAMT) to better support its current maritime customers as well as attract new maritime trade business.

The project specifically includes the following: demolish and remove three existing steel storage tanks and associated piping and utilities and containment wall; salvage steel material and abate lead-containing materials; relocate electrical transformer; make storm drain and stormwater quality improvements; grade the area; and construct reinforced Portland cement concrete pavement for use as laydown area.

The project was analyzed in a Final Environmental Impact Report (FEIR) for the TAMT Redevelopment Plan and Demolition and Initial Rail Component certified by the Board of Port Commissioners (Board) on December 13, 2016 by Resolution No. 2016-199. Furthermore, the project requires the issuance of a Non-Appealable Coastal Development Permit (CDP). As conditioned, the project is consistent with the certified Port Master Plan (PMP) and applicable sections of Chapter 3 and Chapter 8 of the Coastal Act.

The District and the District's design consultant, Harris and Associates, are preparing 100% Construction Documents for the project. The issued CDP will be included as part of the specifications when a request for bid for the project is published within the next few months.

### **RECOMMENDATION:**

Adopt a resolution authorizing issuance of a Non-Appealable CDP to the District for the Demolition of Storage Tanks and Storm Water Improvements Project at TAMT.

### **FISCAL IMPACT:**

The funding for this project is budgeted within the Economic Recovery Program (ERP) Capital Outlay appropriated items for \$1.5 million, as approved by the Board on October 12, 2021 (Resolution 2021-0349). Funds for future fiscal years will be budgeted in the ERP Capital Outlay appropriated item, subject to Board approval.

### **COMPASS STRATEGIC GOALS:**

The project would support the modernization of the TAMT by increasing cargo handling capability to facilitate growth of the District's maritime business.

This agenda item supports the following Strategic Goal(s).

- A thriving and modern maritime seaport.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A financially sustainable Port that drives job creation and regional economic vitality.

### **DISCUSSION:**

#### Background

Located near the Crosby Road entrance to the TAMT at the southern end of the District's property (Attachment A) are three (3) welded steel storage tanks that were fabricated and erected by Graver Tank and Manufacturing Company in 1961. Originally furnished and installed for the Pacific Molasses Company, the welded steel storage tanks held liquid commodities like molasses and palm oil. Along with other related facilities, mechanical features, piping, and equipment, the welded steel storage tanks have long been abandoned and out of commission for more than 30 years. The abandoned molasses storage tanks have been studied and considered for demolition and replacement with pavement laydown space for many years. In 2019, the tanks were shrink wrapped in order to contain the spread of their corrosion, peeling paint and other hazardous materials. The demolition of these storage tanks and concrete paving of the area for use as laydown area/dry bulk storage will allow for TAMT to better support its current maritime customers as well as attract new maritime trade business.

Demolition of the storage tanks is a project element of the Sustainable Terminal Capacity Scenario Project that was approved when the FEIR for the TAMT Redevelopment Plan and Demolition and Initial Rail Component was certified by the Board on December 13, 2016.

### Proposed Project

The project specifically includes the following: demolish and remove three existing steel storage tanks and associated piping and utilities and containment wall; salvage steel material and abate lead-containing materials; relocate electrical transformer; make storm drain and stormwater quality improvements; grade the area; and, construct reinforced Portland cement concrete pavement for use as laydown area. (See Attachment B for project work limits.)

### Coastal Development Permit

The project constitutes development under Section 30106 of the California Coastal Act as it will result in the demolition of structures and placement of solid material. Chapter 8 of the Coastal Act regulates port development within the California coastal zone. Section 30715 of Chapter 8 specifies the sole categories of development that may be appealed to the Coastal Commission. Demolition of storage tanks and installation of cement paving and stormwater improvements are not listed as appealable in Section 30715. Accordingly, the Coastal Act authorization required from the District is a Non-Appealable CDP.

The Project is fully consistent with California Coastal Act Sections 30604(c), 30210-30224, and the public access and recreation policies referenced therein. A copy of the Draft CDP is provided as Attachment C. Special provisions are incorporated into the Draft CDP to ensure the project's conformance with the FEIR's Mitigation, Monitoring and Reporting Program and related District requirements.

The project is located in Planning District 4, Tenth Avenue Marine Terminal, which is delineated on Precise Plan Map Figure 13 of the certified PMP. The land use is designated Marine Terminal Industrial. The uses associated with the physical improvements described above conform to the underlying land use designation and precise plan text and would serve to facilitate implementation of the certified PMP. Therefore, the project is consistent with the District's certified PMP.

The issued CDP will be included as part of the specifications when a request for bid for the project is published within the next few months.

### **General Counsel's Comments:**

The Office of the General Counsel has reviewed this agenda sheet and attachments, as presented to it, and approves the same as to form and legality.

### **Environmental Review:**

The proposed Board action, including without limitation, to authorize issuance of a non-appealable CDP was adequately analyzed in the FEIR for the TAMT Redevelopment Plan and Demolition and Initial Rail Component (UPD# EIR-2015-39; SCH# 2015-031046, Clerk Document No. 65901) certified by the Board on December 13, 2016 (Resolution No. 2016-199). The proposed project is not a separate project for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist. (2012) 206 Cal.App.4th 1036.) Additionally, pursuant to

CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR, the District finds and recommends that the proposed Board action does not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the previous FEIR due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the previous FEIR, (b) identifies significant impacts more severe than those analyzed in the previous FEIR, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, or (d) shows mitigation measures or alternatives which are considerably different from those analyzed in the previous FEIR would substantially reduce one or more significant effects on the environment. Because none of these factors have been triggered, pursuant to CEQA Guidelines §15162(b), the District has determined no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step in the furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

The proposed Board action complies with Section 87 which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

**Diversity, Equity, and Inclusion Program:**

This agenda sheet has no direct impact on District workforce and contract reporting at this time.

**PREPARED BY:**

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- Attachment(s):  
Attachment A: Project Location  
Attachment B: Project Footprint and Work Limits  
Attachment C: Draft Coastal Development Permit