

San Diego Unified Port District

CEQA and COASTAL DETERMINATIONS and NOTICE OF APPROVAL

Project: Tideland Use and Occupancy Permit to C & W Diving Services, Inc. for Mooring and Operations at Crosby Street Pier and Tuna Harbor
Location(s): 1449 Cesar E. Chavez Parkway, San Diego, CA 92101
1325 Pacific Highway, San Diego, CA 92101
Parcel No.(s): 018-035 and 020-239
Project No.: 2017-178
Applicant: Fred West, Principal, C & W Diving Services, Inc., 1706 Hoover Avenue, National City, CA 91950
Date Approved: November 6, 2017

Project Description

The proposed project is a Tideland Use and Occupancy Permit (TUOP) to C & W Diving Services, Inc. (Tenant) for their use of approximately 4,460 square feet of water area located in the city of San Diego, California. The area proposed for use under this TUOP is proposed to be used only and exclusively for the purpose of mooring, crewing, provisioning, vessel maintenance, and parking and for no other purpose whatsoever without the prior written consent of the Executive Director of District in each instance. The Tenant would be responsible for compliance with all laws and regulations associated with the activities on or in connection with the above-described premises, and in all uses thereof, including those regulating stormwater and hazardous materials. No new development, construction, uses, or increase in the size of the Tenant's leasehold or the TUOP area is proposed or authorized as part of this TUOP.

It is anticipated that the TUOP would commence on December 1, 2018 and terminate on November 30, 2021, for a total term of four (4) years. The TUOP may be terminated by the Executive Director of District or her duly authorized representative, or Tenant, as a matter of right and without cause at any time upon the giving of thirty (30) days' notice in writing to the other party of such termination.

The following categorical determinations are based on the TUOP 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 Section 15301 (Existing Facilities) and Section 3.a. (4) of the District's *Guidelines for Compliance with CEQA* because the project is a TUOP for the purpose of mooring, operations, public exhibition, crew operated excursions, and charter excursions of one (1) historic swift boat vessel that would involve no expansion of use beyond that previously existing. Section 3.a. (4) of the District's CEQA Guidelines is as follows:

- 3.a. Existing Facilities (SG § 15301) (Class 1): Includes operation, repair, maintenance, or minor alteration of existing public and 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.

The Categorical Exemption listed above is appropriate for the proposed project because it is a TUOP for the purpose of mooring, crewing, provisioning, vessel maintenance, and parking that would involve no expansion of use beyond that previously existing. 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 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 project is consistent with the Public Trust Doctrine.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN

The proposed project sites are located in Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 and Planning District 4, which is delineated on Precise Plan Map Figure 13 of the certified Port Master Plan. The Port Master Plan water use designations within the limits of the proposed project are Commercial Fishing Berthing, Specialized Berthing, and Terminal Berthing. The project conforms to the certified Port Master Plan because it is issuance of a TUOP for the purpose of mooring, crewing, provisioning, vessel maintenance, and parking consistent with the existing certified water use designations. The proposed project would not change the use of the sites nor would it interrupt or expand the existing conforming use of the site.

CATEGORICAL DETERMINATION

The above project proposes a TUOP for the purpose of mooring, crewing, provisioning, vessel maintenance, and parking that would involve no expansion of use beyond that previously existing. This project is consistent with the existing certified water use designations and is Categorical Excluded under Section 8.a. 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.

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: Cameron McLeod
Date: 11/06/2019

Deputy General Counsel

Signature: W.S. McLeod
Date: 10-2-17