

San Diego Unified Port District

**CEQA and COASTAL DETERMINATIONS
and
NOTICE OF APPROVAL**

Project: Easement Agreement to Pacific Bell Telephone Company for Utilities at Tuna Harbor
Location(s): Tuna Lane, San Diego, CA 92101
Parcel No.(s): 018-039
Project No.: 2018-080
Applicant: Tom Hallaver, Right of Way Manager, AT& T, 7337 Trade St, San Diego, CA 92121
Date Approved: May 7, 2018

Project Description

The proposed project is an Easement Agreement to Pacific Bell Telephone Company dba AT&T Inc. (Grantee) for the use of a utility easement that covers approximately 4,145 square feet of tideland area located in the city of San Diego, California. The area proposed for use under this Easement Agreement would be used by the Grantee for construction, operation, maintenance, repair, replacement, and inspection of utility equipment and appurtenances. The Easement Agreement further grants the Grantee the right of ingress and egress to, from, and along said easement area via practical routes across the adjacent District lands. The Grantee may be required to demolish any or all facilities, structures, installations, or improvements within sixty (60) days after the expiration of the term of the Easement Agreement or sooner.

The term of the Easement Agreement would be five (5) years unless terminated earlier.

The following categorical determinations are based on the Easement Agreement 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 Sections 3.a. (4), (6), and (7), 3.b., 3.c., and/or 3.d. of the District's *Guidelines for Compliance with CEQA* because the project is an Easement Agreement for the purpose of utilities that would involve no expansion of use beyond that previously existing. Sections 3.a. (4), (6), and (7), 3.b., 3.c., and 3.d. 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.
 - (6) Demolition and removal of individual structures listed in the subsection except where the structures are of historical, archaeological, or architectural significance. These include, but are not limited to, commercial, industrial, airport, or marine terminal structures or facilities if designed for an occupancy load of 30 persons or less, and not in conjunction with the demolition of improvements on an entire site. Examples

are warehouses, sheds, miscellaneous work buildings, piers, floats, piles, marine ways, electrical, mechanical, or utility systems, railroad improvements, dilapidated vessels, navigation aids, or similar related structures.

- (7) Existing facilities used to provide electric power, natural gas, sewerage, or other public utility service.

AND/OR

- 3.b. Replacement or Reconstruction (SG § 15302) (Class 2): Includes replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site and will have substantially the same purpose and capacity as the structure being replaced.

AND/OR

- 3.c. New Construction or Conversion of Small Structures (SG 15303) (Class 3): Includes construction of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and conversion of existing small structures from one use to another with minor modifications to the exterior structure.

AND/OR

- 3.d. Minor Alterations to Land (SG § 15304) (Class 4): Includes minor alterations in the condition of land, water and/or vegetation not involving removal of mature, scenic trees, including.

The Categorical Exemptions listed above are appropriate for the proposed project because it is an Easement for the purpose of utilities that would involve no expansion of use beyond that previously existing, would not result in change of the existing use, would not involve the demolition or removal of structures of historical, archaeological, or architectural significance, would be located on the same site and have substantially the same purpose as the facilities being replaced or reconstructed, and would not involve the removal of mature, scenic trees. Furthermore, the Easement would not result in any significant cumulative impacts 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, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments 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 site 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 use designations within the limits of the proposed project are Commercial Fishing, Commercial Recreation, and Street. The project conforms to the certified Port Master Plan because it is an Easement Agreement for utilities consistent with the existing certified land use designations. The

project would not change the use of the site nor would it interrupt or expand the existing conforming use of the site.

CATEGORICAL DETERMINATION

The proposed project consists of an Easement Agreement for utilities that would involve no expansion of use beyond that previously existing. This project is consistent with the existing certified land use designations and is Categorical Excluded under Section 8.a (2) and (9), 8.b., 8.c., 8.d., and 8.f. 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.
 - (2) Public and private utilities used to provide electric power, natural gas, sewer, or other utility services.
 - (9) Demolition and removal of individual small structures, except where structures are of historical, archaeological, or architectural significance.

AND/OR

- 8.b. Replacement or Reconstruction: Replacement or reconstruction of existing structures and facilities where the new structure will be located essentially on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.

AND/OR

- 8.c. New Construction or Conversion of Small Structures: Construction and location of limited number of new, small facilities or structures and installation of small, new equipment and facilities, involving negligible or no change of existing use of the property.

AND/OR

- 8.d. Minor Alterations to Land: Minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of mature, scenic trees.

AND/OR

- 8.f. Inspection: Activities limited to inspection, checking or performance or quality of an operation, examining the health and safety of a project, or related activities.

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: 5/7/2018

Deputy General Counsel

Signature: W.D. McLeod
Date: 5-7-18