



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

Project: Right of Entry to United States Navy for Training at Various Locations
Location: Embarcadero from West Hawthorn Street to Tuna Harbor, San Diego, CA 92101
 1800 Crosby Road, San Diego, CA 92101
 3299 Tidelands Avenue, National City, CA 91950
Parcel No.: Various
Project No.: 2020-089
Applicant: Matt Lutey, Realty Specialist, NAVFAC Southwest, 1220 Pacific Highway, San Diego, CA 92132
Date Approved: August 11, 2020

PROJECT DESCRIPTION

The proposed project is a Right of Entry (ROE) to the United States Navy (Licensee), its authorized agent(s) and contractor(s), to enter upon the water areas adjacent to the Embarcadero from West Hawthorn Street to Tuna Harbor near the San Diego Mooring Company, Star and Crescent Boat Company, and Hornblower Yachts leaseholds, and land and water area near the Sweetwater Channel at Pepper Park, Pepper Park and Boat Launch, and Tenth Avenue Marine Terminal including Berths 1 through 8 (Premises) for Navy training in the cities of San Diego and National City, California. The area proposed for use under this ROE would be used by the Licensee and their authorized agent(s) and contractor(s) for the purpose of non-exclusive use of the Premises for detection dog training, combat swimming training, and training for diving exercises, including vehicle parking at Pepper Park for a minimal number of vehicles during training; other training activities may be approved on a case-by-case basis by the San Diego Unified Port District (District). In addition, the ROE would provide Licensee ingress and egress in support of those activities. Pursuant to the ROE, all activities would be conducted during the evening hours (6:00 p.m. to 3:00 a.m.). Also, for training activities at Pepper Park, the Licensee, its employees, agents, and contractors, would be allowed a non-exclusive right to park a minimal number of vehicles in the Pepper Park parking lot between the hours of 10:30 p.m. and 6:00 a.m. while such persons are engaged in activities as described above and while the park is closed to the public.

All areas within the Premises may not be available at any given time for training purposes. As such, the Licensee would be required to notify the District within 72 hours prior to entering the Premises for training activities. Prior to commencement of training activities the Licensee would be required to notify the Captain of the Port, United States Coast Guard, Port of San Diego Harbor Police, Port of San Diego Marine Operations and National City Police Department. A Concept of Operations must be provided to the Port of San Diego Facility Security Officer at least 72 hours in advance of training at the Tenth Avenue Marine Terminal and at least two (2) weeks' advance notice shall be given for operations requiring District coordination. District approval is required prior to commencement of each training session for the specific areas and times of use.

Furthermore, the Licensee would be responsible for abiding by and conforming to all laws and regulations associated with the activities on or in connection with the above-described premises, including hazards and hazardous materials and stormwater. No new development, construction, or increase in the size of the areas are proposed or authorized as part of the ROE.

It is anticipated that the ROE would have a total term of approximately five (5) years. The ROE may be terminated by the District as a matter of right and without cause at any time upon providing twenty-four (24) hours' notice in writing to the Licensee of such termination.

The following categorical determinations are based on the project submittal and all project information known to the District as of the date of this determination.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

CATEGORICAL DETERMINATION

Categorical Exemption: SG §15301, Class 1/Section 3.a: Existing Facilities

3.a. Existing Facilities (SG § 15301) (Class 1): Includes 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, 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 exception is also inapplicable if the cumulative impact of continuing the existing use or conditions in the same place, over time, is significant.

The proposed project is determined to be Categorically Exempt pursuant to the CEQA Guidelines and the Section of the District's *Guidelines for Compliance with CEQA* as identified above. This is appropriate for the proposed project because it consists of a ROE for non-exclusive use of land and water areas on District tidelands for training purposes and parking, and would involve no expansion of use beyond that previously existing and would not result in a significant cumulative impact 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.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN CONSISTENCY

Planning Districts: 3 - Centre City Embarcadero (Precise Plan Figure 11); 4 - Tenth Avenue Marine Terminal (Precise Plan Figure 13); and 5 - National City Bayfront (Precise Plan Figure 15)

Land and Water Use Designations: Park/Plaza; Promenade; Specialized Berthing; Terminal Berthing Commercial Fishing Berthing; Commercial Recreation; Recreational Boat Berthing; Boat Launching Ramp; Marine Terminal; and Boat Navigation Corridor

The proposed project conforms to the certified Port Master Plan because it consists of a ROE for non-exclusive use of land and water areas on District tidelands for training purposes and parking, consistent with the existing certified Land and Water use designations. The proposed project would not change the use of the site nor would it interrupt or expand the existing conforming use of the site.

CATEGORICAL DETERMINATION

Categorical Exclusion: Section 8.a: Existing Facilities

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.

The proposed project is determined to be Categorically Excluded pursuant to the Section of the District's *Coastal Development Permit Regulations* as identified above. This is appropriate for the proposed project because it consists of a ROE for non-exclusive use of land and water areas on District tidelands for training purposes and parking and would involve 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.

CALIFORNIA PUBLIC TRUST DOCTRINE

The proposed project complies with Section 87.(a)(6) of the Port Act, which allows for the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses, including, but not limited to, snack bars, cafes, restaurants, motels, launching ramps, and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways, and landscaped areas. 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.

RANDA CONIGLIO
President/CEO

Determination by:

Michael Paul
Assistant Planner
Development Services

Signature: Michael Paul
Date: Aug 11, 2020

Deputy General Counsel

Signature: Chris Burt
Date: Aug 11, 2020