



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

Project: Subleases for Charter Vessel Operations on Tidelands
Location: Various Marinas and Leaseholds Across District Tidelands
Parcel No.: Various
Project No.: 2021-123
Applicant: Annette Dahl, Real Estate, San Diego Unified Port District, 3165 Pacific Highway, San Diego, CA 92101
Date Approved: Nov 16, 2021

PROJECT DESCRIPTION

In May 2021, the District amended Port Code Section 4.37 (Charter Vessel Operations) to prohibit all charter vessels from using public docks and set minimum requirements that all charters must meet. Furthermore, Port Code Section 4.37 was adopted to protect consumers, to ensure that charters operated safely and in compliance with all applicable US Coast Guards requirements, and to ensure that charter vessels were prohibited from using public docks, therefore maintaining availability for public use. An important component of Port Code Section 4.37 is the issuance of Charter Vessel Operation Decals (decals) to charter operators. The decals, if issued to charter operators and applied to a charter vessel, indicates compliance with the requirements of Port Code Section 4.37, including compliance with any applicable lease provision(s) that may govern operation of charter operations in a marina.

The proposed project is District consent to subleases between District tenants (marinas, sport fishing landings, and other tenants with dockage areas and leases that allow charters) and charter vessel operators, for which subleases are required under the charter provisions in leases for existing leaseholds. There are approximately 300 or more charter vessels *currently operating* at marinas within San Diego Bay. The charters are operated by approximately 100 or more charter operators. Port Code Section 4.37 and District leases require that charter operators obtain subleases from the marinas (and the District's consent to such subleases) if they are to operate from District tenant properties. The proposed project would allow for the District's consent of subleases for all existing charter operators, as well as for the change of individual operators and negligible addition of operators on existing allowable leaseholds. As currently operating, capacity for expansion is limited to the existing dockage infrastructure around San Diego Bay, which is largely at full operating capacity as currently operating.

Approving these subleases for charter operators would allow District tenants to comply with their lease provisions, and would allow charter vessels to continue to utilize marina docks, thus implementing the purposes of Section 4.37 and preserving public docks for public use. The proposed subleases would be located at existing marinas, sport fishing landings, and tenants with dockage areas on leaseholds that permit charters across Port Tidelands. Approving these subleases would also be consistent with the Port Master Plan, which specifically contemplates charter vessels and operations across several different land and water uses. Furthermore, the approximate number of sportfishing charter vessels has remained consistent since 1978, as analyzed for the Port Master Plan at the time and subsequent Port Master Plan Updates. No new physical development, construction, or increase in the size of any of the properties is proposed or authorized as part of these subleases.

The following categorical determinations are based on the lease 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

The proposed project is determined to be Categorical 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 involves subleases to bring existing charter vessel operations into conformance with Port Code. 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 District: 1 - Shelter Island/La Playa (Precise Plan Figure 4); 2 - Harbor Island/Lindbergh Field (Precise Plan Figure 9); 3 - Centre City Embarcadero (Precise Plan Figure 11); 5 - National City Bayfront (Precise Plan Figure 15); 6 - Coronado Bayfront (Precise Plan Figure 17); 7 - Chula Vista Bayfront (Precise Plan Figure 19); 8 - Silver Strand South (Precise Plan Figure 21)

Land and Water Use Designations: Recreational Boat Berthing; Sportfishing; and/or Sportfishing Berthing; Commercial Recreation

The proposed project conforms to the certified Port Master Plan because it involves subleases for existing charter vessel operations as required by various existing District leases. The proposed project would not change the use of the site nor would it interrupt or expand the existing conforming use of the site, as contemplated by the Port Master Plan. The Port Master Plan recognizes that charter vessels and operations are either primary uses or allowable secondary uses across several different land and water uses. Furthermore, charter vessel operation is a water dependent use that extends the opportunity to participate in boating activities to the public.

CATEGORICAL DETERMINATION

Categorical Exclusions: 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 Categorical Excluded pursuant to the Sections of the District's Coastal Development Permit Regulations as identified above. These are appropriate for the proposed project because it involves subleases for existing charter vessel operations as required by various existing District leases that would result in 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.

JOE STUYVESANT
President/CEO

Determination by:
Juliette Orozco
Associate Planner
Development Services

Deputy General Counsel

Signature: Juliette Orozco
Date: Nov 16, 2021

Signature: Christopher Burt
Date: Nov 15, 2021