



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

Project: Tidelands Use and Occupancy Permit (TUOP) to Michels Construction, Inc. for Project Staging in Tenth Avenue Marine Terminal
Location: Switzer Street west of Harbor Drive, San Diego, CA 92101
Parcel No.: 020-215
Project No.: 2023-002
Applicant: Brandon Young, Senior Project Manager, Michels Construction, Inc., 210 West Becher St, Suite 800, Milwaukee, WI 53207
Date Approved: Jan 17, 2023

PROJECT DESCRIPTION

The proposed project is a Tidelands Use and Occupancy Permit (TUOP) to Michels Construction, Inc. (Tenant) for their use of approximately 22,540 square feet (sq ft) of land area located at Tenth Avenue Marine Terminal in the city of San Diego, California. The area proposed for use under this TUOP is currently and is proposed to continue to be used exclusively for the purpose of storage of pipe and construction-related equipment, installation of perimeter fencing, and vehicle parking in support of work associated with the City of San Diego Harbor Drive Trunk Sewer Replacement Project (Project No. 2020-075, Coastal Act Categorical Determination of Exclusion issued August 31, 2020) and for no other purpose whatsoever without the prior written consent of the Executive Director of District in each instance. The proposed project would allow Michels Construction, Inc. (Tenant), as contracted by the City of San Diego, to use the area under this TUOP for staging to complete and support a previously approved project. 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, or increase in the size of the property is proposed or authorized as part of the TUOP.

It is anticipated that the TUOP would have a total term of approximately one (1) year and six (6) months. The TUOP may be terminated by the District or Tenant as a matter of right and without cause at any time upon providing ten (10) days' notice in writing to the other party 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 would consist of a TUOP for temporary project staging that would involve no expansion of use beyond that previously. 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: 4 - Tenth Avenue Marine Terminal (Precise Plan Figure 13)

Land Use Designation: Marine Related Industrial

The proposed project conforms to the certified Port Master Plan because it would involve a TUOP for temporary project staging consistent with the existing certified land use designation. The proposed project would not change the use of the site nor would it interrupt or expand the existing conforming uses of the site.

CATEGORICAL DETERMINATION

Categorical Exclusion: Section 8.a: Existing Facilities

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, including but not limited to:

- (5) 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 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 would consist of a TUOP for temporary project staging that would not involve the removal of mature, scenic trees.

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)(2) of the Port Act, which allows for all visitor-serving commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities. 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:
Lillian Mattes
Assistant Planner
Development Services

Signature: Lillian Mattes
Date: Jan 17, 2023

Deputy/Assistant General Counsel

Signature: Rebecca Harrington
Date: Jan 17, 2023