



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

Project: Right of Entry (ROE) to City of Imperial Beach for Staging and Production of Annual Fourth of July Fireworks Display at Imperial Beach Pier

Location: Imperial Beach Pier, Imperial Beach, CA 91932

Parcel No.: Various

Project No.: 2023-020

Applicant: Erika N. Cortez-Martinez, Chief Administrative Officer, City of Imperial Beach, 825 Imperial Beach Boulevard, Imperial Beach, CA 91932

Date Approved: Apr 20, 2023

PROJECT DESCRIPTION

The proposed project is a Right of Entry (ROE) to City of Imperial Beach (Grantee) to enter certain land and water areas located in the city of Imperial Beach, California. The area proposed for use under this ROE would be used by the Grantee and their authorized agent(s) and contractor(s) for the purpose of staging and production of a fireworks display to be fired electronically from the Imperial Beach Pier annually, as well as ingress and egress in support of those activities. No new development, construction, or increase in the size of the area is proposed or authorized as part of the ROE.

The term of the ROE is for a 3-day period over five (5) consecutive years commencing at approximately 8:00 p.m. on July 3, 2023, and terminating at approximately 8:00 p.m. on July 5, 2027, as shown below or upon completion of the proposed annual fireworks show, whichever occurs earlier.

- Year 1: 8:00 p.m. July 3, 2023 to 8:00 a.m. July 5, 2023
- Year 2: 8:00 p.m. July 3, 2024 to 8:00 a.m. July 5, 2024
- Year 3: 8:00 p.m. July 3, 2025 to 8:00 a.m. July 5, 2025
- Year 4: 8:00 p.m. July 3, 2026 to 8:00 p.m. July 5, 2026
- Year 5: 8:00 p.m. July 3, 2027 to 8:00 p.m. July 5, 2027

The ROE may be terminated by the District as a matter of right and without cause at any time upon providing seventy-two (72) hours' notice in writing to the Grantee of such termination.

The Grantee is responsible for complying with all applicable provisions as identified in the Port Ordinance, Article 14 "San Diego Unified Port District Fireworks Display Event Ordinance" adopted by the Board of Port Commissioners on May 25, 2017. The Grantee shall obtain all necessary permits and is required to request a fireworks application, subject to review and approval by the District, prior to each annual fireworks display.

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

The proposed project is not a separate "project" for CEQA purposes but is a subsequent discretionary approval related to an approved project. (CEQA Guidelines § 15378(c); Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist. (2012) 206 Cal.App.4th 1036.) The project was analyzed in a Final Environmental Impact Report (Final EIR) for the San Diego Bay and Imperial Beach Oceanfront Fireworks Display Events Project (SCH No. 2015081013; UPD EIR-2015-115, Clerk's Document No. 66738). On May 25, 2017, by Resolution No. 2017-075, the Board certified the Final EIR, adopted the Findings of Fact and Statement of Overriding Considerations, and a Mitigation Monitoring Reporting Program. Accordingly, the proposed project is merely a step in furtherance of the original project for which environmental review was performed and no further environmental review is required.

Additionally, none of the conditions described in CEQA Guidelines Section 15162(a) have occurred

and thus based on the review of the entire record, the District finds that the proposed project would not require further environmental review and no supplemental or subsequent CEQA has been triggered.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN CONSISTENCY

Planning District: Imperial Beach Oceanfront (Precise Plan Figure 25)

Land and Water Use Designations: Commercial Recreation; Sportfishing Berthing; and Open Bay/Water

The proposed project conforms to the certified Port Master Plan because it would involve a ROE agreement for the staging and production of an annual fireworks display at Imperial Beach Pier 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 uses of the site.

CATEGORICAL DETERMINATION

Categorical Exclusion: Section 8.d: Minor Alterations to Land

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) Minor temporary uses of land and water having negligible or no permanent effects on the environment, including festivals, boating activities, parades, and running or bicycling events

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 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)(5) of the Port Act, which allows for the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances 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.

JOE STUYVESANT
President/CEO

Determination by:
Lillian Mattes
Assistant Planner
Development Services

Signature: Lillian Mattes
Date: Apr 20, 2023

Deputy/Assistant General Counsel

Signature: Rebecca Harrington
Date: Apr 20, 2023