



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

**Project:** Tidelands Use and Occupancy Permit for Public Access Improvements at Nichols Street Pier  
**Location:** Nichols Street Pier, San Diego, CA 92106  
**Parcel No.:** 001-002  
**Project No.:** 2025-041  
**Applicant:** Jim Whalen, President, The Peckman House, LLC, (619) 683-5544  
**Date Approved:** 5/16/2025

**PROJECT DESCRIPTION**

The proposed project involves improvements to Nichols Street Pier in the city of San Diego, California. The existing pier, gangway, and private dock are in need of minor repairs. Work to specifically complete the proposed project would involve the installation of air tubs to level the existing private dock, four (4) pile caps, seal deterrent around perimeter of dock, new public access signage on pier, aluminum gates with a manual lock, and new lighting compliant with Title 24 requirements from the California Building Code, with ongoing inspections, maintenance, repairs, and replacement as-needed. The existing piles, pier and private dock would remain in place, and there would be no increase in fill or shading as a result of the proposed project. The proposed improvements to the pier/dock are minor, would be conducted above the waterline, and done from the pier or with divers. The existing lighting would also be replaced, and additional lighting would be installed to safely illuminate the walking area on the pier. All lighting would not exceed 2700 Kelvins and would not overspill into San Diego Bay.

The project has no adverse impacts to water quality or sensitive habitat within San Diego Bay. As part of the project, construction BMPs to be implemented include visual water quality monitoring and inspections and an organized construction site. If stockpiling materials or staging are necessary for the project, it will occur on the landside, on the Tenant's private property and not on Tidelands. If necessary, a tarp and/or scaffolding catch-system may be set up to ensure construction materials do not fall into the water below. Construction of the proposed project is anticipated to be complete in Summer 2025 and would take approximately one month to complete, with ongoing maintenance as needed.

In addition to repair work, the proposed project would include issuance of a Tidelands Use and Occupancy Permit (TUOP) to The Peckham House, LLC (Tenant) for their use of approximately 3,810 square feet (sq ft) located in the city of San Diego, California. The TUOP would support long-term efforts to allow public access onto the pier. The project site/Premises consists of a gate that can be locked, ramp, float, and pier. All portions of the project site/Premises east of the gate shall be used only and exclusively for the purpose of a gate, ramp and float and the berthing of recreational boats and such other non-exclusive uses as may be approved from time to time by the Executive Director of the District or his/her designee and for no other purpose whatsoever without the prior written consent of the Executive Director of the District or his/her designee in each instance. Boats to be berthed at the pier would be owned by the Tenant as evidenced by proof of documentation and restricted to the boundaries of the permitted Premises; the Executive Director of District or his/her designee may approve, in writing, the berthing of other recreational boats owned by guests or invitees of the Tenant. All portions west of the gate, including the pier, are for the: (i) Tenant to access the gate, ramp and float, and (ii) general use by the public. The Tenant would have the authority to lock the gate as long as public access is maintained to the pier. All portions of the pier to the west of the gate shall be subject to rules and regulations which may be established from time to time by the District.

As part of the proposed project, the following shall apply prior to use of the existing pier, gangway, and private dock:

- Pursuant to Coastal Development Permit (CDP) No. PRJ-1097375 dated April 22, 2024, Tenant shall be required to complete the construction of a new public access stairway to an existing private wooden pier at the unimproved intersection of Nichols Street and San Antonio Avenue ("Access Stairs") needed for the general public to access the pier. Tenant acknowledges and

agrees that the Access Stairs will primarily be constructed on property owned by the City of San Diego, and the Access Stairs must be completed prior to Tenant accessing the gate, ramp and float.

- The District shall have the right to make a final inspection of the Premises to verify proposed improvements detailed above have been satisfactorily completed (such inspection and associated approval not to be unreasonably withheld or delayed). Both (i) written verification of the Engineer that the repairs have been completed and (ii) District's approval of such repairs following a final inspection (should the District elect to make a final inspection) shall be required prior to Tenant being able to utilize the gate, ramp and float.

Once the Access Stairs are completed, the following shall apply, as part of the project:

- Tenant shall not interfere with the general use and enjoyment by the public of the pier and all areas west of the gate.
- Tenant shall at all times post legible and visible signs stating that the pier is open to the public from one hour before sunrise to one hour after sunset (according to the National Weather Service) and would be consistent with the public access signage on other La Playa piers.
- If at any time the Access Stairs are inaccessible to members of the public for any reason, District may deny Tenant use of the gate, ramp and float until public access to the Access Stairs is restored.
- Tenant shall have the right to temporarily close off and restrict access of the public to the pier and the Access Stairs during any District approved repair work provided that temporary closures are for the minimum time necessary to achieve the repair work.

It is anticipated that the TUOP would have a total term of approximately five (5) years. The TUOP may be terminated by the District or Tenant as a matter of right and without cause at any time upon providing (180) days' notice in writing to the other party of such termination; provided that, in the event that the use set forth in Section 3 of the TUOP is at any time disapproved by the California Coastal Commission, District may terminate this TUOP as a matter of right due to such disapproval upon thirty (30) days' advance written notice. The TUOP is subject to the Port Master Plan, as the same may be updated, the Public Trust Doctrine, and any conditions set forth by the California Coastal Commission and the State Lands Commission. If the TUOP is determined at any time by the California Coastal Commission or the State Lands Commission to be in conflict with a state mandate, doctrine, law, policy, etc., the District may terminate the TUOP with no cost or liability to District, under the provisions of Section 11 of the TUOP. 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.

Due to its nature and limited scope, construction of the proposed project would generate a minor amount of vehicle trips and would require limited use of equipment. Therefore, impacts related to air quality, greenhouse gas emissions, and transportation and traffic are not anticipated to occur. Furthermore, the Applicant would be responsible for complying with all applicable federal, state, and local laws regarding construction demolition debris, hazards and hazardous materials, and stormwater.

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.

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## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

### ***CATEGORICAL DETERMINATION***

Categorical Exemptions: CEQA Guidelines Section 15301 (Class 1)/District Guidelines for Compliance with CEQA Section 3.a: Existing Facilities; CEQA Guidelines Section 15303 (Class 3)/District Guidelines for Compliance with CEQA Section 3.c: New Construction or Conversion of Small Structures; and CEQA Guidelines Section 15311 (Class 11)/District Guidelines for Compliance with CEQA Section 3.i: Accessory Structures

- 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:

- (1) Repair, maintenance or minor alteration of existing mooring facilities, floats, piers, piles, wharves, bulkhead, revetment, buoys, or similar structures; marine terminal facilities; airport facilities; and commercial industrial, or recreational facilities.
- (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.

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 of the structure. Examples of this exemption include:

- (2) Accessory (appurtenant) structures and mechanical equipment including, but not limited to, garages, sheds, railway spur tracks, pilings, temporary trailers, industrial equipment enclosures, fences, parking, on-site roadways, walkways and health and safety devices.

AND/OR

3.i. Accessory Structures (SG § 15311) (Class 11): Includes construction, or placement of minor structures accessory to (appurtenant to) existing facilities, including:

- (1) Construction or placement of minor mooring facilities, floats, buoys or similar structures accessory to (appurtenant to) existing commercial, industrial or institutional facilities.
- (3) On-premise signs.

The proposed project is determined to be Categorically Exempt pursuant to the CEQA Guidelines and the Sections of the District's *Guidelines for Compliance with CEQA* as identified above. These are appropriate for the proposed project because it would consist of a TUOP and public access improvements that would involve negligible expansion of use beyond that previously existing, would not result in a significant cumulative impact due to the continuation of the existing use, would consist of the installation of small new equipment, and would include the placement of minor structures accessory to existing facilities. 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)

Land and Water Use Designations: Open Bay/Water and Open Space

The proposed project conforms to the certified Port Master Plan because it would involve a TUOP and public access improvements 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 Exclusions: Section 8.a: Existing Facilities and Section 8.c: New Construction or Conversion of Small Structures

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, including but not limited to:

- (2) Public and private utilities used to provide electric power, natural gas, sewer, or other utility services

AND/OR

8.c. New Construction or Conversion of Small Structures: Construction and location of limited numbers 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, including but not limited to:

- (3) Accessory structures, including, but not limited to, on-premise signs, small parking lots, fences, walkways, swimming pools, miscellaneous work buildings, temporary trailers, small accessory piers, minor mooring facilities, buoys, floats, pilings, or similar structures; and seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar structures

The proposed project is determined to be Categorically 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 would consist of a TUOP and public access improvements that would involve a negligible expansion of use beyond that previously existing and would involve no change of existing use of the property.

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.

For the portion of the proposed project located outside of the District's Coastal Act approval authority, additional approvals may be required from other agencies.

#### **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.

SCOTT CHADWICK  
President/CEO

Determination by:

Lillian Mattes  
Associate Planner  
Planning

Signature: Lillian Mattes

Date: 5/16/2025

Deputy/Assistant General Counsel

Signature: Rebecca Harrington

Date: 5/16/2025