

DRAFT**ORDINANCE xxxx**

ORDINANCE FINDING THE BOARD ACTION EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), INCLUDING WITHOUT LIMITATION CEQA GUIDELINES SECTIONS 15301, 15302, 15303, and 15304 AND GRANTING A NINE (9) YEAR AND ELEVEN (11) MONTH EASEMENT TO SAN DIEGO GAS & ELECTRIC FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF UNDERGROUND AND ABOVEGROUND ELECTRICAL FACILITIES TO SERVICE BAE SYSTEMS SAN DIEGO SHIP REPAIR, IN THE CITY OF SAN DIEGO, CALIFORNIA

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1 (Port Act); and

WHEREAS, Section 21 of the Port Act authorizes the Board of Port Commissioners (Board) to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, District staff and San Diego Gas & Electric (SDG&E) have negotiated a new easement (see Attachment A – Easement, attached to the corresponding agenda sheet on file with the Office of the District Clerk (“Agenda Sheet”)) for a term of nine (9) years and eleven (11) months (Easement) for the installation, operation and maintenance of underground and aboveground electrical facilities (collectively, “Electrical Facilities”) for approximately 1,102 square feet of land located on Belt Street in the City of San Diego (see Attachment B - Location Map, attached to Agenda Sheet); and

WHEREAS, the Electrical Facilities will serve the adjacent District tenant BAE Systems San Diego Ship Repair (BAE); and

WHEREAS, the proposed Board action, including without limitation, adopting an ordinance granting the Easement to SDG&E, is categorically exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), 15303 (New Construction or Conversion of Small Structure), and 15304 (Minor Alterations to Land) and Sections 3.a. (7), 3.b., 3.c. (3), and 3.d. (7) of the District’s Guidelines for Compliance with CEQA because the project would: (1) consist of the modification of existing electrical facilities and installation of small new electrical structures, and an easement that would involve no expansion of use beyond that

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previously existing and would not result in a significant cumulative impact due to the continuation of the existing use, (2) consist of the reconstruction of an existing structure, (3) be located on the same site as the structure replaced, and have substantially the same purpose and capacity, and (4) consist of installation of small new equipment and facilities in small structures, and result in no permanent effects on the environment or the removal of mature, scenic trees. None of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 153002), and no further action under CEQA is required; and

WHEREAS, the proposed Board action complies with Sections 21, 35 and 87 of the Port Act, which allow the Board to pass ordinances and to do all acts necessary and convenient for the exercise of its powers, and which authorizes the use of tidelands for all 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 action is consistent with the Public Trust Doctrine; and

WHEREAS, the proposed Board action is considered "excluded development" pursuant to Sections 8.a. (2) (Existing Facilities), 8.b. (Replacement or Reconstruction), 8.c. (2) (New Construction or Conversion of Small Structures), and 8.d. (6) (Minor Alterations to Land) of the District's Coastal Development Permit Regulations because the project would consist of the Easement that would involve negligible or no expansion of use beyond that previously existing, would be located essentially on the same site as the structure replaced and would have substantially the same purpose and capacity as the structure replaced, would involve negligible or no change of existing use of the property, and would not involve the removal of mature, scenic trees. Therefore, no further action under the Coastal Act is required; and

WHEREAS, staff recommends the Board adopt an Ordinance finding the Board action exempt under the California Environmental Quality Act (CEQA), including but not limited to, CEQA Guidelines Sections 15301, 15302, 15303, and 15304 and granting the Easement to SDG&E.

NOW, THEREFORE, the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

1. The Board finds that the facts recited above are true and further finds that the Board has jurisdiction to consider, approve, and adopt the subject of this Ordinance.

2. Based on the entire record available to the Board and the findings set forth in this Ordinance, the Board finds that the Board action granting a nine

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(9) year and eleven (11) month easement to San Diego Gas & Electric for the installation, operation, and maintenance of underground and aboveground Electrical Facilities for approximately 1,102 square feet of land located on Belt Street in the City of San Diego, California, exempt under the California Environmental Quality Act (CEQA), including but not limited to, CEQA Guidelines Sections 15301, 15302, 15303, 15304 and Sections 3.a. (7), 3.b., 3.c. (3), and 3.d. (7) of the District's Guidelines for Compliance with CEQA.

3. Based on the entire record available to the Board and the findings set forth in this Ordinance, the Executive Director or their designated representative is hereby authorized to administratively approve and execute a nine (9) year and eleven (11) month easement to San Diego Gas & Electric for the installation, operation, and maintenance of underground and aboveground Electrical Facilities for approximately 1,102 square feet of land located on Belt Street in the City of San Diego, California, substantially in the form attached as Attachment A to the Agenda Sheet.

4. This Ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of August 2024, by the following vote: