

DRAFT**SAN DIEGO UNIFIED PORT DISTRICT****ORDINANCE xxxx****ORDINANCE FINDING THE BOARD ACTION EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), INCLUDING BUT NOT LIMITED TO CEQA GUIDELINES SECTION 15301 AND GRANTING A SEVENTEEN (17) YEAR EASEMENT TO SAN DIEGO GAS & ELECTRIC FOR THE OPERATION AND MAINTENANCE OF UNDERGROUND AND ABOVEGROUND ELECTRICAL FACILITIES LOCATED ON SOUTH QUAY AVENUE AND WEST 32ND STREET IN THE CITY OF NATIONAL CITY**

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 I (“Port Act”); and

WHEREAS, Section 87(b) of the Port Act grants authority to the District to lease the tidelands or submerged lands, or parts thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which those lands are held, by the State of California; and

WHEREAS, Section 21 of the Port Act requires that all grants, franchises, leases, permits or privileges for more than five (5) years shall be made by ordinance; and

WHEREAS, District staff and San Diego Gas & Electric (SDG&E) have negotiated a new easement (“Easement”) as shown on Attachment A to the Agenda sheet to which this Ordinance relates (“Agenda Sheet”) for a term of seventeen (17) years for the operation and maintenance of underground and aboveground electrical facilities (collectively, “Electrical Facilities”) on District tidelands located on South Quay Avenue and West 32nd Street in the City of National City (see Attachment B to Agenda Sheet – Location Map); and

WHEREAS, this Easement is a renewal of an expired easement with SDG&E and is for the operation and maintenance of existing Electrical Facilities, which will serve District tenants in National City; and

WHEREAS, the Easement is required for SDG&E to serve Pasha Automotive Services (Pasha) and cargo operations under their Terminal Operator Agreement (TOA) with the District, which expires December 31, 2040, and the Easement is co-terminus with the TOA; and

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WHEREAS, the Electrical Facilities primarily serve the terminal operator and tenant operations on District lands and therefore promote the strategic goals of the District; and

WHEREAS, the proposed Board of Port Commissioner's (Board) action, including without limitation, granting the Easement to SDG&E, is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities) and 3.a.(4) of the District's Guidelines for Compliance with CEQA because the project would consist of a new easement agreement for the existing Electrical Facilities, would involve no expansion of use beyond the previously existing use, would not result in a significant cumulative impact due to the continuation of the existing use, and involves or authorizes no new development; and

WHEREAS, the District has determined none of the six exceptions to the use of a categorical exemption (CEQA Guidelines Section 15300.2) apply to this action; and

WHEREAS, the proposed Board action complies with Section 87 of the Port Act, which allows for the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in that Section; and

WHEREAS, the proposed Board action is consistent with the Port Act and, accordingly, the Public Trust Doctrine; and

WHEREAS, the proposed Board action would renew an existing real estate agreement and does not allow for development, as defined in Section 30106 of the California Coastal Act, or new development, pursuant to Section 1.a. of the District's Coastal Development Permit Regulations, and therefore, issuance of a Coastal Development Permit or an exclusion finding is not required; and

WHEREAS, staff recommends the Board adopt an Ordinance finding the Board action exempt under CEQA Guidelines Section 15301 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.

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2. Based on the entire record available to the Board and the findings set forth in this Ordinance, the Board finds that the action is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections Section 15301 (Existing Facilities) and 3.a.(4) 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 the Easement to SDG&E for the operation and maintenance of underground and aboveground electrical facilities 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 5th day of December 2023, by the following vote: