

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, AUTHORIZING THE SAN DIEGO UNIFIED PORT DISTRICT TO ACCEPT A 66-YEAR EASEMENT WITH TERMINATION RIGHTS FROM IQHQ-RADD I, LLC FOR ROADWAY PURPOSES ALONG NORTH HARBOR DRIVE IN THE CITY OF SAN DIEGO

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, IQHQ-RADD I, LLC (“IQHQ”) is developing a Research and Development District Project (“Project”) situated on more than eight acres of upland property leased from the US Navy along North Harbor Drive (see Attachment A – Location Map, attached to the Agenda Sheet to which this Ordinance relates); and

WHEREAS, the Project includes the development of a 1.7-acre public park located directly adjacent to Tidelands property; and

WHEREAS, the 1.7-acre public park is being developed in accordance with plans and conditions set forth in the North Embarcadero Visionary Plan (“NEVP”); and

WHEREAS, in order to be consistent with NEVP design guidelines, the public park and its associated walkways will be built approximately 6 feet back from IQHQ’s leased property boundary; and

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WHEREAS, this results in an approximately 6-foot-wide section of North Harbor Drive (“NHD”) roadway improvements being located on IQHQ’s Project (see Attachment B – IQHQ’s Block 1A Plans, attached to the Agenda Sheet to which this Ordinance relates, for reference); and

WHEREAS, as a result, IQHQ is proposing to grant a 66-year easement to the District for roadway purposes over the relevant portion of IQHQ’s Project (“Easement”); and

WHEREAS, the proposed Easement, to be in substantially the same form as Attachment C – Easement, attached to the Agenda Sheet to which this Ordinance relates, would: (i) result in the District being responsible for the ongoing maintenance of 1,601 square feet of surface roadway improvements located within the Easement area; (ii) allow the District to install and maintain parking related equipment on IQHQ’s property and operate the roadway improvements within the Easement area as paid public parking; (iii) generate and collect all revenue from up to ten (10) paid public parking spaces, which revenues are estimated to exceed the costs of the District’s maintenance responsibilities under the Easement; and (iv) provide the District with the ability to terminate the Easement by providing a Quitclaim Deed to IQHQ; and

WHEREAS, approval of the Easement would assist an important neighbor in fulfilling their obligations related to the NEVP while giving the District the ability to operate and maintain the relevant roadway improvements for the benefit of the public, similar to the rest of the NHD maintained by the District; and

WHEREAS, the Easement would also ensure the creation of ten (10) additional on-street public parking spaces along NHD to generate District revenue; and

WHEREAS, the proposed Board action, including without limitation, this Ordinance authorizing the San Diego Unified Port District to accept a 66-year easement from IQHQ for roadway purposes along NHD in the City of San Diego, 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 discusses the replacement of twenty-five (25) existing public parking spaces in the Embarcadero that were lost as part of a short-term tenancy agreement; and

WHEREAS, 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); and

WHEREAS, the Project was previously determined to be exempt from CEQA on February 10, 2021; and

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WHEREAS, pursuant to Section 15378(c) of the CEQA Guidelines, the term “project” refers to the activity being approved, which may be subject to several discretionary approvals of governmental agencies and does not mean each separate governmental approval; accordingly, the proposed Board action is a subsequent discretionary approval of a previously approved project and no further action under CEQA is required; and

WHEREAS, the proposed Board action was covered in the Coastal Development Permit (“CDP”) for Parking Meters in North Embarcadero, Tuna Harbor and Ruocco Park – New Rate Range, Modifications to Hours and Days of Operations, Purchase, and Installation of Smart Meters (CDP-2015-01; Clerk Document No. 63900) approved for issuance by the District on May 12, 2015 (Resolution No. 2015-59); Amendment No. 1 was issued February 28, 2017 (Clerk’s Document No. 66227); Amendment No. 2 was issued on July 24, 2019 (Clerk’s Document No. 70901); Amendment No. 3 to CDP-2015-01 authorized the option to replace 25 parking meters in the Embarcadero at the District’s discretion and was approved for issuance by the District on April 13, 2021 (Clerk’s Document No. 72735); and

WHEREAS, the proposed Board action is consistent with the CDP, as amended and no additional action under the California Coastal Act is required at this time; and

WHEREAS, for the reasons stated above, staff recommends the Board adopt an ordinance finding the Board action exempt under CEQA, including, but not limited to, CEQA Guidelines Section 15301, and authorizing the San Diego Unified Port District to accept a 66-year easement with termination rights from IQHQ-RADD I, LLC for roadway purposes along North Harbor Drive in the City of San Diego.

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 action is Categorically Exempt pursuant to 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 proposed Easement in substantial form as that attached as Attachment C to the Agenda Sheet to which this Ordinance relates is hereby approved.

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4. The Executive Director or their designated representative is hereby authorized to execute the proposed Easement in substantial form as that attached as Attachment C to the Agenda Sheet to which this Ordinance relates.

5. 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: