



Legislation Text

File #: 2018-0340, **Version:** 1

DATE: September 12, 2018

SUBJECT:

ORDINANCE GRANTING A ONE (1) YEAR LEASE WITH NINETEEN (19) ADDITIONAL ONE (1) YEAR OPTION PERIODS TO THE UNITED STATES OF AMERICA, ACTING THROUGH THE UNITED STATES COAST GUARD, FOR THE OPERATION OF A REAR RANGE LIGHT LOCATED AT THE WEST END OF SHELTER ISLAND IN THE CITY OF SAN DIEGO

EXECUTIVE SUMMARY:

The United States Coast Guard (Coast Guard) has a Lease¹ with the District for a small area on the southwestern tip of Shelter Island for the operation of a rear range light (a navigational aid that indicates a safe passage through a shallow or dangerous channel for seafaring vessels). The existing lease expires September 30, 2018. The Coast Guard is requesting a new one (1) year lease with nineteen (19) additional one (1) year options to extend for the site, and the District does not charge rent due the public benefit which the rear range light provides..

RECOMMENDATION:

Adopt an Ordinance granting a one (1) year lease with nineteen (19) additional one (1) year option periods to the United States of America, acting through the United States Coast Guard, for the operation of a rear range light located at the west end of Shelter Island in the city of San Diego.

FISCAL IMPACT:

This Board action will not result in any fiscal impact. The Lease Agreement is being granted at no rent to the District since the operation of the rear range light provides a public service as it increases safety for seafaring vessels.

As per the Board of Port Commissioners Policy No. 106 - Cost Recovery User Fee Policy, the Coast Guard has submitted to the District a Request for User Fee Waiver Form as the project directly supports the District's operations and Federal Strategic Port designation or port security needs, and the project applicant is a government entity.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal:

- A Port that is a safe place to visit, work and play.

DISCUSSION:

The District's lease agreement with the Coast Guard for a rear range light on Shelter Island (Attachment A - Location Map) expires on September 30, 2018. The Coast Guard has leased this site since 1954.

The Coast Guard is requesting a new one (1) year lease, commencing October 1, 2018 with nineteen (19) additional one (1) year option periods, commencing October 1, 2019 to replace the expiring lease agreement. The Coast Guard will continue using the site for a rear range light, which provides a navigational aid to seafaring vessels. The proposed lease, which expires September 30, 2019, is summarized on the attached Lease Information Summary (Attachment B - Lease Information Summary). The District does not charge rent due the public benefit which the rear range light provides.

As the Coast Guard is subject to the Anti-deficiency Act, the Coast Guard's funding for lease agreements is approved on an annual basis, resulting in all Coast Guard lease agreements being structured as one-year leases with additional one-year option periods. Furthermore, the proposed lease agreement (Attachment C - Draft Lease Agreement) may be terminated by either party by giving sixty (60) days written notice.

General Counsel's Comments:

The Office of the General Counsel has reviewed the lease with the Coast Guard and approves as to form and legality.

Environmental Review:

The proposed Board direction or action, including without limitation, an ordinance granting a lease to the United State Coast Guard for operation of a rear range light is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities) and Section 3.a. of the District's Guidelines for Compliance with CEQA because the project in question would involve no expansion of use beyond that previously existing. 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).

The proposed Board direction or 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 Section 87. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board direction or action is consistent with the Public Trust Doctrine.

Finally, the proposed Board direction or action is considered "excluded development" pursuant to Section 8.a. (Existing Facilities) of the District's Coastal Development Permit Regulations because the project in question would involve no expansion of use beyond that previously existing. Issuance of a Coastal Development Permit is not required for the proposed Board direction or action.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachment(s):

Attachment A:	Location Map
Attachment B:	Lease Information Summary
Attachment C:	Draft Lease Agreement

¹ San Diego Unified Port District Lease to United States of America, on file in the Office of the District Clerk bearing Document No. 38084, dated 11/10/1998.