



## CEQA and COASTAL DETERMINATIONS and NOTICE OF APPROVAL

Project: Amendment to the San Diego Unified Port District Tariff No. 1-G to Increase Rates, Add New Rates, and Update the Format and Language  
Location(s): San Diego, CA 92101 and National City, CA 91950  
Parcel No.(s): Various  
Project No.: 2020-116  
Applicant: Brenda Gonzales, Management Analyst, Maritime, San Diego Unified Port District, 3165 Pacific Highway, San Diego, CA 92101  
Date Approved: November 10, 2020

### Project Description

The proposed project involves an amendment to the San Diego Unified Port District's Tariff No. 1-G (Tariff) to increase rates, add two new rates (Anchorage at B Street Cruise Terminal and Photography at all District Marine Terminals), and update the format and language. The Tariff governs the rates and charges applicable for all maritime-related commercial activity under the District's jurisdiction. The Tariff is reviewed annually to ensure that the District's rates and charges are competitive, and the rules are current. In addition, the rates and charges are reviewed to reflect the prevailing market rates and economic climate. The review is typically performed during the beginning of the prior fiscal year; however it was postponed due to the COVID-19 event.

The proposed Tariff amendment involves a General Rate Increase (GRI) for dockage, wharfage, demurrage, storage, space occupancy, and miscellaneous rates and charges, effective January 1, 2021. There are several factors that are considered during staff's Tariff analysis, including relevant economic indicators such as the Bureau of Labor Statistics (BLS) Consumer Price Index for the West Region, All Urban Consumers (CPI-U), Producers Price Index for Navigational Services (PCU), rate recommendations made by California Association of Port Authorities (CAPA) member ports, actual rate increases by other CAPA ports, and regional market conditions.

The amendment would be effective January 1, 2021 and includes the following changes:

- Implement a two percent (2%) General Rate Increase (GRI) for:
  - Minimum Charge—Item Nos. 0510, 0650, 0740, 0745, 0748
  - Permit Fees—Item Nos. 0515, 0520
  - Full Dockage—Item No. 0575
  - Wharfage—Item Nos. 0603, 0605, 0610, 0614, 0615, 0617, 0618, 0619, 0620, 0625, 0626, 0627, 0629, 0630, 0635, 0637, 0640, 0641, 0645, 0647(b), (c), (d), 0650, 0655, 0660, 0662, 0663, 0664, 0665, 0666, 0670, 0671, 0672, 0673, 0674
  - Wharf Demurrage for All Commodities, Lumber and Forest Products, Containers—Item No. 0705
  - Wharf Storage Rates —Item No. 0720 and Per Container Wharf Storage Rates—Item No. 0725
  - Space Occupancy Rates—Item No. 0735
  - Temporary Office Occupancy—Item No. 0736
  - Temporary Area Assignments—Item No. 0737
  - Mobile Harbor Crane—Item No. 0738
  - Electrical Service Rates for Refrigerated Containers—Item No. 0747
  - Redelivery of Merchandise—Item No. 0750

- Environmental Surcharge for Dry Bulk Cargo—Item No. 0758
- Exceptions to the 2% GRI include:
  - Commercial Fishing Vessels—Item No. 0570 – No Rate Increase
  - Dockage Charge for Transient Vessels—Item No. 0572 – No Rate Increase
  - Credit Rule (Minimum Delinquent Charge)—Item No. 0535 – Subject to \$1.00 Rate Increase
  - Passenger Fees for Cruise Ships—Item No. 0647(a) – No Rate Increase
  - Merchandise N.O.S—Item No. 0600 – Subject to a 50% Rate Increase
  - Project Cargo Rates—Item No. 0631 – Subject to a 50% Rate Increase
  - Vehicles (Import/Inbound) RTTF (Rail | Truck Transfer Fee)—Item No. 0660 – Subject to \$1.25 Rate Increase
  - Commercial Vehicles (Light & Medium Weight) RTTF (Rail | Truck Transfer Fee)—Item No. 0663 –Subject to a \$1.25 Rate Increase
  - Pilotage Rates and Charges—Item No. 0800 – No Rate Increase
- New Rates include:
  - Anchorage—Item No. 0441

*"B" Street Cruise Terminal Merchant Vessel Anchorage "Anchorage" is reserved for the use of merchant vessels calling at the Port of San Diego while awaiting a berth. The administration of this Anchorage is exercised by the Executive Director, San Diego Unified Port District. Vessels anchoring in San Diego Harbor shall leave a free passage for the other craft and shall not obstruct the approaches to the wharves in the harbor.*

*The waters bounded by a line connecting the following points:*

<b>Latitude</b>	<b>Longitude</b>
32°43'00.8" N	117°10'36.3" W
32°43'00.8" N	117°11'23.0" W
32°43'05.0" N	117°11'30.5" W
32°43'27.2" N	117°11'14.0" W
32°43'20.2" N	117°10'53.0" W

*and thence due east to the shoreline, and thence along the shoreline and pier to the point of beginning. When space is available, the Executive Director at his or her own discretion may authorize the use of the anchorage for non-commercial vessels upon receipt of an anchorage application.*

*'Anchorage' charges for non-commercial vessels will be assessed at fifty percent (50%) of full dockage rates as per Item No. 0575--Rates for Full Dockage.*

- Photography on the Terminal—Item No. 0541

*The Port of San Diego owns and operates the Tenth Avenue Marine Terminal, National City Marine Terminal, "B" Street Cruise Ship Terminal and Broadway Pier Cruise Ship Terminal under the San Diego Unified Port District Act. All photography or videography activity on the Port's Marine Terminals requires permission and preapproval from the Maritime Division. An approved Photography and Videography Permit ("Permit") is required for any activities within the Port District facilities, prior to filming. Companies or individuals can acquire the Permit application from the Maritime Operations Office at (619) 686-6345 or via e-mail to [TAMT@portofsandiego.org](mailto:TAMT@portofsandiego.org).*

- Updates to Format and Language:
  - Title Page
  - Commissioners, Officers and Administrative Staff
  - Correction Number Sheet
  - Correlation of Federal Maritime Commission Definitions—Item No. 0125
  - Hazardous and Dangerous Cargo Permit Required—Item No. 0465
  - Regulations Governing Petroleum Products—Item No. 0480
  - Rates for Full Dockage—Item No. 0575

*(5) 'Anchorage' as defined in Item No. 0441—"B" Street Cruise Terminal Merchant Vessel Anchorage for non-commercial vessels will be assessed at fifty percent (50%) of full dockage rates.*

- Application of Wharfage Rates—Item No. 0580
- Free Time Allowed—Item No. 0685: (a) Hawaiian Trade Vehicles

The proposed rate increases would aid in balancing the rising operational and maintenance costs, and the financial reserve needs while maintaining a rate structure that is comparable to competitor ports. Additionally, while some of the Tariff will be used for maintenance, such maintenance shall not be for capital improvements to expand systems.

The following categorical determinations are based on the agenda sheet and all project information known to the District as of the date of this determination.

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

Based upon the above description, the proposed project is determined to be Statutorily Exempt pursuant to CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) and/or Categorically Exempt pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and Sections 2.h. and/or 3.a. of the District's *Guidelines for Compliance with CEQA*. Sections 2.h. and 3.a. of District's CEQA Guidelines are as follows:

- 2.h. Rates and Charges (SG § 15273): CEQA does not apply to rates or other charges established by the Port District for the purpose of meeting operational expenses, purchasing or leasing supplies, equipment, or materials; meeting financial reserve needs; obtaining funds for capital projects necessary to maintain service; or obtaining funds necessary to maintain intra-city transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this section is claimed, setting forth with specificity the basis for the claim of exemption. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this section is claimed, setting forth with specificity the basis for the claim of exemption.

AND/OR

- 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.

The Statutory Exemption listed above is appropriate for the proposed project because it is an amendment to the Tariff to increase rates, add new rates, and update format and language for the following purposes:

1. The proposed project, generally consists of an amendment to the Tariff to:
  - a. Increase rates and charges to items including: General, Permits, Dockage, Wharfage, Demurrage, Storage & Space Occupancy, Temporary Office Occupancy, Temporary Area Assignments, Mobile Harbor Crane, Electrical Service Rates for Refrigerated Containers, Redelivery of Merchandise, and Environmental Surcharge for Dry Bulk Cargo, with exceptions to Commercial Fishing Vessels, Dockage Charge for Transient Vessels, Credit Rule, Passenger Fees for Cruise Ships, Merchandise N.O.S., Project Cargo Rates, Vehicle (Import/Inbound) RTTF, Commercial Vehicles (Light and Medium Weight) RTTF, and Pilotage;
  - b. Update format and language based on relevant economic indicators such as the Bureau of Labor Statistics (BLS) Consumer Price Index for West Region, All Urban Consumers (CPI-U), rate recommendations made by California Association of Port Authorities (CAPA) as well as actual rate increases by other CAPA member ports, and regional market conditions;
  - c. Include two (2) new tariff items for Anchorage, and Photography on the Terminal; and
  - d. Other minor language modifications.
2. The proposed project is projected to increase revenues to the District by approximately \$227,100 for the remaining six (6)-month period of Fiscal Year 2021.
3. The proposed project will maintain a rate structure that is competitive with other ports.
4. The proposed project is to meet operational expenses, and financial reserve needs and requirements of the District.
5. The proposed project is not to obtain funds for capital projects for expansion of systems and will involve no expansion of use beyond that previously existing, however, some of the fees may be used for maintenance activities.

The existing facilities Categorical Exemption listed above is appropriate for the proposed project because the activity in question would only involve an amendment to the Tariff to increase rates, add new rates, and updated format and language and will involve no expansion of use beyond that previously existing. Additionally, the increase in rates may be used for maintenance activities that do not constitute capital improvements that expand systems.

The District has further determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2) because the project is not located in an area that would impact an environmental resource of hazardous or critical concern, would not have cumulative impact of successive projects of the same type in the same place, would not have a significant effect on the environment due to unusual circumstances, is not within a highway officially designated as a state scenic highway, is not located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code, and would not cause a substantial adverse change in the significance of a historical resource.

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***

The proposed project is located in three of the District's ten planning districts, as follows: Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified Port Master Plan; Planning District 4, Tenth Avenue Marine Terminal, which is delineated on Precise Plan Map Figure 13 of the certified Port Master Plan; and finally, Planning District 5, National City Bayfront, which is delineated on Precise Plan Map Figure 15 of the certified Port Master Plan. The Port Master Plan land use designations within the limits of the proposed project are as follows: Planning District 3: Marine Terminal, Commercial Recreation, Park/Plaza, and Promenade; Planning District 4: Marine Terminal and Marine Related Industrial; and Planning District 5: Marine Terminal. The proposed project conforms to the certified Port Master Plan because it is an amendment to the Tariff to increase rates, add new rates, and update format and language consistent with the existing certified land use designations. The project will not change the uses of the sites nor will it interrupt or expand the existing conforming uses of the sites.

#### **CATEGORICAL DETERMINATION**

The above project proposes an amendment to the Tariff to increase rates, add new rates, and update the format and language that will involve no expansion of use beyond that previously existing. This project is consistent with the existing certified land use designations and is Categorically Excluded under Section 8.a. of the District's *Coastal Development Permit Regulations*, as follows:

- 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.

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.

#### **CALIFORNIA PUBLIC TRUST DOCTRINE**

the proposed project complies with Section 36 of the Port Act which specifically gives the Board of Port Commissioners the authority to "by ordinance fix the rate of wharfage charges and other charges which are appropriate for the use of any of the facilities owned and constructed or services furnished or provided by the District" and therefore, it is within the District's authority to set tariff rates on tidelands. 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.

RANDA CONIGLIO  
President/CEO

Determination by:  
Maggie Weber  
Senior Planner  
Planning

Signature: Maggie Weber  
Date: Nov 12, 2020

Deputy General Counsel

Signature: Chris Burt  
Date: Nov 12, 2020