



**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: San Diego, CA 92101 and National City, CA 91950
Parcel No.: Various
Project No.: 2021-045
Applicant: Josefina Khalidy, Principal, Maritime Business Retention, Maritime, San Diego Unified Port District, 3165 Pacific Highway, San Diego, CA 92101
Date Approved: May 11, 2021

PROJECT DESCRIPTION

The proposed project involves an amendment to the San Diego Unified Port District's (District) Tariff No. 1-G (Tariff) to increase rates, add one new rate (High Cube Containers), 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 project would not involve implementation of a General Rate Increase (GRI) across all tariff items but rather would update selective rates, adding new language, and updating language based off market trends. 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), rate recommendations made by California Association of Port Authorities' (CAPA) as well as actual rate increases by other CAPA member ports, and the regional market conditions and impacts of the COVID-19 pandemic.

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

1. Modify language and increase rates and charges to items including: Merchandise N.O.S. item, Cargo N.O.S.; Hawaiian Trade item, (f) Recreational and Utility Trailers; Wharf Storage item; and Mobile Harbor Crane item; and
2. 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; and
3. Include one (1) new tariff item for High Cube Containers; and
4. Other minor language modifications.

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 project submittal 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 proposed project is determined to be Statutorily and Categorically Exempt pursuant to the CEQA Guidelines and the Sections of the District's *Guidelines for Compliance with CEQA* as identified above. These are appropriate for the proposed project because it consists of an amendment to the Tariff to increase rates, add new rates, and update format and language and would increase revenues, maintain a rate structure that is competitive with other ports, meet operational expenses and financial reserves needs and requirements of the District, not obtain funds for capital projects for expansion of systems, and 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).

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

Planning Districts: 3 - Centre City Embarcadero (Precise Plan Figure 11); 4 - Tenth Avenue Marine Terminal (Precise Plan Figure 13); and 5 - National City Bayfront (Precise Plan Figure 15)

Land Use Designations: Marine Terminal; Commercial Recreation; Park/Plaza; Promenade; and Marine Related Industrial

The proposed project conforms to the certified Port Master Plan because it would involve 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 proposed project would not change the use of the site nor would it interrupt or expand the existing conforming use of the site.

CATEGORICAL DETERMINATION

Categorical Exclusion: Section 8.a: Existing Facilities

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.

The proposed project is determined to be Categorically Excluded pursuant to the Section of the District's *Coastal Development Permit Regulations* as identified above. This is appropriate for the proposed project because it involve an amendment to the Tariff to increase rates, add new rates, and update format and language and would involve 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.

J. STUYVESANT
President/CEO

Determination by:
Michael Paul
Assistant Planner
Development Services

Signature: Michael Paul
Date: May 17, 2021

Deputy General Counsel

Signature: Chris Burt
Date: May 17, 2021