



**CEQA and COASTAL DETERMINATIONS
and
NOTICE OF APPROVAL**

Project: Amendment of San Diego Unified Port District Code Article 8, Section 8.05 – Vending and Performing by the San Diego Unified Port District
Location: Centre City Embarcadero District, San Diego, California
Parcel No.: Various
Project No.: 2023-017
Applicant: Department of Parks and Recreation, San Diego Unified Port District, 3165 Pacific Hwy, San Diego, CA 92101
Date: Feb 14, 2023

PROJECT DESCRIPTION

The proposed project would involve amending the San Diego Unified Port District Code Article 8, Section 8.05 – Vending and Performing Regulated- to amend existing and institute new time, place, and manner restrictions on all vending and expressive activity, by the San Diego Unified Port District (Applicant) in the city of San Diego, California. The objectives of the proposed amendment are to provide increased economic opportunity, activate the District’s waterfront, ensure health and safety standards are maintained, and reduce negative, adverse, secondary impacts associated with unregulated commercial vending and expressive activity. Work to specifically complete the proposed project would involve:

- Institution of a permitting system for vendors engaged in the sale of food and commercial merchandise at specific public locations
- Establishment of outdoor noise limitations for all vending and performing activity
- Increasing the total number of designated areas and allotted spaces for expressive activity and authorized vending
- Clarification of the District’s penalties and enforcement procedures

The total number of designated spaces for either vending or expressive activity is currently 76 and will increase up to 110 spaces. An “opportunity drawing” system will be used to assign eligible commercial vending applicants to a designated space.

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

Categorical Exemptions: SG §15301, Class 1/Section 3.a: Existing Facilities; SG §15304, Class 4/Section 3.d: Minor Alterations to Land; and SG §15305, Class 5/Section 3.e: Minor Alterations in Land Use Limitations

- 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...

AND/OR

- 3.d. Minor Alterations to Land (SG § 15304) (Class 4): Includes minor alterations in the condition of land, water and/or vegetation not involving removal of mature, scenic trees, including, but not limited to:

- (6) Minor temporary use of land having negligible or no permanent effects on the environment.

AND/OR

- 3.e. Minor Alterations Land Use Limitations (SG § 15305) (Class 5): Includes minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to, minor lot line adjustments, side yard and set back variances, issuance of minor encroachment permits, or reversion to acreage in accordance with the Subdivision Map Act.

The proposed project is determined to be Categorical 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 would involve negligible expansion of use beyond that previously existing, would result in no permanent effects on the environment, and would not involve the removal of mature, scenic trees. 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 District: 3 - Centre City Embarcadero (Precise Plan Figure 11)

Land Use Designations: Commercial Recreation; Park/Plaza; and Promenade

The proposed project conforms to the certified Port Master Plan because it would involve amending the San Diego Unified Port District Code Article 8 consistent with the existing certified land use designations. The proposed project would not change the use of the sites, nor would it interrupt or expand the existing conforming uses of the site.

CATEGORICAL DETERMINATION

Categorical Exclusions: Section 8.a: Existing Facilities and Section 8.d: Minor Alterations to Land

- 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...

AND/OR

- 8.d. Minor Alterations to Land: Minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of mature, scenic trees, including but not limited to:

- (5) Minor temporary uses of land and water having negligible or no permanent effects on the environment, including festivals, boating activities, parades, and running or bicycling events.

The proposed project is determined to be Categorical Excluded pursuant to the Sections of the District's *Coastal Development Permit Regulations* as identified above. These are appropriate for the proposed project because it would involve negligible expansion of use beyond that previously existing and would not involve the removal of mature, scenic trees.

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 87.(a)(2) of the Port Act, which allows for all visitor-serving commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities. 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.

JOE STUYVESANT
President/CEO

Determination by:
Abigail Haynam
Assistant Planner
Development Services

Assistant/Deputy General Counsel

Signature: Abigail Haynam
Date: Feb 15, 2023

Signature: Rebecca Harrington
Date: Feb 15, 2023