



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

Project: Amendment of San Diego Unified Port District Code Article 8, Section 8.05 – Regulation of Vending and Expressive Activity
Location: Port Tidelands
Parcel No.: Various
Project No.: 2024-105
Applicant: Larry Hofreiter, Director, Department of Parks and Recreation, San Diego Unified Port District, 3165 Pacific Highway, San Diego, CA 92101; (619) 686-6257
Date Approved: 11/13/2024

PROJECT DESCRIPTION

The proposed project would involve amending the San Diego Unified Port District Code (Port Code) Article 8, Section 8.05 – Regulation of Vending and Expressive Activity, by the San Diego Unified Port District (District) that would take effect on District Tidelands in the cities of San Diego, National City, Coronado, Chula Vista, and Imperial Beach, California. The purpose of this proposed amendment is to provide increased economic opportunity, activate the District’s waterfront by providing a broad range of commercial goods and expressive activities, ensure health and safety standards are maintained, and reduce negative, adverse, secondary impacts associated with unpermitted vending and expressive activity. Port Code Article 8, Section 8.05 was amended in Fall 2023 to establish minimum use and occupancy requirements for commercial vendors, extend the length of the commercial vending permit, reduce the amount of time commercial and expressive vendors can leave their equipment unattended, require commercial vendors to display their Temporary Commercial Use Permit, reduce the number of designated areas and allotted spaces for vending and expressive activity, and clarify the District’s penalties and enforcement procedures (Coastal Act Categorical Determination of Exclusion Project No. 2023-127). The District’s Department of Parks & Recreation was advised to return to the Board of Port Commissioners to evaluate the effectiveness of the program. The following recommendations would be considered at the October Board of Port Commissioners meeting:

1. Change two (2) commercial vending spaces in Designated Area 1 (North Embarcadero, 1700 block) in San Diego to two (2) expressive spaces.
2. Modify the language in the Port Code Section 8.05 to clarify that:
 - a. Items placed in an allotted space shall not exceed eight (8) feet in height and umbrellas or sunshades shall not exceed ten (10) feet in height
 - b. Commercial vending or expressive activity is not allowed at Sweet Park in Chula Vista because it was intended as a “passive park”, based on its proximity to wildlife habitat.

The total number of designated spaces for vending or expressive activity would be 33 commercial spaces and 34 expressive spaces along the Embarcadero in the city of San Diego. The proposed amendments to the program would better utilize public park spaces based on occupancy and survey data that was collected for both commercial and expressive vending.

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: CEQA Guidelines Section 15301 (Class 1)/District Guidelines for Compliance with CEQA Section 3.a: Existing Facilities and CEQA Guidelines Section 15304 (Class 4)/District Guidelines for Compliance with CEQA Section 3.d: Minor Alterations to Land

- 3.a. Existing Facilities: 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, including but not limited to:

AND/OR

3.d. Minor Alterations to Land: 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.

The proposed project is determined to be Categorically Exempt pursuant to the CEQA Guidelines and the Sections of the District's *Guidelines for Compliance with CEQA* as identified above because it would consist of amendments to the Port Code to improve the commercial vending and expressive activity program along the waterfront which would involve negligible or no expansion of use beyond that previously existing and would result in no permanent effects on the environment. 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

Applies to all Planning Districts.

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 Port Code Article 8, Section 8.05 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 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, including but not limited to:

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 Categorically Excluded pursuant to the Sections of the District's *Coastal Development Permit Regulations* as identified above because it would involve amending the Port Code to improve the commercial vending and expressive activity program and the general public's experience along the waterfront which would involve a 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)(5) of the Port Act, which allows for the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. 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
Acting President/CEO

Determination by:
Betsy Viramontes
Assistant Planner
Development Services

Signature: Betsy Viramontes
Date: 11/14/2024

Assistant/Deputy General Counsel

Signature: Shiraz D. Tangri
Date: 11/14/2024