



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

Project: Amendment of San Diego Unified Port District Code Article 8, Section 8.05 – Vending and Expressive Activity
Location: Port Tidelands
Parcel No.: Various
Project No.: 2025-128
Applicant: Larry Hofreiter, Director, Parks and Recreation Department, San Diego Unified Port District, 3165 Pacific Highway, San Diego, CA 92101, (619) 686-6257
Date Approved: November 4, 2025

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 (SDUPD; District) that would take effect on District Tidelands in the city of San Diego, California. The objectives of the Vending and Expressive Activity Program are 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.

In February 2023, the Board amended SDUPD Code 8.05 to authorize commercial vending in designated areas with issuance of a permit, update its time, manner, and place regulations placed on expressive activity, authorize staff to conduct an opportunity drawing to select commercial vendors to operate in designated areas on a first-come, first-served basis, establish outdoor noise limitations for all commercial vending and expressive activity, and clarify the District’s penalties and enforcement procedures. In Fall 2023, the Board amended the SDUPD Code 8.05 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, and reduce the number of designated areas and allotted spaces for vending and expressive activity. Most recently in Fall 2024, the Board amended the SDUPD Code 8.05 to change two (2) commercial vending spaces in Designated Area 1 (North Embarcadero) to two (2) expressive spaces, modify the language in the Port Code to define height requirements for items placed in an allotted space, and clarify that commercial vending or expressive activity is not allowed at Sweetwater Park in Chula Vista based on its proximity to wildlife.

The District’s Department of Parks and Recreation was advised to routinely return to the Board to evaluate the effectiveness of the program. Staff have been regularly monitoring the vending and expressive activity on District tidelands and have periodically returned to the Board with recommendations to refine and update SDUPD Code 8.05. For the next vending cycle beginning early 2026, staff recommend the following minor modifications to the vending spaces near Ruocco Park and Embarcadero Marina Park North to address public safety and view corridor issues:

- Change one (1) expressive space to a commercial space in Designated Area 6 to provide additional commercial space in this area.
- Change one (1) commercial space to an expressive space in Designated Area 7 to reduce view blockage of San Diego Bay.
- Switch one (1) expressive space and one (1) commercial space in Designated Area 7 and move the commercial space approximately 30 feet to the north to reduce pedestrian congestion on the promenade and improve pedestrian safety near the Kettner Blvd. intersection.

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 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.

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 Section(s) of the District's *Guidelines for Compliance with CEQA* as identified above. These are appropriate for the proposed project because it would involve no expansion of use beyond that previously existing, would not result in a significant cumulative impact due to the continuation of the existing use, 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 Designation: Commercial Recreation; Park/Plaza; and Promenade

The proposed project conforms to the certified Port Master Plan because it would involve amending the SDUPD Code 8.05 consistent with the existing certified Land Use designation(s). 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.

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 Section(s) of the District's *Coastal Development Permit Regulations* as identified above. These are appropriate for the proposed project because it would involve negligible or no 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, including, but not limited to, public golf courses, and for all works, buildings, facilitates, 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.

SCOTT CHADWICK
President/CEO

Determination by:
Kelly Cunningham
Planner I
Development Services

Signature: Kelly Cunningham
Date: 11/5/2025

Assistant/Deputy General Counsel

Signature: Shiraz Tangri
Date: 11/5/2025