



(2)

## BPC Policy No. 114

**SUBJECT:** PAYMENT OF COMMISSIONS FOR THE LEASING OF TIDELANDS

**PURPOSE:** To establish a policy governing the payment of commissions to real estate brokers for securing leases on designated tideland parcels

**POLICY STATEMENT:**

1. The payment of commissions to real estate brokers for securing leases on tidelands and the amounts must be approved by either the Board of Port Commissioners (Board) or the Executive Director.
2. If the payment of commissions is to be considered by the Board, the Executive Director shall recommend the designated parcel(s) and the commission rate(s) to be paid.
3. Whenever it is determined by either the Board or the Executive Director that such commission(s) shall be paid, either the Board or the Executive Director shall designate the parcel(s), establish the commission rate(s) to be paid, and the Executive Director shall negotiate a listing and commission agreement with a real estate broker(s).
4. The amount of commission shall be computed upon the minimum guaranteed rental for the term of the lease and/or agreement, excluding options and any special consideration made for construction periods, up to a maximum of twenty-five (25) years.
5. The following procedure for commission payments shall apply:
  - a. A negotiated percentage based on current prevailing practices in the industry.
  - b. For fixed term leases, fifty percent (50%) of the commission shall be paid within ten (10) days after the effective date of the ordinance granting the lease and/or agreement; or after The San Diego Unified Port District (District) executes the agreement, if short term. The remainder of the commission shall be paid within thirty (30) days from the date of the occupancy by the tenant and/or payment to the District of the first month's rent, whichever is later.
  - c. For leases with terms of five (5) years or less which contain a 30- to 180-day termination provision, the following shall apply:

- (1.) The commission for a month-to-month agreement shall be fifty percent (50%) of the first month's rent and shall be paid within thirty (30) days of execution of the agreement by District.
2. The commission for such a lease terminable on notice by either District or Tenant shall be calculated using the applicable commission rates and shall be paid as follows:
  - i. Fifty percent (50%) of the first year's commission shall be paid within thirty (30) days of lease execution by District and the balance of the first year's commission, if any, shall be paid within thirty (30) days following the first lease anniversary date, or termination of the lease, whichever occurs first.
  - ii. If the term is longer than one (1) year, fifty percent (50%) of the second year's commission shall be paid within thirty (30) days following the commencement of the second lease year and the balance of the second year's commission, if any, shall be paid within thirty (30) days following the second year's lease anniversary date, or termination of the lease, whichever occurs first.
  - iii. Any subsequent year's commission shall be paid in the same manner as the second year's commissions.

RESOLUTION NUMBER AND DATE: 2008-274, dated December 2, 2008 (Supersedes BPC Policy 114, Resolution 95-283, dated August 22, 1995; and Resolution 68-298, dated December 3, 1968)

(1)

REFERENCE  
COPY

Re Amendment of BPC Policy 114, ]  
Payment of Commissions for the ]  
Leasing of Tidelands . . . . . ]  
\_\_\_\_\_ ]

54369

RESOLUTION 2008-274

BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified  
Port District, as follows:

That Board of Port Commissioners Policy No. 114, Payment of Commissions for the  
Leasing of Tidelands, as amended, a copy of which is on file in the office of the District  
Clerk, is hereby adopted.

ADOPTED this 2nd day of December, 2008.

sw  
12/2/08