



BPC Policy No. 609

SUBJECT: PUBLIC ART PROGRAMS

PURPOSE:

To establish a policy for the inclusion of public artworks and objects within the San Diego Unified Port District's (District) jurisdiction and for the administration and operation of the District's public art programs and Arts, Culture & Design Committee.

The Board of Port Commissioners (Board) is committed to expanding opportunities for residents and visitors to the region to experience a vibrant waterfront destination with innovative artworks, cultural programming, and activation opportunities that enhance the visual excitement and cultural richness of Port tidelands.

The Parks & Recreation department was created and charged with the mission of supporting the District, its tenants, and its member cities by providing leadership, management of the District's arts and culture programs, and stewardship of the District's Tidelands Collection as a regional cultural asset. Additionally, the Arts, Culture & Design Committee was established to serve in an advisory capacity to the Board and the Parks & Recreation department, promoting the District's vision of Port tidelands as a world-class arts and cultural destination.

POLICY STATEMENT:

1. Parks & Recreation Department

The Parks & Recreation department administers the District's arts and cultural programming to enhance the visual excitement and cultural richness of Port tidelands.

2. Duties and Functions – Parks & Recreation Department

- a. Develop and administer arts and culture programming.
- b. Develop multi-year curatorial plans.
- c. Manage the Public Art Fund.
- d. Administer the District's Percent for Art Program.

- e. Administer the Tenant Percent for Art Program in accordance with BPC Policy No. 608.
- f. Manage the acquisition of all artwork within the District's jurisdiction.
- g. Serve as steward of the Tidelands Collection.
- h. Administer the donations and loans programs.
- i. Facilitate the activities of the Arts, Culture & Design Committee.

3. **Arts, Culture & Design Committee**

The Arts, Culture & Design Committee serves as the advisory body to the Board and the Parks & Recreation department on matters related to arts and culture within the District's jurisdiction. The committee assists in upholding the District's vision of the tidelands as a world-class arts and cultural destination and supports the development of arts and cultural programs within the District's jurisdiction.

The Arts, Culture & Design Committee shall assist the Parks & Recreation department with the following duties and functions:

- a. Developing, reviewing, and recommending curatorial plans.
- b. Reviewing District art-related policies.
- c. Reviewing and recommending artwork to be commissioned, purchased, or exhibited within the District's jurisdiction.
- d. Reviewing Tenant Percent for Art projects, in accordance with BPC Policy No. 608.
- e. Reviewing proposed donations and loans of artworks and objects.
- f. Reviewing the deaccession of artwork from the Tidelands Collection.

4. **Arts, Culture & Design Committee Membership**

The Arts, Culture & Design Committee shall consist of thirteen members who serve without compensation. The Chair of the Board shall approve all recommendations to the Arts, Culture & Design Committee, subject to the

following conditions: 1) Seven members shall be recommended by the department Director; 2) Five members, one from each of the five member cities, shall be recommended by their respective city mayors; and 3) One member shall be recommended by the San Diego Port Tenant's Association. The department Director shall submit a list of candidates to the Chair of the Board for appointment or reappointment to the Arts, Culture & Design Committee.

5. Qualifications of Arts, Culture & Design Committee Members

Members shall have substantive professional or volunteer experience in the visual arts, an interest in contributing to the development of the District's art activities, and the ability to volunteer time to serve on the Arts, Culture & Design Committee and on selection panels, as needed.

Individuals with substantive professional or volunteer experience, as intended herein, include those recognized by peers as curators, artists, art critics, art historians, art collections managers, art educators, art collectors, art fabricators, art preparators, and other persons with considerable visual arts experience, as well as architects and landscape architects, and others with substantive visual arts experience.

Membership of the Arts, Culture & Design Committee shall include individuals from diverse locales throughout the San Diego region.

Elected officials, agents, officers, and employees of the District and its member cities shall not be considered for appointment to the Arts, Culture & Design Committee, nor accept such a position while serving as a member of the Arts, Culture & Design Committee.

6. Designation of Arts, Culture & Design Committee Chair

The department Director shall recommend a member to serve as Committee Chair, subject to approval by the Chair of the Board. The Arts, Culture & Design Committee Chair shall serve a one-year term as chair and may be reappointed for additional one-year terms.

7. Arts, Culture & Design Committee Members Terms

Arts, Culture & Design Committee members may serve up to two, three-year terms. The expiration date of all terms shall be December 31. No member shall serve for more than six years on the Committee unless recommended for continued service, subject to approval by the department Director and Executive

Director (President/CEO), and appointment by the Chair of the Board.

At the request of the Chair of the Board, a member may serve an extension of term until a successor is recommended and approved.

Should a seat on the Arts, Culture & Design Committee become vacant prior to the end of that member's scheduled term, the department Director shall forward any recommendations to fill the vacancy to the Chair of the Board for appointment.

8. Arts, Culture & Design Committee Meetings and Reporting

Meetings of the Arts, Culture & Design Committee shall be noticed and open to the public. Arts, Culture & Design Committee meetings shall be conducted according to applicable California state laws.

Summary reports of each Arts, Culture & Design Committee meeting shall be prepared by department staff and forwarded to the Board.

9. Resignation and Removal of Arts, Culture & Design Committee Members

Any Arts, Culture & Design Committee member may submit a written resignation to the department Director. The department Director shall notify the Arts, Culture & Design Committee Chair and the Chair of the Board of any such resignation.

The department Director may recommend to the Chair of the Board that an individual Arts, Culture & Design Committee member be removed.

10. Arts, Culture & Design Committee Quorum

A quorum shall be a majority of the members of the Arts, Culture & Design Committee.

11. Arts, Culture & Design Committee Conflicts of Interest

To the extent required by law, the Committee will operate in compliance with the Political Reform Act and Government Code section 1090 regarding conflicts of interest. Committee members with financial interests in matters coming before the Committee shall be required to disclose the interest and abstain from any participation as to the matter.

12. Public Art Fund

The Public Art Fund is a designated District fund that exists for the purpose of accumulating funds from various sources for use in the commissioning and acquisition of permanent and temporary artworks for exhibition within the District's jurisdiction. It contains funds received from past annual budget set-asides and also serves as a depository for funds received from other sources, such as: tenant percent for art in-lieu contributions; aggregated District percent for art contributions from Capital Improvement Program projects; art sales and loans; sales of licensed artwork reproductions; public art-related grants and/or grant-matching funds; monetary bequests; and donations received from the public or other agencies for public artworks.

The Public Art Fund shall be used solely to meet costs directly associated with the commissioning and acquisition of permanent or temporary artworks within the District's jurisdiction. Balances in the Public Art Fund shall be carried over annually, and the interest that accrues thereon shall remain in the Public Art Fund.

13. Inclusion of Artworks on District Tidelands

The District acquires artworks for placement within its jurisdiction through the following programs:

- a. District Curatorial Program.
- b. District Percent for Art Program for Capital Improvement Program projects.
- c. Tenant Percent for Art Program in accordance with BPC Policy No. 608.
- d. Donations and loans programs.

14. District Percent for Art Program

- a. **Percent for Art Allocation.** The percent for art allocation shall apply to Capital Improvement Program projects with a Board-approved budget of \$500,000 or more, except as exempted herein. When the Board approves such a Capital Improvement Program project request, the total appropriation shall include an allocation of funds for artwork in an amount no less than one percent (1%) of the total proposed project budget presented to the Board. Such funds allocated for Capital Improvement Program-related artworks shall be held in the appropriate District fund.

- b. **Applicability.** The percent for art allocation requirement shall apply to the construction and/or alteration of the following:
- (1) Buildings, structures, and other physical above-grade facilities for public access, accommodation, or use.
 - (2) Parks, plazas, marinas, trails, and bikeways.
- c. **Exemptions.** The following types of projects shall be exempt from the percent for art allocation requirement unless they are part of a larger applicable Capital Improvement Program project:
- (1) Transportation infrastructure, street paving or repaving, and surface or underground parking projects.
 - (2) Mechanical, electrical, and plumbing system upgrades.
 - (3) Landscape renovation, replanting, and irrigation projects.
 - (4) Repair or replacement of existing playground equipment or play structures.
 - (5) Repair, replacement, or upgrade of piers, wharfs, docks, boat launching ramps, and maritime cargo handling facilities.
 - (6) Design studies, analyses, and planning documents.
 - (7) Communications, lighting, and signage projects.
 - (8) Structural or seismic upgrades.
 - (9) Modifications to facilitate access by people with disabilities.
 - (10) Dredging, sand replenishment, and erosion control projects.
 - (11) Water, sewer, and drainage lines.
 - (12) Utilities.
 - (13) Demolition projects.
 - (14) Security, health, and public safety projects.

(15) Projects required to meet state and federal regulatory requirements.

- d. **Artwork-Related Expenses.** The Parks & Recreation department shall manage and administer all artwork agreements and supervise and control the expenditure of percent for art allocations. Up to twenty percent (20%) of said allocations may be used for administration and project costs, including maintenance and conservation. Funds set aside pursuant to this section shall be deposited into the designated District public art maintenance fund.
- e. **Aggregation of Funds.** In the event that either the Capital Improvement Program percent for art allocation is insufficient to execute a significant artwork or the project site is unsuitable for the appropriate display of artwork, the Capital Improvement Program percent for art allocation may be used for the acquisition or exhibition of artworks in other tidelands locations, as recommended by the Director of Parks & Recreation and the Chief Engineer, and approved by the Board of Port Commissioners. Funds set aside pursuant to this section shall be deposited into the District Public Art Fund.

15. **Planning and Acquisition Process**

The Parks & Recreation department shall be responsible for developing plans and strategies for the acquisition and exhibition of art and cultural programming within the District's jurisdiction, based on the District's vision of Port tidelands as a world-class arts and cultural destination. Such plans may include public art master plans and multi-year curatorial plans, as determined by the department Director. These plans shall be submitted to the Arts, Culture & Design Committee for input and recommendation to the Board. Additionally, the department shall be responsible for managing artist recruitment, the selection process, and related activities to select artists, artworks, and artwork concept proposals, including organizing selection panels as needed, based on the evaluation criteria herein.

16. **Approval Process for Artworks and Art Agreements**

The Parks & Recreation department shall be responsible for managing the artist and artwork approval process for the acquisition and exhibition of artworks within the District's jurisdiction. The Arts, Culture & Design Committee shall review proposed artists and artworks based on the evaluation criteria outlined herein and provide recommendations to the appropriate approval authority. The appropriate level of approval authority for agreements shall be equivalent to the approval authority authorized for District service agreements as specified in BPC

Policy No. 110.

17. Approval Process for Authorizing Amendments to Art Agreements

In the course of any agreements for public art projects, authorization to negotiate and execute any amendments shall follow the approval authority as designated in BPC Policy No. 110.

18. Management and Control of Artworks

Any artworks proposed for contract, exhibit, or placement within the District's jurisdiction shall be submitted to the Parks & Recreation department for review and recommendation, as required, by the department Director, the Arts, Culture & Design Committee, and the Board, as set forth in this policy.

No existing artworks owned by or in the custody of the District shall be deaccessioned, removed, relocated, conserved, altered, exhibited, or disposed of in any way without the approval of the Director of Parks & Recreation following review and recommendation by the Arts, Culture & Design Committee, and the Board, as set forth in this policy.

Collections Management shall be the responsibility of the Parks & Recreation department, under the direction of the department Director.

19. Title to Artworks

Title to all acquisitions accepted by the District shall be vested and held in the name of the District.

20. Deaccession

a. General Provisions for the Deaccession of Artworks/Objects

On occasion, it may be necessary to permanently remove artworks and/or objects from the Tidelands Collection. Deaccessioning should be applied only after careful evaluation of an artwork by the Parks & Recreation department, the Arts, Culture & Design Committee, and the Board to avoid the premature disposal of an artwork from the collection. The following general provisions should be used:

- (1) The District shall comply with state, federal, and international laws such as the Visual Artists Rights Act of 1990 (17 U.S.C. 106A and 113

[d]) or the California Art Preservation Act of 1979 (California Civil Code, Section 987) pertaining to the disposal of certain artworks. The District shall comply with legal agreements pertaining to deaccession and/or disposal of certain artworks.

- (2) The District shall observe any restrictions to deaccessioning applied to artworks/objects acquired through donation, unless deviation from those restrictions is authorized by the donor, the donor's official legal designee, or a court of competent jurisdiction. Reasonable efforts to comply with any non-binding restrictions will be made.

b. Reasons for the Deaccession

The following reasons may be cause for deaccessioning artworks/objects from the Tideland Collection:

- (1) Condition. The artwork/object has deteriorated beyond a reasonable means of conservation; has been damaged beyond reasonable repair or is actively deteriorating in a manner that negatively affects the artwork/object's site and/or other District property.
- (2) Maintenance. The artwork/object needs excessive maintenance or conservation, or the artwork/object repeatedly fails to operate properly.
- (3) Authenticity. The authenticity, level of aesthetic quality, and workmanship of the artwork/object, and/or the relationship of the artwork/object to the artist/designer's body of work, is determined to be false, insufficient, or insignificant.
- (4) Duplicative. The artwork/object is redundant or is a duplicate in a large holding of artworks/objects of that type or category, or by that artist/designer.
- (5) Legal and Ethical Considerations. The District's possession of the artwork/object violates state, federal, or international laws; the provenance of the artwork/object is unknown or unconfirmed; and/or the District does not have a clear legal title to the artwork/object.
- (6) Site. The artwork/object is located at a site undergoing changes in ownership, use, design, and/or environmental conditions which may affect the integrity of, or access to the artwork/object.

- (7) Significance. The artwork/object has little or no correlation to the District's vision for art on tidelands.
- (8) Safety. The security of the artwork/object cannot be sustained; and/or the artwork/object poses a public safety and/or public health risk.
- (9) Resources. The artwork/object requires a total amount of funds to exhibit, operate, store, maintain, and/or conserve in excess of its fair market value, or is an excessive financial burden to the District.

c. Deaccession Process

The Parks & Recreation department shall conduct deaccession evaluation through the following process:

- (1) Initiate a deaccession evaluation, which includes an independent professional appraisal of the fair market value of the artwork/object and a recommendation from the department Director on whether to deaccession the artwork/object from the Tidelands Collection, which would include the recommended method of disposal. The department Director may also request additional input from the artist, conservators, and other professionals to assist in the deaccession evaluation.
- (2) Submit the deaccession evaluation to the Arts, Culture & Design Committee for input and recommendation.
- (3) The department Director shall prepare a report for the Board, with the Arts, Culture & Design Committee's recommendation for approval of the deaccession of artworks/objects from the Tidelands Collection.
- (4) Deposit any proceeds resulting from the deaccession of artworks/objects into the Public Art Fund.

21. Outgoing Loans of Artworks/Objects from the Tidelands Collection

The Director of Parks & Recreation is authorized to loan artworks/objects from the Tidelands Collection for use in exhibitions, research, and education.

In general, the District considers loaning artworks/objects to government entities, agencies, institutions, or organizations and only to private individuals, companies, and commercial galleries when doing so is likely to elevate the value and/or significance of the Tidelands Collection.

22. External Requests to Exhibit Artworks/Objects on Tidelands

a. Review Procedure for External Requests

The Parks & Recreation department administers the District's annual program to review external requests to exhibit artworks, objects, and other items on the tidelands. External requests may propose the following methods for exhibiting artworks and objects on tidelands: (1) temporary display of an artwork/object within the District's jurisdiction through the loan of said artwork/object to the District for the duration of an exhibit; or (2) a donation of an artwork/object, where the artwork's/object's legal ownership is transferred to the District.

- (1) The department shall oversee the submittal procedures for reviewing external requests to exhibit artworks/objects within the District's jurisdiction, convene review panels for additional input, and forward external requests to the Arts, Culture & Design Committee for review and recommendation based on the evaluation criteria herein.
- (2) For any external requests that the department Director and the Arts, Culture & Design Committee recommend the District pursue, sponsors shall be required to develop their requests into formal proposals. Acceptance of formal proposals shall be subject to further District review, as well as approval by the department Director, the Arts, Culture & Design Committee, and the Board.

b. Social and Merit Issues Regarding Commemorative Artworks/Objects

- (1) Requests to display artworks/objects, within the District's jurisdiction, that are intended to be commemorative in nature shall only be considered if they concern subject matter that is:
 - (a) Tangibly and directly associated with District tidelands and its member cities or is of broad and undisputed importance to the San Diego Bay region.
 - (b) Generally accepted as having had an exemplary and positive impact on the tidelands or the broader San Diego Bay region.
 - (c) Culturally or historically relevant to the tidelands or the broader San Diego Bay region.

- (2) Requests to display artworks/objects that commemorate or depict the following topics, shall not be considered for exhibit within the District's jurisdiction:
 - (a) Disasters or health-related topics.
 - (b) Subjects that are trademarked or commercially licensed.
 - (c) Subjects duplicative with respect to the existing Tidelands Collection.
 - (d) Political and/or social movements or issues.
- (3) Requests to display artworks/objects that commemorate individuals shall not be considered until the individual has been deceased for at least five years, except in instances where there is broad and undisputed community consensus for earlier commemoration.
- (4) Requests to display artworks/objects that commemorate ideas or events shall not be considered until ten years after the idea or event, except in instances where there is broad and undisputed community consensus for earlier commemoration.
- (5) Requests to display artworks/objects that commemorate the contributions of individuals or particular groups shall not be considered unless the contributions of such individuals or groups have had noteworthy and significant impact on the tidelands or the broader San Diego Bay region.

c. General Acceptance Conditions for External Requests to Exhibit Artworks/Objects on Tidelands

The District has no obligation to accept any sponsor proposal to exhibit artwork/objects on tidelands. The District has the right to determine, at its sole and absolute discretion, what artworks/objects will be accepted for exhibit by the District. The following conditions shall be met before the District will consider accepting a sponsor request to exhibit artwork/objects within the District's jurisdiction:

- (1) All expenses shall be the responsibility of the sponsor, except in extraordinary circumstances. These expenses may include, but are not limited to design, fabrication, shipping, insuring, site preparation, installation, signage, and lighting.

- (2) For donations of artworks/objects, sponsors shall deposit funds equal to, or greater than, ten percent of the commission cost or the fair market value of the item(s) into the designated District public art maintenance fund for ongoing conservation and maintenance, before groundbreaking or installation.
- (3) The District prefers unrestricted donations of artworks/objects; however, restricted donations may be accepted only if the District pre-approves the restrictions or limitations and these are expressly stated in the title conveyance documents.
- (4) Before sponsor proposals are accepted by the District, title conveyance documents, including any limitations or restrictions, and/or any loan or donation agreements between sponsor and the District regarding same, must be prepared by or approved by the District.
- (5) The District reserves the right to require sponsors to comply with state, federal, or international laws.

23. Reproductions or Adaptations of Artwork/Objects

The Parks & Recreation department is authorized to negotiate with the copyright holder for each artwork/object that is in, or proposed for inclusion in the Tidelands Collection, or that is exhibited within the District's jurisdiction, for the purpose of acquiring a license to make, or cause to be made, reproductions or adaptations of an artwork/object. Reproductions or adaptations of an artwork/object are made according to the terms and conditions of the licensing agreements.

24. Proceeds from the Sale, Loan, Reproduction or Adaptation of Artworks/Objects

Funds realized from the sale or loan of artworks/objects from the Tidelands Collection, or proceeds from the licensing and sale of reproductions or adaptations thereof, less any payments owed, shall be deposited into the Public Art Fund.

25. Administrative Procedures

The Parks & Recreation department shall promulgate office administrative procedures and/or guidelines, as needed, consistent with this policy, to facilitate the implementation of its responsibilities under this policy.

EVALUATION CRITERIA:

Criteria for Evaluating Artist Qualifications

- (1) Meets the definition of artist. For the purpose of this policy, an artist is an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, based on his or her body of work, educational background, experience, exhibition history, publication, and/or creation of artworks.
- (2) Demonstrates artistic excellence, innovation, and originality as represented in past work and supporting materials.
- (3) Demonstrates capacity for working in media and with concepts that are appropriate to the project goals and site, as applicable.
- (4) Demonstrates interest and capability in creating public artworks in collaboration with the District, the design team (if applicable), and other project partners and stakeholders.
- (5) Demonstrates experience in successfully completing artworks of similar scope, scale, budget, and complexity, or the ability to articulate how he or she would be able to bring the necessary artistic and technical skills to this project.
- (6) Demonstrates interest in, and understanding of, the project.
- (7) Is available to perform the scope of the work in a timely and professional manner.
- (8) Broadens the diversity of artists exhibiting on tidelands.
- (9) If applicable, demonstrates ability to work as part of a cohesive team.
- (10) If applicable, demonstrates satisfactory past performance on agreements.

Criteria for Evaluating Artwork Concept Proposals and Existing Artworks

- (1) Responds to the District's vision for art on the tidelands.

- (2) Meets the definition of artwork. For the purpose of this policy, an artwork is an aesthetic creation resulting from the skill and creativity of artist(s). An artwork may be made of any materials or combination of materials and may be permanent, temporary, fixed, or portable. An artwork can be an integral part of a building or structure and can be integrated with the work of other design professionals. Artwork shall be defined in terms of the visual arts, as distinguished from performing or literary arts. However, artworks can include visual representations of performing and literary arts, or can incorporate performative, narrative, or time-based elements.
- (3) Demonstrates excellence in aesthetic quality, workmanship, innovation, and creativity.
- (4) Demonstrates appropriateness in scale and form and will be fabricated with materials/media suitable for the site and artwork concept.
- (5) Meets the project's goals.
- (6) Demonstrates feasibility in terms of cost, timeline, safety, durability, operation, maintenance, conservation, security, and siting.
- (7) Demonstrates feasibility with respect to legal and/or ethical issues that may be related to possession or display of the artwork.
- (8) Broadens the diversity of artworks exhibited on tidelands.

Criteria for Evaluating Object Concept Proposals and Existing Objects

- (1) Demonstrates excellence in aesthetic quality, workmanship, innovation, and creativity.
- (2) Demonstrates appropriateness in scale and form and will be fabricated with materials/media suitable for the site and project concept.
- (3) Meets the project's goals.
- (4) Demonstrates feasibility in terms of cost, timeline, safety, durability, operation, maintenance, conservation, security, and siting.
- (5) Demonstrates feasibility with respect to legal and/or ethical issues that may be related to possession or display of the object.

- (6) Broadens the diversity of objects and visual experiences exhibited on tidelands.

Criteria for Board Evaluation

- (1) The District policy, as set forth herein and as administered by the Parks & Recreation department and advised by the Arts, Culture & Design Committee, has been followed properly.
- (2) Recommendations are consistent with relevant budgets.
- (3) Recommendations are consistent with curatorial plans, project plans, and redevelopment plans.

GLOSSARY:

For purposes of this policy, the following definitions shall apply:

Budget: The allocated budget for the design, fabrication, and installation of an artwork/object that is newly commissioned, or the budget for the purchase, shipping and installation of an existing artwork/object that is being purchased.

Artist: An individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, based on his or her body of work, educational background, experience, exhibition history, publication, and/or creation of artworks.

Arts, Culture & Design Committee: An advisory body to the Board of Port Commissioners and the Parks & Recreation department on matters related to arts and culture within the District's jurisdiction. The committee assists in upholding the District's vision of the tidelands as a world-class arts and cultural destination and supports the development of arts and cultural programs within the District's jurisdiction.

Artwork: An aesthetic creation resulting from the skill and creativity of an artist or artists. An artwork may be made of any materials or combination of materials and may be permanent, temporary, fixed, or portable. An artwork can be an integral part of a building or structure and can be integrated with the work of other design professionals. For the purposes of the Parks & Recreation department artworks can include visual representations of performing and literary arts, or can incorporate performative, narrative, or time-based elements.

Concept Proposal: The initial design phase of an artwork/object project in which an

artist/designer creates a design concept that is detailed enough to communicate the intended content, scale, location, artistic media, and relationship of components and materials of the proposed artwork/object. The documentation of the design concept can include a narrative description of the work, diagrams, and/or a maquette.

Collections Management: Activities that include, but are not limited to, the acquisition, incoming loan, outgoing loan, deaccession, disposal, relocation, removal, exhibition, operation, maintenance, conservation, documentation, storage, reproduction, and/or adaptation of artworks/objects.

Commemorative Artwork/Object: An artwork/object that commemorates an individual, idea, or event that has shaped or impacted the tidelands.

Creative Direction: A broadly described thematic area, that the Parks & Recreation department will use to explore curatorial possibilities and define individual projects.

Curatorial Plan: A multi-year work plan that establishes priorities for the types of projects the Parks & Recreation department will be developing over a three-to five-year period. The strategy describes the types of projects the department will work to develop, the kinds of artists it will recruit, any specific geographic areas it will focus on, and any partnerships it would like to establish.

Object: A 3-dimensional or 2-dimensional item, marker, or document that may be perceived by the senses and which has value or utility for public display on tidelands or for other uses as a District asset.

Percent for Art Allocation: The percentage of the total proposed project budget, in accordance with the requirements set forth herein, which is set aside for the administrative fees, art budget, and collections management associated with a public art project.

Public Art Fund: A designated District fund established in 1982 for the purpose of accumulating funds from various sources for the commissioning and acquisition of permanent or temporary public artworks for exhibition within the District's jurisdiction. Originally funded through an annual budget set-aside, the Public Art Fund serves as a depository for funds received from other sources, such as: tenant percent for art in-lieu contributions; aggregated District percent for art contributions from Capital Improvement Program projects; art sales and loans; sales of licensed artwork reproductions; public art-related grants and/or grant-matching funds; and monetary bequests and donations received from the public or other agencies for public artworks.

Selection Panel: An ad-hoc panel that reviews artist materials and makes

recommendations to the Arts, Culture & Design Committee and Director of Parks & Recreation regarding acquisitions and exhibitions of artworks within the District's jurisdiction.

Sponsor: An individual or entity that proposes the loan or donation of an artwork/objects for exhibit within the District's jurisdiction.

Tidelands Collection: Artworks/objects which are publicly owned, possessed, or controlled by the District and administered by the Parks & Recreation department.

RESOLUTION NUMBER AND DATE: 2021-023, dated March 9, 2021 (Supersedes BPC Policy No. 609, Resolution 2018-014, dated January 9, 2018; Resolution 2016-129, dated September 8, 2016; Resolution 2016-62, dated May 10, 2016; Resolution 2013-27, February. 12, 2013; Resolution 2011-160, dated November 8, 2011; Resolution 2008-89, dated June 10, 2008; Resolution 2003-125, dated July 7, 2003; Resolution 2002-94, dated April 23, 2002; Resolution 98-81, dated March 31, 1998; Resolution 96-236, dated September 24, 1996; Resolution 86-63, dated February 18, 1986; Resolution 86-234, dated August 5, 1986; Resolution 82-343, dated December 14, 1982)

RESOLUTION 2021-023**RESOLUTION AMENDING BOARD POLICY NO.
609: PUBLIC ART PROGRAMS TO INCLUDE NON-
SUBSTANTIVE ADMINISTRATIVE UPDATES**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 609: Public Art Programs, which provides for the inclusion of public artworks and objects within the District's jurisdiction and for the administration and operation of the District's public art programs and Arts, Culture & Design Committee; and

WHEREAS, the Port's Waterfront Arts & Activation department is charged with oversight of the Port's public parks, supporting waterfront commerce, strengthening the creative economy, and encouraging recreational opportunities on tidelands in accordance with the Port Act and Public Trust Doctrine; and

WHEREAS, the department oversees several Board policies that require non-substantive administrative updates which are being brought forth under the corresponding agenda item; and

WHEREAS, administrative updates do not affect the operational management of existing Port programs related to arts, parks, and special events, but include non-substantive updates to incorporate industry standard nomenclature and program language commonly used by government agencies, as well as reflect a name change of the department from Waterfront Arts & Activation to Parks & Recreation in an effort to increase public awareness and understanding of the department's functions; and

WHEREAS, terminology updates, technical revisions, standardized formatting to align with other policies, addition of subject headings, removal of redundancies, process clarifications, and grammatical errors in the policy language have also been corrected throughout to increase overall readability.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby amends BPC Policy No. 609: Public Art Programs to include the non-substantive administrative updates as set forth in the attachment to the agenda to which this resolution relates.

2021-023

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

David Jones

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 9th day of March 2021, by the following vote:

AYES: Bonelli, Castellanos, LeSar, Malcolm, Moore, Naranjo, and Zucchet

NAYS: None.

EXCUSED: None.

ABSENT: None.

ABSTAIN: None.

Michael Zucchet

Michael Zucchet, Chairman
Board of Port Commissioners

ATTEST:

Donna Morales

Donna Morales
District Clerk




Certificate Of Completion

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David Jones dajones@portofsandiego.org Deputy General Counsel Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 99.65.99.57 Signed using mobile	Sent: 3/16/2021 4:55:51 PM Viewed: 3/17/2021 9:39:41 AM Signed: 3/17/2021 9:40:50 AM

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ID: 1b9b007e-305e-4e6f-9b32-90f09175adb

Michael Zucchet mzucchet@portofsandiego.org Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 75.24.76.229	Sent: 3/17/2021 9:40:56 AM Viewed: 3/17/2021 10:11:39 AM Signed: 3/17/2021 10:11:51 AM
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Electronic Record and Signature Disclosure:
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Donna Morales dmorales@portofsandiego.org Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 70.95.190.9	Sent: 3/17/2021 10:11:55 AM Viewed: 3/17/2021 10:12:28 AM Signed: 3/17/2021 10:12:46 AM
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Gabby Livingston glivingston@portofsandiego.org Document Management Associate-ODC Port of San Diego Security Level: Email, Account Authentication (None)	 Using IP Address: 207.215.153.162	Sent: 3/17/2021 10:12:51 AM Viewed: 3/17/2021 10:24:29 AM Signed: 3/17/2021 10:24:54 AM
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Margaret Hernandez mhernandez@portofsandiego.org Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 3/9/2021 6:07:58 PM ID: a94acc47-d893-4c24-b46f-73df20cb7f11	COPIED	Sent: 3/17/2021 9:40:54 AM
Sally Raney sraney@portofsandiego.org Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 3/17/2021 10:25:01 AM
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Envelope Summary Events	Status	Timestamps
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Certified Delivered	Security Checked	3/17/2021 10:24:29 AM
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Required hardware and software

Operating Systems:	Windows® 2000, Windows® XP, Windows Vista®; Mac OS® X
Browsers:	Final release versions of Internet Explorer® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari™ 3.0 or above (Mac only)
PDF Reader:	Acrobat® or similar software may be required to view and print PDF files
Screen Resolution:	800 x 600 minimum

Enabled Security Settings:	Allow per session cookies
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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

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File #:2021-0105

DATE: March 9, 2021**SUBJECT:****REVISIONS TO BOARD OF PORT COMMISSIONERS POLICIES TO INCLUDE NON-SUBSTANTIVE ADMINISTRATIVE UPDATES:****A) RESOLUTION AMENDING BOARD POLICY NO. 608: TENANT PERCENT FOR ART PROGRAM****B) RESOLUTION AMENDING BOARD POLICY NO. 609: PUBLIC ART PROGRAMS****C) RESOLUTION AMENDING BOARD POLICY NO. 771: TIDELANDS ACTIVATION PROGRAM****EXECUTIVE SUMMARY:**

The Port's Waterfront Arts & Activation department is charged with oversight of the Port's public parks, supporting waterfront commerce, strengthening the creative economy, and encouraging recreational opportunities on tidelands in accordance with the Port Act and Public Trust Doctrine. The department oversees several Board policies that require non-substantive administrative updates which are being brought forth under this agenda item. Administrative updates do not affect the operational management of existing Port programs related to arts, parks, and special events, but include non-substantive updates to incorporate industry standard nomenclature and program language commonly used by government agencies, as well as reflect a name change of the department from Waterfront Arts & Activation to Parks & Recreation in an effort to increase public awareness and understanding of the department's functions. Terminology updates, technical revisions, standardized formatting to align with other policies, addition of subject headings, removal of redundancies, process clarifications, and grammatical errors in the policy language have also been corrected throughout to increase overall readability.

RECOMMENDATION:

Adopt a resolution to incorporate revisions to three District policies to reflect non-substantive updates: A) Board Policy No. 608: Tenant Percent for Art Program; B) Board Policy No. 609: Public Art Programs; and C) Board Policy No. 771: Tidelands Activation Program.

FISCAL IMPACT:

The proposed Board action does not present any fiscal impact to the District.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

Background

The Waterfront Arts & Activation department support's the Port's mission to create a vibrant waterfront experience through a variety of placemaking initiatives: parks and recreation programs; arts and cultural programs; community activation programs; and civic and special event sponsorship programs. The department also supports business development, regional and national tourism, the bay-wide creative economy, and administers the access, usage, and permitting of the Port's 22 waterfront parks and venue properties around the San Diego Bay for the public to enjoy year-round.

In an effort to align with industry standards and best practices, the Waterfront Arts & Activation department periodically reviews its policies and governing administrative documents. The item brought forth under this agenda item includes non-substantive updates to three Board policies that the department currently administers. Administrative updates do not affect the operational management of the Port's current programs related to arts, parks, and special events, but include updates throughout to incorporate industry standard nomenclature and program language commonly used by government agencies, as well as reflect a name change of the department from Waterfront Arts & Activation to Parks & Recreation in an effort to increase public awareness and understanding of the department's functions. Terminology updates, formatting changes, technical revisions, addition of subject headings, removal of duplicative language, process clarifications, and grammatical errors in the policy language have also been corrected throughout to increase overall readability.

A summary of revisions follows.

Summary of Revisions Board Policy No. 608: Tenant Percent for Art Program (Attachment A):

- Waterfront Arts & Activation has been changed throughout to Parks & Recreation regarding the department and director's title.
- Non-substantive administrative changes have been made, including correction of minor typos and grammatical errors, and revising inconsistent terminology.

Summary of Revisions to Board Policy No. 609: Public Art Programs (Attachment B):

- Waterfront Arts & Activation has been changed throughout to Parks & Recreation regarding the department and director's title.
- Non-substantive administrative changes have been made, including correction of minor typos

and grammatical errors, and revising inconsistent terminology.

Summary of Revisions to Board Policy No. 771: Tidelands Activation Program (Attachment C):

- Waterfront Arts & Activation has been changed throughout to Parks & Recreation regarding the department and director's title.
- Non-substantive administrative changes have been made, including correction of minor typos and grammatical errors, removal of duplicative language, and revising inconsistent terminology.
- Formatting changes to provide greater consistency with the department's other policies and increase overall readability and administration of the program, including new section headings and numbering.
- Language has been revised to reflect current administrative practices and to correct references to outdated organizational structure and functions, including removal of a reference to the Port's performance stage which was decommissioned on February 11, 2020 pursuant to Board action to rescind Board Policy No. 451: Use of District's Portable Stage.

Redlined versions of the proposed policy revisions are included with this agenda sheet.

General Counsel's Comments:

The Office of the General Counsel has reviewed this agenda sheet and approves as to form and legality.

Environmental Review:

The proposed Board actions, including without limitation, resolutions to revise BPC policies to include non-substantive administrative updates, do not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because they would not have the potential to result in a direct or indirect physical change in the environment and are, therefore, not subject to CEQA. No further action under CEQA is required.

The proposed Board actions comply with Sections 21 and 35 of the Port Act, which allow the Board to pass resolutions and to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent with the Public Trust Doctrine.

The proposed Board actions do not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit Regulations. Therefore, issuance of a Coastal Development Permit or exclusion is not required.

Equal Opportunity Program:

Not applicable.

File #:2021-0105

PREPARED BY:

Yvonne Wise
Director, Parks & Recreation

Attachment(s):

Attachment A: Board Policy No. 608: Tenant Percent for Art Program (redlined copy)

Attachment B: Board Policy No. 609: Public Art Programs (redlined copy)

Attachment C: Board Policy No. 771: Tidelands Activation Program (redlined copy)



BPC Policy No. 608

SUBJECT: TENANT PERCENT FOR ART PROGRAM

PURPOSE:

To establish a policy for the inclusion of artworks in San Diego Unified Port District (District) tenant improvements and for the administration of the Tenant Percent for Art Program.

The Board of Port Commissioners (Board) is committed to expanding opportunities for residents and visitors to the region to experience a vibrant waterfront destination with innovative artworks that enhance the visual excitement and cultural richness of Port tidelands. Such artworks have the ability to encourage artistic exploration of the tidelands and give art a key role in making the District's mission and operations more understandable to the public at large.

The ~~Waterfront Arts & Activation~~Parks & Recreation department was created and ~~invested-charged~~ with the mission of supporting the District, its tenants, and member communities by providing leadership, management of the District's ~~public-arts and culture~~ programs, and stewardship of the Tidelands Collection as a regional cultural asset. Additionally, the Arts, Culture & Design Committee was established to serve in an advisory capacity to the Board and the ~~Waterfront Arts & Activation~~Parks & Recreation department, promoting the District's vision of Port tidelands as a world-class arts and cultural destination.

POLICY STATEMENT:

1. Tenant Percent for Art Applicability and Calculations

- a. **Calculations.** Tenants undertaking improvements to their leaseholds, unless otherwise exempted below, shall be required to provide a tenant percent for art allocation no less than one percent of the tenant improvement's total project cost. Project cost is defined as the combined total of all hard and soft costs for tenant projects, exclusive of furnishings, fixtures, and equipment. The tenant shall allocate at least eighty percent of the tenant percent for art allocation to the art budget. In addition, the tenant may utilize up to twenty percent of the tenant percent for art allocation for artwork-related expenses approved by the Director of ~~Waterfront Arts & Activation~~Parks & Recreation.

b. **Categories.** For the purpose of the tenant percent for art allocation, tenant improvements shall be divided into the following two categories:

- (1) Tenant improvements with a project cost of \$5,000,000 and up to \$17,500,000 (equaling a tenant percent for art allocation of \$50,000 - \$175,000 for artwork).
- (2) Tenant improvements with a project cost of more than \$17,500,000 (equaling a tenant percent for art allocation of more than \$175,000 for artwork).

c. **Exemptions.**

- (1) Tenant improvements with a project cost of less than \$5,000,000 shall be exempt from the tenant percent for art requirement set forth herein; or
- (2) The following types of projects, unless occurring in conjunction with tenant leasehold development and/or redevelopment, shall be exempt from the tenant percent for art allocation requirements of this section:
 - (a) Mechanical, plumbing, and electrical system upgrades
 - (b) Seismic upgrades
 - (c) Modifications for disabled access
 - (d) Landscape renovation and replanting projects
 - (e) Dredging and sand replenishment
 - (f) Sewer and waterline repair or replacement
 - (g) Drainage and irrigations system repair or replacement
 - (h) Erosion-control projects
 - (i) Repaving and new paving projects
 - (j) Sign changes or new signs
 - (k) Utilities
 - (l) Lighting
 - (m) Maintenance and repair of existing facilities
 - (n) Demolition projects

2. **Tenant Percent for Art Options**

The tenant percent for art allocation shall be used by the tenant to comply with

the requirements set forth herein through one, or more, of the following means:

- a. **Commission.** Commission one or more permanent or temporary artworks to be sited in a publically accessible area on the leasehold in accordance with the provisions in section 1.
- b. **Purchase.** Purchase and install one or more permanent or temporary artworks in a publically accessible area on the leasehold in accordance with the provisions in section 1.
- c. **In-Lieu Contribution.** Deposit into the District's Public Art Fund an in-lieu contribution in an amount equivalent to the tenant percent for art allocation as specified in section 1. In the event that a tenant has chosen to satisfy the percent for art requirement by commissioning and/or purchasing artworks for their leasehold, but the artwork-related budgets for such artworks are less than the required allocation, the tenant shall pay into the Public Art Fund an amount equal to the difference between their commissioned and/or purchased artwork-related budgets and the required percent for art allocation.
- d. **Designated In-Lieu Contribution.** Tenants who choose to make in-lieu contributions to the District's Public Art Fund in accordance with sections 2.c. and tenants making partial in-lieu contributions as required by sections 2.a. and 2.b. may designate their in-lieu contributions specifically for use in the District's San Diego – Coronado Bay Bridge Lighting Project. This tenant percent for art option shall remain in effect until such time as the District determines that additional funds for this project are no longer needed. In the event that this project is not realized for any reason, these funds shall remain the Public Art Fund to be used for future public art projects at the District's discretion.
- e. **Other Contributions.** Anyone who makes a contribution to the District's Public Art Fund who is not obligated to do so at the time the contribution is made may credit such contribution against any obligation such person may have under this BPC Policy No. 608 that may arise within five (5) years subsequent to the contribution. Such contribution shall be unconditional, without recourse, and shall under no circumstances be considered in connection with any future project approval, nor shall such contribution have any effect whatsoever on the District's sole and absolute discretion to approve or disapprove such project.

3. Tenant Percent for Art Review Process

The tenant percent for art review process is administered by the Parks & Recreation department and is divided into two categories. Tenants should follow the corresponding review process, as follows:

Tenant improvements with a project cost of \$5,000,000 up to \$17,500,000 (equaling a tenant percent for art allocation of \$50,000 - \$175,000 for artwork) shall follow the review process outlined in section 3.a.(1) - (15); or tenant improvements with a project cost of more than \$17,500,000 (equaling a tenant percent for art allocation of more than \$175,000 for artwork) shall follow the review process outlined in section 3.b.(1) - (17).

- a. **Review Process for Category \$5,000,000 - \$17,500,000.** For tenant improvements with a project cost of \$5,000,000 up to \$17,500,000 (equaling a tenant percent for art allocation of \$50,000 - \$175,000 for artwork) the tenant shall complete the following steps:

- (1) **Tenant Percent for Art Application.** Complete and submit a Tenant Percent for Art Application to the ~~Waterfront Arts & Activation~~ department.
- (2) **Preliminary Meeting.** Meet with the ~~Waterfront Arts & Activation~~ department to discuss the tenant percent for art requirement as set forth herein.
- (3) **Tenant Art Worksheet.** Declare in a Tenant Art Worksheet the means by which the tenant will comply with the requirements as set forth herein.
- (4) **Approval of Tenant Art Worksheet.** Submit the completed Tenant Art Worksheet to the ~~Waterfront Arts & Activation~~ department. The ~~department~~ Director ~~of Waterfront Arts & Activation~~ shall review the Tenant Art Worksheet ensuring that it meets the evaluation criteria outlined in section 4.a.
- (5) **Payment.** If applicable, pay an in-lieu contribution or any remaining obligation into the District's Public Art Fund in accordance with the provisions of section 2.
- (6) **Artist's Name and Qualifications.** The Tenant shall declare and submit the name and qualifications of the selected artist(s) to the ~~Waterfront Arts & Activation~~ department.

- (7) **Approval of Artist.** The department Director ~~of Waterfront Arts & Activation~~ shall review the name and qualifications of the selected artist(s) utilizing the evaluation criteria outlined in section 4.c.
- (8) **Draft Artist Agreement.** The tenant shall submit to the ~~Waterfront Arts & Activation~~ department the draft artist agreement, which shall be reviewed by the department Director ~~of Waterfront Arts & Activation~~ to ensure that the District's interests and role are accurately represented.
- (9) **Copy of Artist Agreement.** The tenant shall enter into an agreement with the approved artist(s) and provide the ~~Waterfront Arts & Activation~~ department with a fully executed copy thereof.
- (10) **Artwork Concept Proposal or Proposed Purchase of Artwork.** The tenant shall submit to the ~~Waterfront Arts & Activation~~ department the concept proposal or information about the proposed purchase of artwork. The concept proposal, at a minimum, should include the following documentation: a written description of the proposed artwork; a color graphic representation of the artwork in the form of scale drawings, renderings, models, and/or photographs; a site plan; and an initial art budget.
- (11) **Approval of the Artwork Concept Proposal or Proposed Purchase of Artwork.** The department Director ~~of Waterfront Arts & Activation~~ shall review the concept proposal or information about the proposed artwork to be purchased utilizing the evaluation criteria outlined in section 4.d.
- (12) **Artwork Final Design or Final Information about Artwork.** The tenant shall submit to the ~~Waterfront Arts & Activation~~ department the final design or final information about the artwork to be purchased. The final design should include any updated or more fully developed information about the artwork since the original concept proposal and should include current versions of the following documentation: a written description of the proposed artwork; a color graphic representation of the artwork in the form of scale drawings, renderings, models, and/or photographs; a site plan; and the final art budget.

- (13) **Review of Artwork Final Design or Final Information about Artwork.** The ~~department~~ Director ~~of Waterfront Arts & Activation~~ shall review the final design or final information to ensure that the District's tenant percent for art requirement set forth herein is satisfied and that it is consistent with the approved concept proposal or approved artwork to be purchased.
 - (14) **Access to Installation Site.** The tenant shall provide to the ~~Waterfront Arts & Activation~~ department access to the site(s) where the artwork is to be installed to ensure that installation of the artwork satisfies the District's tenant percent for art requirement set forth herein and is in compliance with the approved final design or final information.
 - (15) **Documentation.** The tenant shall install signage identifying the artist, artwork, and date, and shall provide the District with photographic documentation of the installed artwork.
- b. **Review Process for Category above \$17,500,000.** For tenant improvements with a project cost over \$17,500,000 (equaling a tenant percent for art allocation of more than \$175,000 for artwork) the tenant shall complete the following steps:
- (1) **Tenant Percent for Art Application.** Complete and submit a Tenant Percent for Art Application to the ~~Waterfront Arts & Activation~~ department.
 - (2) **Preliminary Meeting.** Meet with the ~~Waterfront Arts & Activation~~ department to discuss the tenant percent for art requirement as set forth herein.
 - (3) **Tenant Art Worksheet.** Declare in a Tenant Art Worksheet the means by which the tenant will comply with the requirements as set forth herein.
 - (4) **Approval of Tenant Art Worksheet.** Submit the completed Tenant Art Worksheet to the ~~Waterfront Arts & Activation~~ department. The ~~department~~ Director ~~of Waterfront Arts & Activation~~ shall review the Tenant Art Worksheet ensuring that it meets the evaluation criteria outlined in section 4.a.

- (5) **Payment.** If applicable, pay an in-lieu contribution or any remaining obligation into the District's Public Art Fund in accordance with the provisions of section 2.
- (6) **Tenant Art Plan.** Declare in a Tenant Art Plan the means by which the tenant will comply with the requirements as set forth herein.
- (7) **Approval of Tenant Art Plan.** Submit the completed Tenant Art Plan to the ~~Waterfront Arts & Activation~~ department. The ~~department~~ Director ~~of Waterfront Arts & Activation~~ shall review the Tenant Art Plan ensuring that it meets the evaluation criteria outlined in section 4.b. The ~~department~~ Director ~~of Waterfront Arts & Activation~~ shall then submit the Tenant Art Plan to the Arts, Culture & Design Committee for review and recommendation to the ~~department~~ Director ~~of Waterfront Arts and Activation~~ utilizing the evaluation criteria outlined in section 4.b.
- (8) **Artist's Name and Qualifications.** The tenant shall declare and submit the name and qualifications of the selected artist(s) to the ~~Waterfront Arts & Activation~~ department.
- (9) **Approval of Artist.** The ~~department~~ Director ~~of Waterfront Arts & Activation~~ shall review the name and qualifications of the selected artist(s) utilizing the evaluation criteria outlined in section 4.c.
- (10) **Draft Artist Agreement.** The tenant shall submit to the ~~Waterfront Arts & Activation~~ department the draft artist agreement, which shall be reviewed by the ~~department~~ Director ~~of Waterfront Arts & Activation~~ to ensure that the District's interests and role are accurately represented.
- (11) **Copy of Artist Agreement.** The tenant shall enter into an agreement with the approved artist(s) and provide the ~~Waterfront Arts & Activation~~ department with a fully executed copy thereof.
- (12) **Artwork Concept Proposal or Proposed Purchase of Artwork.** The tenant shall submit to the ~~Waterfront Arts & Activation~~ department the concept proposal or information about the proposed purchase of artwork. The concept proposal, at a minimum, should include the following documentation: a written description of the proposed artwork; a color graphic representation of the artwork in the

form of scale drawings, renderings, models and/or photographs; a site plan; and an initial art budget.

- (13) **Approval of the Artwork Concept Proposal or Proposed Purchase of Artwork.** The department Director ~~of Waterfront Arts & Activation~~ and the Arts, Culture & Design Committee shall review the concept proposal or information about the proposed artwork to be purchased utilizing the evaluation criteria outlined in section 4.d. The department Director ~~of Waterfront Arts & Activation~~ shall prepare a report for the Board with the Arts, Culture & Design Committee's recommendation regarding approval of the project. The Board's role shall be to ensure that procedures were followed utilizing the criteria outlined in section 4.f.
- (14) **Artwork Final Design or Final Information about Artwork.** The tenant shall submit to the ~~Waterfront Arts & Activation~~ department the final design or final information about the artwork that is to be purchased. The final design should include any updated or more fully developed information about the artwork since the original concept proposal and should include current versions of the following documentation: a written description of the proposed artwork; a color graphic representation of the artwork in the form of scale drawings, renderings, models and/or photographs; a site plan; and the final art budget.
- (15) **Review of Artwork Final Design or Final Information about Artwork.** The department Director ~~of Waterfront Arts & Activation~~ shall review the final design or final information to ensure that the District's tenant percent for art requirement set forth herein is satisfied and that it is in compliance with the approved concept proposal or approved artwork that is to be purchased.
- (16) **Access to Installation Site.** The tenant shall provide to the ~~Waterfront Arts & Activation~~ department access to the site(s) where the artwork is to be installed to ensure that installation of the artwork satisfies the District's tenant percent for art requirement set forth herein and is in compliance with the approved final design or final information.
- (17) **Documentation.** The tenant shall install signage identifying the artist, artwork, and date, and shall provide the District with photographic documentation of the installed artwork.

4. **Evaluation Criteria**

a. **Criteria for Evaluating Tenant Art Worksheets**

- (1) Reflects a commitment to fulfilling the tenant percent for art requirement set forth herein.
- (2) Is consistent with any applicable redevelopment plans or other District-approved plans for the area.
- (3) Includes all information as required for the Tenant Art Worksheet.

b. **Criteria for Evaluating Tenant Art Plans**

- (1) Reflects a commitment to fulfilling the tenant percent for art requirement set forth herein.
- (2) Is consistent with any applicable redevelopment plans or other District-approved plans for the area.
- (3) Establishes clear goals and processes against which the project can later be evaluated.
- (4) Includes all information as required for the Tenant Art Plan.

c. **Criteria for Evaluating Artist Qualifications**

- (1) Meets the definition of artist. For the purpose of this policy, an artist is an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, based on his or her body of work, educational background, experience, exhibition history, publication, and/or creation of artworks.
- (2) Demonstrates artistic excellence, innovation, and originality as represented in past work and supporting materials.
- (3) Demonstrates capacity for working in media and with concepts that are appropriate to the project goals and site.

- (4) Demonstrates interest and capability in creating artworks in collaboration with the tenant (if applicable), the design team (if applicable), and other project partners.
- (5) Demonstrates experience in successfully completing artworks of similar scope, scale, budget, and complexity, or the ability to articulate how he or she would be able to bring the necessary artistic and technical skills to the project.
- (6) Demonstrates interest in, and understanding of, the project.
- (7) Is available to perform the scope of the work in a timely and professional manner.

d. **Criteria for Evaluating Artwork Concept Proposals & Artwork Purchases**

- (1) Meets the definition of artist. For the purpose of this policy, an artist is an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, based on his or her body of work, educational background, experience, exhibition history, publication, and/or creation of artworks.
- (2) Meets the definition of artwork. For the purpose of this policy, an artwork is an aesthetic creation resulting from the skill and creativity of artist(s). An artwork may be made of any materials or combination of materials and may be permanent, temporary, fixed, or portable. An artwork can be an integral part of a building or structure and can be integrated with the work of other design professionals. Artworks can include visual representations of performing and literary arts, or can incorporate performative, narrative, or time-based elements.
- (3) Demonstrates excellence in aesthetic quality, workmanship, innovation, and creativity.
- (4) Demonstrates appropriateness in scale and form and will be fabricated with materials/media suitable for the site.
- (5) Demonstrates feasibility in terms of cost, timeline, safety, durability, operation, maintenance, conservation, security, and siting.

- (6) Demonstrates feasibility with respect to legal and/or ethical issues that may be related to possession or display of the artwork.
- (7) For projects with a tenant percent for art allocation of more than \$175,000, meets the project's goals as outlined in the Tenant Art Plan.

f. **Criteria for Board Evaluation**

- (1) The District policy, as set forth herein and as administered by the ~~Waterfront Arts & Activation~~Parks & Recreation department and advised by the Arts, Culture & Design Committee, if applicable, has been followed properly.
- (2) All relevant District departments have appropriately undertaken all necessary reviews.

GLOSSARY:

For purposes of this policy, the following definitions shall apply:

Art Budget: The allocated budget for the design, fabrication, and installation of an artwork that is newly commissioned, or the budget for the purchase, shipping, and installation of an existing artwork that is being purchased.

Artist: An individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, based on his or her body of work, educational background, experience, exhibition history, publication, and/or creation of artworks.

Arts, Culture & Design Committee: An advisory body to the Board of Port Commissioners and the ~~Waterfront Arts & Activation~~Parks & Recreation department on matters related to arts and culture within the District's jurisdiction. The committee assists in upholding the District's vision of tidelands as a world-class arts and cultural destination and supports the development of arts and cultural programs within the District's jurisdiction.

Artwork: An aesthetic creation resulting from the skill and creativity of an artist or artists. An artwork may be made of any materials or combination of materials and may be permanent, temporary, fixed, or portable. An artwork can be an integral part of a building or structure, and can be integrated with the work of other design professionals. For the purposes of the ~~Waterfront Arts & Activation~~Parks & Recreation department, artworks can include visual representations of performing and literary arts, or can incorporate performative, narrative, or time-based elements.

Publicly Accessible: The availability for viewing and experience by the general public without a fee during normal hours of business operation consistent with the operation and use of the leasehold.

Project Cost: The combined total of all hard costs and soft costs for tenant projects, exclusive of furnishings, fixtures, and equipment.

Public Art Fund: A designated District fund established in 1982 for the purpose of accumulating funds from various sources for commissioning and acquisition of permanent or temporary public artworks for exhibition within the District's jurisdiction. Originally funded through an annual budget set-aside, the Public Art Fund serves as a depository for funds received from other sources, such as: tenant percent for art in-lieu contributions; aggregated District percent for art contributions from Capital Improvement Program projects; art sales and loans; sales of licensed artwork reproductions; public art-related grants and/or grant-matching funds; and monetary bequests and donations received from the public or other agencies for public artworks.

Tenant: The persons or entities holding leasehold interest(s) within the District's jurisdiction.

Tenant Art Plan: A detailed plan that a tenant who is making leasehold improvements with a project cost of more than \$17,500,000 submits to provide additional detail about how the tenant intends to fulfill the tenant percent for art requirement that is generated by the leasehold improvements being made.

Tenant Art Worksheet: The summary sheet that all tenants wishing to make improvements to leaseholds with a project cost of \$5,000,000 or more submit to the Parks & Recreation ~~Waterfront Arts & Activation~~ department.

Tenant Percent for Art Allocation: The percentage of a tenant's approved development or redevelopment project budget that is to be set aside for artwork for the tenant's leasehold or for payment into the District's Public Art Fund as an in-lieu contribution.

Tenant Percent for Art Application: The initial application form that a tenant who is subject to the District's percent for art requirement submits to the Parks & Recreation ~~Waterfront Arts & Activation~~ department to begin the review process.

RESOLUTION NUMBER AND DATE: 2018-015, dated January 9, 2018 (Supersedes Resolution 2016-130, dated September 8, 2016; Resolution 2016-77, dated May 10, 2016, Resolution 2015-29, dated April 14, 2015; Resolution 2011-160, dated November 8, 2011)



BPC Policy No. 609

SUBJECT: PUBLIC ART PROGRAMS

PURPOSE:

To establish a policy for the inclusion of public artworks and objects within the San Diego Unified Port District's (District) jurisdiction and for the administration and operation of the District's public art programs and Arts, Culture & Design Committee.

The Board of Port Commissioners (Board) is committed to expanding opportunities for residents and visitors to the region to experience a vibrant waterfront destination with innovative artworks, cultural programming, and activation opportunities that enhance the visual excitement and cultural richness of Port tidelands.

The ~~Waterfront Arts & Activation~~Parks & Recreation department was created and ~~invested~~charged with the mission of supporting the District, its tenants, and its member cities by providing leadership, management of the District's public arts and culture programs, and stewardship of the District's Tidelands Collection as a regional cultural asset. Additionally, the Arts, Culture & Design Committee was established to serve in an advisory capacity to the Board and the ~~Waterfront Arts & Activation~~Parks & Recreation department, promoting the District's vision of Port tidelands as a world-class arts and cultural destination.

POLICY STATEMENT:

1. ~~Waterfront Arts & Activation~~Parks & Recreation Department

The ~~Waterfront Arts & Activation~~Parks & Recreation department administers the District's arts and cultural programming to enhance the visual excitement and cultural richness of Port tidelands.

2. Duties and Functions – ~~Waterfront Arts & Activation~~Parks & Recreation Department

- a. Develop and administer arts and culture programming.
- b. Develop multi-year curatorial plans.
- c. Manage the Public Art Fund.

- d. Administer the District's Percent for Art Program.
- e. Administer the Tenant Percent for Art Program in accordance with BPC Policy No. 608.
- f. Manage the acquisition of all artwork within the District's jurisdiction.
- g. Serve as steward of the Tidelands Collection.
- h. Administer the ~~d~~Donations and ~~L~~loans ~~P~~programs ~~s~~.
- i. Facilitate the activities of the Arts, Culture & Design Committee.

3. **Arts, Culture & Design Committee**

The Arts, Culture & Design Committee serves as the advisory body to the Board and the ~~Waterfront Arts & Activation~~Parks & Recreation department on matters related to arts and culture within the District's jurisdiction. The committee assists in upholding the District's vision of the tidelands as a world-class arts and cultural destination and supports the development of arts and cultural programs within the District's jurisdiction.

The Arts, Culture & Design Committee shall assist the ~~Waterfront Arts & Activation~~Parks & Recreation department with the following duties and functions:

- a. Developing, reviewing, and recommending curatorial plans.
- b. Reviewing District art-related policies.
- c. Reviewing and recommending artwork to be commissioned, purchased, or exhibited within the District's jurisdiction.
- d. Reviewing Tenant Percent for Art projects, in accordance with BPC Policy No. 608.
- e. Reviewing proposed donations and loans of artworks and objects.
- f. Reviewing the deaccession of artwork from the Tidelands Collection.

4. **Arts, Culture & Design Committee Membership**

The Arts, Culture & Design Committee shall consist of thirteen members who serve without compensation. The Chair of the Board shall approve all recommendations to the Arts, Culture & Design Committee, subject to the following conditions: 1) Seven members shall be recommended by the department Director ~~of Waterfront Arts & Activation~~; 2) Five members, one from each of the five member cities, shall be recommended by their respective city mayors; and 3) One member shall be recommended by the San Diego Port Tenant's Association. The department Director ~~of Waterfront Arts & Activation~~ shall submit a list of candidates to the Chair of the Board for appointment or reappointment to the Arts, Culture & Design Committee.

5. **Qualifications of Arts, Culture & Design Committee Members**

Members shall have substantive professional or volunteer experience in the visual arts, an interest in contributing to the development of the District's art activities, and the ability to volunteer time to serve on the Arts, Culture & Design Committee and on selection panels, as needed.

Individuals with substantive professional or volunteer experience, as intended herein, include those recognized by peers as curators, artists, art critics, art historians, art collections managers, art educators, art collectors, art fabricators, art preparators, and other persons with considerable visual arts experience, as well as architects and landscape architects, and others with substantive visual arts experience.

Membership of the Arts, Culture & Design Committee shall include individuals from diverse locales throughout the San Diego region.

Elected officials, agents, officers, and employees of the District and its member cities shall not be considered for appointment to the Arts, Culture & Design Committee, nor accept such a position while serving as a member of the Arts, Culture & Design Committee.

6. **Designation of Arts, Culture & Design Committee Chair**

The department Director ~~of Waterfront Arts & Activation~~ shall recommend a member to serve as Committee Chair, subject to approval by the Chair of the Board. The Arts, Culture & Design Committee Chair shall serve a one-year term as chair and may be reappointed for additional one-year terms.

7. **Arts, Culture & Design Committee Members Terms**

Arts, Culture & Design Committee members may serve up to two, three-year terms. The expiration date of all terms shall be December 31. No member shall serve for more than six years on the Committee unless recommended for continued service, subject to approval by the department Director and Executive ~~Director~~Chief Curator (President/CEO), and appointment by the Chair of the Board.

At the request of the Chair of the Board, a member may serve an extension of term until a successor is recommended and approved.

Should a seat on the Arts, Culture & Design Committee become vacant prior to the end of that member's scheduled term, the department Director ~~of Waterfront Arts & Activation~~ shall forward any recommendations to fill the vacancy to the Chair of the Board for appointment.

8. **Arts, Culture & Design Committee Meetings and Reporting**

Meetings of the Arts, Culture & Design Committee shall be noticed and open to the public. Arts, Culture & Design Committee meetings shall be conducted according to applicable California state laws.

Summary reports of each Arts, Culture & Design Committee meeting shall be prepared by ~~Waterfront Arts & Activation~~ department staff and forwarded to the Board.

9. **Resignation and Removal of Arts, Culture & Design Committee Members**

Any Arts, Culture & Design Committee member may submit a written resignation to the department Director ~~of Waterfront Arts & Activation~~. The department Director, ~~Waterfront Arts & Activation~~, shall notify the Arts, Culture & Design Committee Chair and the Chair of the Board of any such resignation.

The department Director ~~of Waterfront Arts & Activation~~ may recommend to the Chair of the Board that an individual Arts, Culture & Design Committee member be removed.

10. **Arts, Culture & Design Committee Quorum**

A quorum shall be a majority of the members of the Arts, Culture & Design Committee.

11. **Arts, Culture & Design Committee Conflicts of Interest**

To the extent required by law, the Committee will operate in compliance with the Political Reform Act and Government Code section 1090 regarding conflicts of interest. Committee members with financial interests in matters coming before the Committee shall be required to disclose the interest and abstain from any participation as to the matter.

12. **Public Art Fund**

The Public Art Fund is a designated District fund that exists for the purpose of accumulating funds from various sources for use in the commissioning and acquisition of permanent and temporary artworks for exhibition within the District's jurisdiction. It contains funds received from past annual budget set-asides, and also serves as a depository for funds received from other sources, such as: tenant percent for art in-lieu contributions; aggregated District percent for art contributions from Capital Improvement Program projects; art sales and loans; sales of licensed artwork reproductions; public art-related grants and/or grant-matching funds; monetary bequests; and donations received from the public or other agencies for public artworks.

The Public Art Fund shall be used solely to meet costs directly associated with the commissioning and acquisition of permanent or temporary artworks within the District's jurisdiction. Balances in the Public Art Fund shall be carried over annually, and the interest that accrues thereon shall remain in the Public Art Fund.

13. **Inclusion of Artworks on District Tidelands**

The District acquires artworks for placement within its jurisdiction through the following programs:

- a. District Curatorial Program.
- b. District Percent for Art Program for Capital Improvement Program projects.
- c. Tenant Percent for Art Program in accordance with BPC Policy No. 608.
- d. Donations and ~~L~~loans ~~P~~programs.

14. **District Percent for Art Program**

- a. **Percent for Art Allocation.** The percent for art allocation shall apply to

Capital Improvement Program projects with a Board-approved budget of \$500,000 or more, except as exempted herein. When the Board approves such a Capital Improvement Program project request, the total appropriation shall include an allocation of funds for artwork in an amount no less than one percent (1%) of the total proposed project budget presented to the Board. Such funds allocated for Capital Improvement Program-related artworks shall be held in the appropriate District fund.

- b. **Applicability.** The percent for art allocation requirement shall apply to the construction and/or alteration of the following:
 - (1) Buildings, structures, and other physical above-grade facilities for public access, accommodation, or use.
 - (2) Parks, plazas, marinas, trails, and bikeways.
- c. **Exemptions.** The following types of projects shall be exempt from the percent for art allocation requirement unless they are part of a larger applicable Capital Improvement Program project:
 - (1) Transportation infrastructure, street paving or repaving, and surface or underground parking projects.
 - (2) Mechanical, electrical, and plumbing system upgrades.
 - (3) Landscape renovation, replanting, and irrigation projects.
 - (4) Repair or replacement of existing playground equipment or play structures.
 - (5) Repair, replacement, or upgrade of piers, wharfs, docks, boat launching ramps, and maritime cargo handling facilities.
 - (6) Design studies, analyses, and planning documents.
 - (7) Communications, lighting, and signage projects.
 - (8) Structural or seismic upgrades.
 - (9) Modifications to facilitate ~~disabled~~ access by people with disabilities.
 - (10) Dredging, sand replenishment, and erosion control projects.

(11) Water, sewer, and drainage lines.

(12) Utilities.

(13) Demolition projects.

(14) Security, health, and public safety projects.

(15) Projects required to meet state and federal regulatory requirements.

d. **Artwork-Related Expenses.** The ~~Waterfront Arts & Activation~~Parks & Recreation department shall manage and administer all artwork agreements, and supervise and control the expenditure of percent for art allocations. Up to twenty percent (20%) of said allocations may be used for administration and project costs, including maintenance and conservation. Funds set aside pursuant to this section shall be deposited into the designated District public art maintenance fund.

e. **Aggregation of Funds.** In the event that either the Capital Improvement Program percent for art allocation is insufficient to execute a significant artwork or the project site is unsuitable for the appropriate display of artwork, the Capital Improvement Program percent for art allocation may be used for the acquisition or exhibition of artworks in other tidelands locations, as recommended by the Director of ~~Waterfront Arts & Activation~~Parks & Recreation and the Chief Engineer, and approved by the Board of Port Commissioners. Funds set aside pursuant to this section shall be deposited into the District Public Art Fund.

15. **Planning and Acquisition Process**

The ~~Waterfront Arts & Activation~~Parks & Recreation department shall be responsible for developing plans and strategies for the acquisition and exhibition of art and cultural programming within the District's jurisdiction, based on the District's vision of Port tidelands as a world-class arts and cultural destination. Such plans may include public art master plans and multi-year curatorial plans, as determined by the ~~department~~ Director ~~of Waterfront Arts & Activation~~. These plans shall be submitted to the Arts, Culture & Design Committee for input and recommendation to the Board. Additionally, the ~~Waterfront Arts & Activation~~ department shall be responsible for managing ~~the~~ artist recruitment, the selection process, and related activities to select artists, artworks, and artwork concept

proposals, including organizing selection panels as needed, based on the evaluation criteria herein.

16. **Approval Process for Artworks and Art Agreements**

The ~~Waterfront Arts & Activation~~Parks & Recreation department shall be responsible for managing the artist and artwork approval process for the acquisition and exhibition of artworks within the District's jurisdiction. The Arts, Culture & Design Committee shall review proposed artists and artworks based on the evaluation criteria outlined herein, and provide recommendations to the appropriate approval authority. The appropriate level of approval authority for agreements shall be equivalent to the approval authority authorized for District service agreements as specified in BPC Policy No. 110.

17. **Approval Process for Authorizing Amendments to Art Agreements**

In the course of any agreements for public art projects, authorization to negotiate and execute any amendments shall follow the approval authority as designated in BPC Policy No. 110.

18. **Management and Control of Artworks**

Any artworks proposed for contract, exhibit, or placement within the District's jurisdiction shall be submitted to the ~~Waterfront Arts & Activation~~Parks & Recreation department for review and recommendation, as required, by the ~~department~~ Director, ~~Waterfront Arts & Activation~~, the Arts, Culture & Design Committee, and the Board, as set forth in this policy.

No existing artworks owned by or in the custody of the District shall be deaccessioned, removed, relocated, conserved, altered, exhibited, or disposed of in any way without the approval of the Director of ~~Waterfront Arts & Activation~~Parks & Recreation following review and recommendation by the Arts, Culture & Design Committee, and the Board, as set forth in this policy.

Collections Management shall be the responsibility of the ~~Waterfront Arts & Activation~~Parks & Recreation department, under the direction of the ~~department~~ Director ~~of Waterfront Arts & Activation~~.

19. **Title to Artworks**

Title to all acquisitions accepted by the District shall be vested and held in the name of the District.

20. Deaccession

a. General Provisions for the Deaccession of Artworks/Objects

On occasion, it may be necessary to permanently remove artworks and/or objects from the Tidelands Collection. Deaccessioning should be applied only after careful evaluation of an artwork by the [Waterfront Arts & Activation Parks & Recreation](#) department, the Arts, Culture & Design Committee, and the Board to avoid the premature disposal of an artwork from the collection. The following general provisions should be used:

- (1) The District shall comply with state, federal, and international laws such as the Visual Artists Rights Act of 1990 (17 U.S.C. 106A and 113 [d]) or the California Art Preservation Act of 1979 (California Civil Code, Section 987) pertaining to the disposal of certain artworks. The District shall comply with legal agreements pertaining to deaccession and/or disposal of certain artworks.
- (2) The District shall observe any restrictions to deaccessioning applied to artworks/objects acquired through donation, unless deviation from those restrictions is authorized by the donor, the donor's official legal designee, or a court of competent jurisdiction. Reasonable efforts to comply with any non-binding restrictions will be made.

b. Reasons for the Deaccession

The following reasons may be cause for deaccessioning artworks/objects from the Tidelands Collection:

- (1) Condition. The artwork/object has deteriorated beyond a reasonable means of conservation; has been damaged beyond reasonable repair or is actively deteriorating in a manner that negatively affects the artwork/object's site and/or other District property.
- (2) Maintenance. The artwork/object needs excessive maintenance or conservation, or the artwork/object repeatedly fails to operate properly.
- (3) Authenticity. The authenticity, level of aesthetic quality, and workmanship of the artwork/object, and/or the relationship of the artwork/object to the artist/designer's body of work, is determined to be false, insufficient, or insignificant.

- (4) Duplicative. The artwork/object is redundant or is a duplicate in a large holding of artworks/objects of that type or category, or by that artist/designer.
- (5) Legal and Ethical Considerations. The District's possession of the artwork/object violates state, federal, or international laws; the provenance of the artwork/object is unknown or unconfirmed; and/or the District does not have a clear legal title to the artwork/object.
- (6) Site. The artwork/object is located at a site undergoing changes in ownership, use, design, and/or environmental conditions which may affect the integrity of, or access to the artwork/object.
- (7) Significance. The artwork/object has little or no correlation to the District's vision for art on tidelands.
- (8) Safety. The security of the artwork/object cannot be sustained; and/or the artwork/object poses a public safety and/or public health risk.
- (9) Resources. The artwork/object requires a total amount of funds to exhibit, operate, store, maintain, and/or conserve in excess of its fair market value, or is an excessive financial burden to the District.

c. **Deaccession Process**

The ~~Waterfront Arts & Activation~~Parks & Recreation department shall conduct deaccession evaluation through the following process:

- (1) Initiate a deaccession evaluation, which includes an independent professional appraisal of the fair market value of the artwork/object and a recommendation from the ~~department~~ Director ~~of Waterfront Arts & Activation~~ on whether to deaccession the artwork/object from the Tidelands Collection, which would include the recommended method of disposal. The ~~department~~ Director ~~of Waterfront Arts & Activation~~ may also request additional input from the artist, conservators, and other professionals to assist in the deaccession evaluation.
- (2) Submit the deaccession evaluation to the Arts, Culture & Design Committee for input and recommendation.

- (3) The ~~department~~ Director ~~of Waterfront Arts & Activation~~ shall prepare a report for the Board, with the Arts, Culture & Design Committee's recommendation for approval of the deaccession of artworks/objects from the Tidelands Collection.
- (4) Deposit any proceeds resulting from the deaccession of artworks/objects into the Public Art Fund.

21. **Outgoing Loans of Artworks /Objects from the Tidelands Collection**

The Director of ~~Waterfront Arts & Activation~~Parks & Recreation is authorized to loan artworks/objects from the Tidelands Collection for use in exhibitions, research, and education.

In general, the District considers loaning artworks/objects to government entities, agencies, institutions, or organizations and only to private individuals, companies, and commercial galleries when doing so is likely to elevate the value and/or significance of the Tidelands Collection.

22. **External Requests to Exhibit Artworks/Objects on Tidelands**

a. **Review Procedure for External Requests**

The ~~Waterfront Arts & Activation~~Parks & Recreation department administers the District's annual program to review external requests to exhibit artworks, objects, and other items on the tidelands. External requests may propose the following methods for exhibiting artworks and objects on tidelands: (1) temporary display of an artwork/object within the District's jurisdiction through the loan of said artwork/object to the District for the duration of an exhibit; or (2) a donation of an artwork/object, where the artwork's/object's legal ownership is transferred to the District.

- (1) The ~~Waterfront Arts & Activation~~ department shall oversee the submittal procedures for reviewing external requests to exhibit artworks/objects within the District's jurisdiction, convene review panels for additional input, and forward external requests to the Arts, Culture & Design Committee for review and recommendation based on the evaluation criteria herein.
- (2) For any external requests that the ~~department~~ Director ~~of Waterfront Arts & Activation~~ and the Arts, Culture & Design Committee

recommend the District pursue, sponsors shall be required to develop their requests into formal proposals. Acceptance of formal proposals shall be subject to further District review, as well as approval by the department Director, ~~Waterfront Arts & Activation~~, the Arts, Culture & Design Committee, and the Board.

b. Social and Merit Issues Regarding Commemorative Artworks/Objects

- (1) Requests to display artworks/objects, within the District's jurisdiction, that are intended to be commemorative in nature shall only be considered if they concern subject matter that is:
 - (a) Tangibly and directly associated with District tidelands and its member cities, or is of broad and undisputed importance to the San Diego Bay region.
 - (b) Generally accepted as having had an exemplary and positive impact on the tidelands or the broader San Diego Bay region.
 - (c) Culturally or historically relevant to the tidelands or the broader San Diego Bay region.
- (2) Requests to display artworks/objects that commemorate or depict the following topics, shall not be considered for exhibit within the District's jurisdiction:
 - (a) Disasters or health-related topics.
 - (b) Subjects that are trademarked or commercially licensed.
 - (c) Subjects duplicative with respect to the existing Tidelands Collection.
 - (d) Political and/or social movements or issues.
- (3) Requests to display artworks/objects that commemorate individuals shall not be considered until the individual has been deceased for at least five years, except in instances where there is broad and undisputed community consensus for earlier commemoration.
- (4) Requests to display artworks/objects that commemorate ideas or events shall not be considered until ten years after the idea or event, except in instances where there is broad and undisputed community consensus for earlier commemoration.

- (5) Requests to display artworks/objects that commemorate the contributions of individuals or particular groups shall not be considered unless the contributions of such individuals or groups have had noteworthy and significant impact on the tidelands or the broader San Diego Bay region.

c. **General Acceptance Conditions for External Requests to Exhibit Artworks/Objects on Tidelands**

The District has no obligation to accept any sponsor proposal to exhibit artwork/objects on tidelands. The District has the right to determine, at its sole and absolute discretion, what artworks/objects will be accepted for exhibit by the District. The following conditions shall be met before the District will consider accepting a sponsor request to exhibit artwork/objects within the District's jurisdiction:

- (1) All expenses shall be the responsibility of the sponsor, except in extraordinary circumstances. These expenses may include, but are not limited to: design, fabrication, shipping, insuring, site preparation, installation, signage, and lighting.
- (2) For donations of artworks/objects, sponsors shall deposit funds equal to, or greater than, ten percent of the commission cost or the fair market value of the item(s) into the designated District public art maintenance fund for ongoing conservation and maintenance, before groundbreaking or installation.
- (3) The District prefers unrestricted donations of artworks/objects; however, restricted donations may be accepted, only if the District pre-approves the restrictions or limitations and these are expressly stated in the title conveyance documents.
- (4) Before sponsor proposals are accepted by the District, title conveyance documents, including any limitations or restrictions, and/or any loan or donation agreements between sponsor and the District regarding same, must be prepared by or approved by the District.
- (5) The District reserves the right to require sponsors to comply with state, federal, or international laws.

23. Reproductions or Adaptations of Artwork/Objects

~~The Waterfront Arts & Activation~~Parks & Recreation department ~~staff~~ is authorized to negotiate with the copyright holder for each artwork/object that is in, or proposed for inclusion in the Tidelands Collection, or that is exhibited within the District's jurisdiction, for the purpose of acquiring a license to make, or cause to be made, reproductions or adaptations of an artwork/object. Reproductions or adaptations of an artwork/object are made according to the terms and conditions of the licensing agreements.

24. Proceeds from the Sale, Loan, Reproduction or Adaptation of Artworks/Objects

Funds realized from the sale or loan of artworks/objects from the Tidelands Collection, or proceeds from the licensing and sale of reproductions or adaptations thereof, less any payments owed, shall be deposited into the Public Art Fund.

25. Administrative Procedures

The ~~Waterfront Arts & Activation~~Parks & Recreation department shall promulgate office administrative procedures and/or guidelines, as needed, consistent with this policy, to facilitate the implementation of its responsibilities under this policy.

EVALUATION CRITERIA:

Criteria for Evaluating Artist Qualifications

- (1) Meets the definition of artist. For the purpose of this policy, an artist is an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, based on his or her body of work, educational background, experience, exhibition history, publication, and/or creation of artworks.
- (2) Demonstrates artistic excellence, innovation, and originality as represented in past work and supporting materials.
- (3) Demonstrates capacity for working in media and with concepts that are

appropriate to the project goals and site, as applicable.

- (4) Demonstrates interest and capability in creating public artworks in collaboration with the District, the design team (if applicable), and other project partners and stakeholders.
- (5) Demonstrates experience in successfully completing artworks of similar scope, scale, budget, and complexity, or the ability to articulate how he or she would be able to bring the necessary artistic and technical skills to this project.
- (6) Demonstrates interest in, and understanding of, the project.
- (7) Is available to perform the scope of the work in a timely and professional manner.
- (8) Broadens the diversity of artists exhibiting on tidelands.
- (9) If applicable, demonstrates ability to work as part of a cohesive team.
- (10) If applicable, demonstrates satisfactory past performance on agreements.

Criteria for Evaluating Artwork Concept Proposals and Existing Artworks

- (1) Responds to the District's vision for art on the tidelands.
- (2) Meets the definition of artwork. For the purpose of this policy, an artwork is an aesthetic creation resulting from the skill and creativity of artist(s). An artwork may be made of any materials or combination of materials and may be permanent, temporary, fixed, or portable. An artwork can be an integral part of a building or structure and can be integrated with the work of other design professionals. Artwork shall be defined in terms of the visual arts, as distinguished from performing or literary arts. However, artworks can include visual representations of performing and literary arts, or can incorporate performative, narrative, or time-based elements.
- (3) Demonstrates excellence in aesthetic quality, workmanship, innovation, and creativity.
- (4) Demonstrates appropriateness in scale and form, and will be fabricated with materials/media suitable for the site and artwork concept.
- (5) Meets the project's goals.

- (6) Demonstrates feasibility in terms of cost, timeline, safety, durability, operation, maintenance, conservation, security, and siting.
- (7) Demonstrates feasibility with respect to legal and/or ethical issues that may be related to possession or display of the artwork.
- (8) Broadens the diversity of artworks exhibited on tidelands.

Criteria for Evaluating Object Concept Proposals and Existing Objects

- (1) Demonstrates excellence in aesthetic quality, workmanship, innovation, and creativity.
- (2) Demonstrates appropriateness in scale and form, and will be fabricated with materials/media suitable for the site and project concept.
- (3) Meets the project's goals.
- (4) Demonstrates feasibility in terms of cost, timeline, safety, durability, operation, maintenance, conservation, security, and siting.
- (5) Demonstrates feasibility with respect to legal and/or ethical issues that may be related to possession or display of the object.
- (6) Broadens the diversity of objects and visual experiences exhibited on tidelands.

Criteria for Board Evaluation

- (1) The District policy, as set forth herein and as administered by the ~~Waterfront Arts & Activation~~Parks & Recreation department and advised by the Arts, Culture & Design Committee, has been followed properly.
- (2) Recommendations are consistent with relevant budgets.
- (3) Recommendations are consistent with curatorial plans, project plans, and redevelopment plans.

GLOSSARY:

For purposes of this policy, the following definitions shall apply:

Budget: The allocated budget for the design, fabrication, and installation of an artwork/object that is newly commissioned, or the budget for the purchase, shipping and installation of an existing artwork/object that is being purchased.

Artist: An individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, based on his or her body of work, educational background, experience, exhibition history, publication, and/or creation of artworks.

Arts, Culture & Design Committee: An advisory body to the Board of Port Commissioners and the ~~Waterfront Arts & Activation~~Parks & Recreation department on matters related to arts and culture within the District's jurisdiction. The committee assists in upholding the District's vision of the tidelands as a world-class arts and cultural destination and supports the development of arts and cultural programs within the District's jurisdiction.

Artwork: An aesthetic creation resulting from the skill and creativity of an artist or artists. An artwork may be made of any materials or combination of materials and may be permanent, temporary, fixed, or portable. An artwork can be an integral part of a building or structure, and can be integrated with the work of other design professionals. For the purposes of the ~~Waterfront Arts & Activation~~Parks & Recreation department artworks can include visual representations of performing and literary arts, or can incorporate performative, narrative, or time-based elements.

Concept Proposal: The initial design phase of an artwork/object project in which an artist/designer creates a design concept that is detailed enough to communicate the intended content, scale, location, artistic media, and relationship of components and materials of the proposed artwork/object. The documentation of the design concept can include a narrative description of the work, diagrams, and/or a maquette.

Collections Management: Activities that include, but are not limited to, the acquisition, incoming loan, outgoing loan, deaccession, disposal, relocation, removal, exhibition, operation, maintenance, conservation, documentation, storage, reproduction, and/or adaptation of artworks/objects.

Commemorative Artwork/Object: An artwork/object that commemorates an individual, idea, or event that has shaped or impacted the tidelands.

Creative Direction: A broadly described thematic area, that the ~~Waterfront Arts & Activation~~Parks & Recreation department will use to explore curatorial possibilities and define individual projects.

Curatorial Plan: A multi-year work plan that establishes priorities for the types of projects the ~~Waterfront Arts & Activation~~Parks & Recreation department will be developing over a three-to five-year period. The strategy describes the types of projects the ~~Waterfront Arts & Activation~~ department will work to develop, the kinds of artists it will recruit, any specific geographic areas it will focus on, and any partnerships it would like to establish.

Object: A 3-dimensional or 2-dimensional item, marker, or document that may be perceived by the senses and which has value or utility for public display on ~~T~~idelands or for other uses as a District asset.

Percent for Art Allocation: The percentage of the total proposed project budget, in accordance with the requirements set forth herein, which is set aside for the administrative fees, art budget, and collections management associated with a public art project.

Public Art Fund: A designated District fund established in 1982 for the purpose of accumulating funds from various sources for the commissioning and acquisition of permanent or temporary public artworks for exhibition within the District's jurisdiction. Originally funded through an annual budget set-aside, the Public Art Fund serves as a depository for funds received from other sources, such as: tenant percent for art in-lieu contributions; aggregated District percent for art contributions from Capital ~~i~~improvement Program projects; art sales and loans; sales of licensed artwork reproductions; public art-related grants and/or grant-matching funds; and monetary bequests and donations received from the public or other agencies for public artworks.

Selection Panel: An ad-hoc panel that reviews artist materials and makes recommendations to the Arts, Culture & Design Committee and Director of ~~Waterfront Arts & Activation~~Parks & Recreation regarding acquisitions and exhibitions of artworks within the District's jurisdiction.

Sponsor: An individual or entity that proposes the loan or donation of an artwork/objects for exhibit within the District's jurisdiction.

Tidelands Collection: Artworks/objects which are publicly owned, possessed, or controlled by the District and administered by the ~~Waterfront Arts & Activation~~Parks & Recreation department.

RESOLUTION NUMBER AND DATE: 2018-014, dated January 9, 2018 (Supersedes BPC Policy No. 609, Resolution 2016-129, dated September 8, 2016; Resolution 2016-62, dated May 10, 2016; Resolution 2013-27, February. 12, 2013; Resolution 2011-160,

dated November 8, 2011; Resolution 2008-89, dated June 10, 2008; Resolution 2003-125, dated July 7, 2003; Resolution 2002-94, dated April 23, 2002; Resolution 98-81, dated March 31, 1998; Resolution 96-236, dated September 24, 1996; Resolution 86-63, dated February 18, 1986; Resolution 86-234, dated August 5, 1986; Resolution 82-343, dated December 14, 1982)

DRAFT



BPC Policy No. 771

SUBJECT: ~~SAN DIEGO UNIFIED PORT DISTRICT~~ TIDELANDS ACTIVATION PROGRAM

PURPOSE:

To establish a policy provide criteria and a process for sponsorships granted under to consider and grant the Tidelands Activation Program and the role of the Tidelands Activation Program Advisory Committee, sponsorships in support of events and activities that promoteing the mission of the San Diego Unified Port District and activate the tidelands.

~~POLICY STATEMENT:~~

Purpose

1. ~~Pursuant to the San Diego Unified Port District (District) Act (Harbors & Navigation Code Appendix 1), the District is responsible for promoting commerce, navigation, recreation and fisheries on District Tidelands. The District's mission includes providing regional and community benefits through a balanced approach to maritime industry, tourism, recreation, environmental stewardship and public safety.~~

2. ~~Pursuant to the District Port Master Plan, the District strives to provide: a) for the optimal present use and enjoyment of the bay and tidelands in such a way as to maintain options and opportunities that optimize future use and enjoyment; b) as trustee for the people of the State of California, administration of the tidelands so as to provide the greatest economic, social, and aesthetic benefits to present and future generations; and c) sensitivity to the needs, and cooperation with adjacent communities and other appropriate governmental agencies in bay and tideland development.~~

3. To support and carry out its mission, the District's Parks & Recreation Department sponsors regional and community events and activities conducted produced by a variety of civic, non-profit, business and government organizations under the Tidelands Activation Program.

POLICY STATEMENT:

1. Sponsorship Types

District sponsorships under the Tidelands Activation Program are of two types:

- ~~a.~~ Community Event Sponsorships. The District provides funding and/or services for events that promote one or more of the District's mission areas, with an emphasis on attracting the public to District ~~T~~idelands to recreate; and on educating the public regarding the District and its mission.
 - ~~a.~~
 - b. Signature Event Sponsorships. The District provides funding and/or District services to major public events that give title sponsorship or similarly valuable consideration to the District, attract large numbers of people to the ~~T~~idelands and generate significant, documented levels of positive financial impact, ~~marketingvalue~~awareness, and/or promotional return to the District.
- 2.** District services include but are not limited to the waiving of all or portions of fees for the use of District parks ~~and-or~~ facilities, including parking spaces ~~and the District's performance stage~~; the cost of providing District personnel to prepare, coordinate, conduct, and evaluate an event, as well as assist in regulatory compliance and obtaining necessary entitlements as required by applicable law; providing District equipment for an event; ~~and or~~ other agreed-upon services at a set amount based upon the cost of the District services provided or negotiated not-to-exceed amounts. All waivers of District charges for parking spaces shall be in accordance with the appropriate internal District administrative procedures and guidelines.

2. Budget

The District's ~~Waterfront Arts & Activation~~Parks & Recreation Department is responsible for budgeting all District sponsorships under the Tidelands Activation Program. Separate budget line items may be established for ~~the aggregate of~~

Community Event Sponsorships ~~and the aggregate of~~ Signature Event Sponsorships, ~~and/or for individual Signature Event Sponsorships.~~

The program's budget shall be allocated in accordance with the District's annual budget process and is included in the Parks & Recreation budget. All requests to be considered for sponsorship under the Tidelands Activation Program shall be submitted in writing to the department Director.

3. Application Guidelines~~Procedures & Criteria – General~~

All requests for sponsorship from the District shall be submitted to the ~~District's~~ Director of ~~Waterfront Arts & Activation~~Parks & Recreation. The following sets out ~~general procedures~~guidelines and criteria for the submitting an application, ~~review and approval of sponsorships.~~

~~Procedures & Criteria – Community Event and Signature Event Sponsorships~~

- ~~a. Community Event and Signature Event~~ Sponsorship applications shall be submitted in accordance with an annual timeline and application guidelines implemented by the Director of ~~Waterfront Arts & Activation~~Parks & Recreation.

a.

- ~~1.b.~~ _____ To be eligible for a sponsorship, ~~an Community Event or Signature~~ ~~E~~event should occur on District ~~T~~idelands. For moving events with no single fixed location, such as runs, walks, and bike rides, at least a portion of the event must occur on District ~~T~~idelands and that portion occurring on District ~~T~~idelands must include a majority of the participants in the event (e.g. the beginning or finish line of a race). If a proposed event will not occur on District ~~T~~idelands, the applicant must show how the proposed event meets the criteria set forth herein ~~Sections 3a. through 3e. or 4a. through 4e. below.~~

4. Evaluation Criteria – Community

Community Event Sponsorship applications will be evaluated using the following criteria.

2.

a. Number of people the event will attract to District ~~T~~idelands considering the area utilized, the nature of the event, and the affected community.

~~a.~~

b. Ability of the event to address one or more of the ~~se~~ following activation, community engagement, and education areas:

- Attract diverse visitors and demographics to District ~~T~~idelands.

~~i.~~

- Foster relationships between the District and its stakeholders in the region and community.

~~ii.~~

- Provide a desirable attraction that is rare or unique to District ~~T~~idelands, parks, or facilities.

~~iii.~~

- Provide the District with opportunities to educate the public and its stakeholders; promote one or more of its mission areas; attract attention to future economic activities and opportunities on the District ~~T~~idelands; and activate its parks, the waterfront, and San Diego Bay through community engagement and/or ~~media—coverage;~~public awareness.

~~iv.~~

- Become self-sustaining through broad support and sustainable funding.

~~v.~~

c. Ability and methods used to measure the event's attendance and support.

~~b.~~

d. Percentage of the event's budget that is being requested from the District including both District funding and services.

~~6.~~

- ~~d-e.~~ Projected impacts of the event, positive and negative, on District tenant businesses and the surrounding community, including displacement of parking, traffic, and pedestrian circulation; noise; and concessions that compete with local businesses.

5. Evaluation Criteria – Signature

Signature Event Sponsorship applications will be evaluated using the following criteria:

~~3.~~

- ~~a.~~ Number of people the event will attract to District ~~T~~tidelands considering the area utilized, the nature of the event and the affected community.

~~a.~~

- ~~b.~~ Documented past and expected future economic impact and financial return to the District. For Signature Events Sponsorships, the District, ~~in-at~~ its sole discretion, may conduct an audit and/or require, at the applicant's sole cost and expense, a post-event economic impact analysis using a scope and methodology approved by the District as a condition of receiving funding and/or District services.

~~b.~~

- ~~c.~~ Expected ~~promotional and/or marketing~~ value of the event for the District and the creative economy through park and tidelands activation, community engagement, attendee participation, ~~event promotion~~ and media coverage public and stakeholder awareness.

~~c.~~

- d. Ability of the event to:

~~i.~~ Attract diverse visitors and demographics to District ~~T~~tidelands.

~~ii.~~ Foster relationships between the District and its stakeholders in the -region and community.

• Become self-sustaining.

•

• Grow in numbers.

~~iii.~~

- e. Percentage of the event's budget that is being requested from the District including both District funding and services.

6. Application Procedures

~~Community Event and Signature Event Sponsorship a~~Applications ~~will~~ shall be reviewed and evaluated using the following process:

4.

a. District staff ~~will~~ shall review each application and prepare preliminary recommendations for funding and/or District services. In conducting its reviews of sponsorship applications, staff ~~will~~ shall ~~identify~~ consult with the applicant and any potentially impacted parties, including government or resource agencies, community organizations, and District tenants, to ~~identify and~~ determine the nature and extent of any impacts of the proposed event or activity.

a.

b. ~~The A BPC-appointed~~ Tidelands Activation Program Advisory Committee appointed by the Board of Port Commissioners (BPC) ~~shall~~ will review District staff recommendations and make its recommendations for funding and/or District services for each application.

b.

c. District staff ~~will~~ shall finalize its recommendations for ~~Board of Port Commissioners (BPC)~~ consideration.

~~5. Unbudgeted or out-of-cycle requests for Community Event or Signature Event sponsorships will be assessed by the Director of Waterfront Arts & Activation and considered on a case-by-case basis. To be considered for sponsorship funding or services, the requestor must provide a compelling reason(s) for submitting the sponsorship request out-of-cycle.~~

7. Agreement Procedures

6. Following approval of a sponsorship by the BPC, the District and the sponsorship recipient will enter into an agreement that sets out the obligations of both parties as they relate to the District's sponsorship of the event or activity. ~~Except as addressed below, t~~The District ~~will~~ shall execute single-year agreements with the recipients of sponsorships except as addressed below.

~~7. Beginning with the Fiscal Year 2018-2019 TAP, and will offer to the recipients of Signature Event Sponsorship~~ recipients shall have the option of

~~negotiating a~~ multi-year agreements for terms of up to three years. District staff reserves the right to not recommend such an agreement for a Signature Event, but shall put forth the reasons to the sponsorship recipient and the BPC. In developing its recommendation, District staff ~~will~~shall consider the event's history with respect to its economic, financial, and/or promotional impact as a District-sponsored or previously non-sponsored event. District funding and/or services for the second and third years of a multi-year agreement are contingent on the fulfillment of the sponsorship recipient's obligations to the District in the previous year, as well as the approval of the budget for the event by the BPC in each year. The recipients of multi-year agreements will be required to provide reports of the results of their events as determined by the District but will not be required to reapply to the Tidelands Activation Program TAP for years two and three, potentially reducing administrative costs to the District and the event sponsor, and providing other potential benefits.

~~3.~~ Tidelands Activation Program Advisory Committee

8.

~~a.~~TheA Tidelands Activation Program Advisory Committee (~~Committee~~TAPAC) ~~will~~shall be appointed annually to review District staff recommendations and make its recommendations for funding and/or District services for each application.

a.

~~b.~~The TAPAC Committee ~~will~~shall consist of a non-voting Chair~~person~~, a non-voting Alternate Chair~~person~~, ~~a minimum of~~ seven at-large voting members, and six non-voting advisory members representing the San Diego Port Tenants Association, and each of the five District member cities.

b.

~~c.~~The TAPAC Committee ~~Chairperson, Alternate Chairperson and at-large voting members~~ shall be appointed by the Chair of the ~~Board of Port Commissioners~~BPC during the calendar year in which the TAPAC Committee will review sponsorship applications. The TAPAC Committee

Chair~~person~~ and Alternate Chair~~person~~ positions may be filled by Port Commissioners.

c.

~~d.~~ The San Diego Port Tenants Association (~~SDPTA~~) representative ~~to the Committee~~ shall be designated by the Executive Director of the San Diego Port Tenants Association SDPTA or his or her designee.

d.

~~e.~~ The ~~individual~~ District member city representatives ~~to the Committee~~ shall be ~~appointed~~ recommended by as agreed upon between the District and appropriate individual city administrative staff.

e.

~~1.f.~~ A quorum will consist of the TAPAC Committee Chair~~person~~ or Alternate Chair~~person~~ and a majority of the at-large members.

RESOLUTION NUMBER AND DATE: 2018-024, dated January 9, 2018 (Supersedes BPC Policy No. 771, Resolution 2016-09, dated January 12, 2016; Resolution 2014-106, dated May 6, 2014)

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION AMENDING BOARD POLICY NO.
608: TENANT PERCENT FOR ART PROGRAM TO
INCLUDE NON-SUBSTANTIVE ADMINISTRATIVE
UPDATES**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 608: Tenant Percent for Art Program, which provides for the inclusion of artwork in tenant improvement projects; and

WHEREAS, the Port's Waterfront Arts & Activation department is charged with oversight of the Port's public parks, supporting waterfront commerce, strengthening the creative economy, and encouraging recreational opportunities on tidelands in accordance with the Port Act and Public Trust Doctrine; and

WHEREAS, the department oversees several Board policies that require non-substantive administrative updates which are being brought forth under the corresponding agenda item; and

WHEREAS, administrative updates do not affect the operational management of existing Port programs related to arts, parks, and special events, but include non-substantive updates to incorporate industry standard nomenclature and program language commonly used by government agencies, as well as reflect a name change of the department from Waterfront Arts & Activation to Parks & Recreation in an effort to increase public awareness and understanding of the department's functions; and

WHEREAS, terminology updates, technical revisions, standardized formatting to align with other policies, addition of subject headings, removal of redundancies, process clarifications, and grammatical errors in the policy language have also been corrected throughout to increase overall readability.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby amends BPC Policy No. 608: Tenant Percent for Art Program to include the non-substantive administrative updates as set forth in the attachment to the agenda to which this resolution relates.

20xx-xxx

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the
San Diego Unified Port District, this 9th day of March 2021, by the following vote:

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION AMENDING BOARD POLICY NO.
609: PUBLIC ART PROGRAMS TO INCLUDE NON-
SUBSTANTIVE ADMINISTRATIVE UPDATES**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 609: Public Art Programs, which provides for the inclusion of public artworks and objects within the District's jurisdiction and for the administration and operation of the District's public art programs and Arts, Culture & Design Committee; and

WHEREAS, the Port's Waterfront Arts & Activation department is charged with oversight of the Port's public parks, supporting waterfront commerce, strengthening the creative economy, and encouraging recreational opportunities on tidelands in accordance with the Port Act and Public Trust Doctrine; and

WHEREAS, the department oversees several Board policies that require non-substantive administrative updates which are being brought forth under the corresponding agenda item; and

WHEREAS, administrative updates do not affect the operational management of existing Port programs related to arts, parks, and special events, but include non-substantive updates to incorporate industry standard nomenclature and program language commonly used by government agencies, as well as reflect a name change of the department from Waterfront Arts & Activation to Parks & Recreation in an effort to increase public awareness and understanding of the department's functions; and

WHEREAS, terminology updates, technical revisions, standardized formatting to align with other policies, addition of subject headings, removal of redundancies, process clarifications, and grammatical errors in the policy language have also been corrected throughout to increase overall readability.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby amends BPC Policy No. 609: Public Art Programs to include the non-substantive administrative updates as set forth in the attachment to the agenda to which this resolution relates.

20xx-xxx

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the
San Diego Unified Port District, this 9th day of March 2021, by the following vote:

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION AMENDING BOARD POLICY NO.
771: TIDELANDS ACTIVATION PROGRAM TO
INCLUDE NON-SUBSTANTIVE ADMINISTRATIVE
UPDATES**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 771: Tidelands Activation Program, to establish a policy for sponsorships granted under the Tidelands Activation Program and the role of the Tidelands Activation Program Advisory Committee, in support of events and activities that promote the mission of the San Diego Unified Port District and activate the tidelands; and

WHEREAS, the Port's Waterfront Arts & Activation department is charged with oversight of the Port's public parks, supporting waterfront commerce, strengthening the creative economy, and encouraging recreational opportunities on tidelands in accordance with the Port Act and Public Trust Doctrine; and

WHEREAS, the department oversees several Board policies that require non-substantive administrative updates which are being brought forth under the corresponding agenda item; and

WHEREAS, administrative updates do not affect the operational management of existing Port programs related to arts, parks, and special events, but include non-substantive updates to incorporate industry standard nomenclature and program language commonly used by government agencies, as well as reflect a name change of the department from Waterfront Arts & Activation to Parks & Recreation in an effort to increase public awareness and understanding of the department's functions; and

WHEREAS, terminology updates, technical revisions, standardized formatting to align with other policies, addition of subject headings, removal of redundancies, process clarifications, and grammatical errors in the policy language have also been corrected throughout to increase overall readability.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby amends BPC Policy No. 771: Tidelands Activation Program to include the non-substantive

20xx-xxx

administrative updates as set forth in the attachment to the agenda to which this resolution relates.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 9th day of March 2021, by the following vote: