
APPENDIX

Glossary of Terms

**BPC Policy No. 090 – Transfer Between or Within Appropriated Items in
Budget**

BPC Policy No. 115 – Guidelines for Prudent Investment

BPC Policy No. 117 – Operating Reserve

BPC Policy No. 120 – Capital Improvement Program

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**Resolution 2013-111 – Resolution Adopting Non-Binding Sense Of The Board
Related to Amendment of Fiscal Year 2012/2013 Budget**

Resolution 2013-110 – Resolution Adopting The Fiscal Year 2013/2014

**Preliminary Budget And Setting The Date For A Public Hearing On The
Budget As July 16 , 2013**

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GLOSSARY OF TERMS

Accrual Basis of Accounting – under this method, revenues are recorded when earned and expenses are recorded when incurred.

Actual – Earned revenue or incurred expense during the stated fiscal year.

Americans with Disabilities Act (ADA) – prohibits, under certain circumstances, discrimination based on disability.

Appropriation – an authorization made by the Board of Port Commissioners that permits District departments to make expenditures of governmental resources. All appropriations that have not been expended or lawfully encumbered lapse at the end of the fiscal year. The Board of Port Commissioners may increase or decrease appropriations by majority vote.

Asset – resources owned or held that have an economic value

Balanced Budget – a balanced budget is one in which revenues and other sources of funds equal or exceed expenditures and other uses of funds.

Bond – a written promise to pay a designated amount (called the principal), at a specific date in the future, together with periodic interest at a specified rate. In the budget, these payments are identified as debt service. Bonds are usually used to obtain long-term financing for capital improvements.

Board – Board of Port Commissioners

Board of Port Commissioner (BPC) Policies – San Diego Unified Port District Act requires the Board of Port Commissioners to make and enforce necessary rules and regulations governing the use and control of all navigable waters, tidelands, and submerged lands within the District and to make and enforce certain local police and sanitary regulations relating to the District.

Brown Act – guarantees the public's right to attend and participate in meetings of local legislative bodies.

Budget – a financial plan for a specified period of time (fiscal year) that matches plan expenses and revenues with planned services.

Budgetary Control – the control or management of a government in accordance with the approved budget for the purpose of keeping expenditures within the limitations of available appropriations and resources.

Burden – is the benefits and taxes that a company must or chooses to pay on their payroll. These can include, but are not limited to, all of the following: payroll taxes, both federal and state, retirement/pension costs, fringe benefits, health care, life/AD&D insurance, paid time off, worker's compensation costs, long-term disability insurance, and short-term disability insurance.

California Environmental Quality Act (CEQA) – requires state and local agencies within California to follow a protocol of analysis and public disclosure of environmental protection a mandatory part of every California state and local agency's decision making process.

California Fair Employment and Housing Act (FEHA) – is used to fight sexual harassment and other forms of unlawful discrimination in employment and housing.

California Public Records Act – requires inspection and/or disclosure of governmental records to be the public upon request, unless exempted by law.

CalTrans – California Department of Transportation

Capital Improvement Program (CIP) – a five-year fiscal plan detailing the amount and timing of anticipated capital expenditures. It is updated annually with the adoption of the budget.

Capital Labor – is internal labor costs (personnel and overhead) that are directly incurred in the development and construction of capital projects.

CCDC – Center City Development Corporation

CEO – Chief Executive Officer

Coastal Act – addresses issues such as shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, water quality, offshore oil and gas development,

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transportation, development design, power plants, ports and public works. The Coastal Commission, in partnership with coastal cities and countries, plans and regulates the use of land and water in the coastal zone.

Cost Center – a unit within the District to which costs may be charged for accounting purposes.

CST – Cruise Ship Terminal

Department – a major administrative unit of the District, which indicates overall management responsibility for an operation or a group of related operations within a functional area, and the organizational level at which the budget is adopted and controlled.

District – San Diego Unified Port District

E.D.M.S. – Electronic Document Management System

Enterprise Fund – in governmental accounting, a fund that provides goods and services to the public for a fee that makes the entity self-supporting.

Expense – charges incurred (whether paid immediately or accrued) for operations, maintenance, interest or other charges.

Fiscal Year (FY) – the annual period beginning July 1st and ending June 30th.

GASB – Government Accounting Standards Board, the body responsible for establishing GAAP for governmental entities.

GDP – Gross Domestic Product

Generally Accepted Accounting Principles (GAAP) – the conventions, rules, and procedures that serve as the norm for the fair presentation of financial statements.

GFOA – Government Finance Officers Association

GIS – Geographic Information System

Grant – a contribution by a government or other organization to support a particular function. Grants may be classified as either operational or capital, depending on the grantee.

IMP – Infrastructure Management Program

JHOC – Joint Harbor Operations Center

JTTF – Joint Terrorism Task Force

MM – Major Maintenance

MOIS – Maritime Operations Information System

MOTEMS (Marine Oil Terminal Engineering and Maintenance Standard) – These standards apply to all existing and new marine oil terminals in California, and include criteria for inspection, structural analysis and design, mooring and berthing, geotechnical considerations, fire, piping, mechanical and electrical systems.

MOU – Memorandum of Understanding

MTF – Marine Task Force

NEVP – North Embarcadero Visionary Plan

NCMT – National City Marine Terminal

NOAA – National Oceanic Atmospheric Administration

Non-Personnel Expense (NPE) – Non-personnel costs include costs for materials and supplies, equipment, communications, outsourced services, travel, and other expenses.

NTF – Drug Enforcement Administration Narcotic Task Force

Operating Reserves – unrestricted funds, usually accumulated over several years that are available for appropriation (also see Unreserved Fund Balance).

Other Post-Employment Benefits (OPED) – that an employee will begin to receive at the start of retirement. This does not include pension benefits paid to the retired employee. Other post-employment benefits that a retiree can be compensated for are life insurance premiums, healthcare premiums, and deferred-compensation arrangements.

OPH – Old Police Headquarters

Overhead Expense (Overhead) - refers to an expense in the District that cannot be directly

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associated and charged to a service or project.

Personnel Expense – is the sum of all wages paid to employees, as well as the cost of employee benefits and payroll taxes paid by an employer.

Public Contract Code – requires competitive bidding for the vast majority of public projects.

RCS – Regional Communications System Interoperability

Revenue – sources of income financing the operations of government

RFP – Request for Proposal

RFQ – Request for Qualifications

RIMS – Records & Information Management System

RSVP – Retired Senior Volunteer Program

SANDAG – San Diego Association of Governments

San Diego Unified Port District Act - provides for the calling of municipal elections therefor; describing the powers, duties, and functions thereof, authorizing the district to borrow money and issue bonds for district purposes; to provide means of raising revenues for the operation, maintenance and bond redemption of the district; and to provide, for the transfer to such district of tidelands and lands lying under inland navigable waters.

SDCRAA – San Diego County Regional Airport Authority

TAMT – Tenth Avenue Marine Terminal

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San Diego Unified Port District

Document No.

Filed JUL 24 2013
Office of the District Clerk

60580

BPC Policy No. 090

SUBJECT: TRANSFER BETWEEN OR WITHIN APPROPRIATED ITEMS IN BUDGET

PURPOSE: To establish a policy for the transfer of amounts between appropriated items in the budget in accordance with Section 86 of the San Diego Unified Port District Act (Act), as well as within appropriated items.

POLICY STATEMENT:

The Act requires the Board of Port Commissioners (Board) adopt an annual budget by ordinance. After the budget is adopted, circumstances may arise that require adjustments by way of transfers between appropriated items in the budget. The Act authorizes the Executive Director to request in writing to the Board for a transfer of amounts from one appropriated item to another in the budget. On the approval of the Board by a two-thirds vote, the Port Auditor will make the transfer. Furthermore, circumstances may arise that require adjustments by way of transfers within appropriated items in the budget. The Act does not set forth when such intra-item transfers require Board approval.

TRANSFER GUIDELINES:

1. Appropriated items are defined as broad categories of budgeted costs within each budget class as follows:

Ordinary Annual Expenses (Class):

Personnel Expenses (appropriated Item)

Non-Personnel Expenses (appropriated Item)

Expense Major Maintenance (appropriated Item)

Capital Outlay (Class):

Capital Improvement Program (CIP) (appropriated Item)

Technology Management Program (TMP) (appropriated Item)

Capital Major Maintenance (appropriated Item)

Equipment Outlay (appropriated Item)

Prior Indebtedness (Debt Service – Principal) (Class)

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The entire amount assigned to this class is the appropriated item.

2. The following rules shall be used to determine whether a transfer requires Board approval:

A. Rules for All Transfers:

- Individual transfer amounts may be made in a single transfer or multiple transfers if, in aggregate, they do not exceed the amount authorized.

B. Rules for Transfers Between Appropriated Items or Classes:

- A transfer between classes (e.g., amounts transferred between Ordinary Annual Expenses and Capital Outlay) requires Board approval.
- A transfer between appropriated items requires Board approval.

C. Rules for Transfers Within Appropriated Items:

- Applicable to all appropriated items except CIP, Expense Major Maintenance and Capital Major Maintenance:
 - Transfer of amounts within each appropriated item requires approval of the Executive Director.
- CIP (appropriated item):
 - Board approval is required for any transfer within CIP.
- Capital or Expense Major Maintenance (appropriated items):
 - Transfer amounts to projects related to emergency, safety and health require approval of the Executive Director with notification to the Board.
 - All other transfers involving planned projects within Capital or Expense Major Maintenance require approval of the Executive Director for individual transfer amounts not in excess of \$175,000 with notification to the Board. If individual transfer amounts exceed \$175,000, Board approval is required.
 - All other transfers involving unplanned projects within Capital or Expense Major Maintenance require approval in compliance with BPC Policy No. 080 – Unplanned Work Consideration. Board approval is required.

3. To ensure compliance with auditing standards, when the Board approves a transfer, the Port Auditor shall make the Board-approved transfer with the understanding that if this activity becomes a part of the District's annual audit plan, it must be reviewed by a party independent of the Port Auditor.

RESOLUTION NUMBER AND DATE: 2013-109, dated June 11, 2013

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BPC Policy No. 115

SUBJECT: GUIDELINES FOR PRUDENT INVESTMENTS

PURPOSE: To define the District's investment program objectives and to establish policies and procedures for the prudent investment of the District's cash.

POLICY STATEMENT:

1.0 INTRODUCTION

It is the policy of the San Diego Unified Port District (the District) to invest public funds in a manner that will provide the highest security of the funds under management while meeting the daily cash flow demands of the District. The investment policies and practices of the District are based upon prudent money management and conform to all state and local statutes governing the investment of public funds.

This policy also addresses risk management because risk management is an integral part of managing a fixed income portfolio. To focus only on maximizing return is imprudent; therefore, policy issues will be directed to limiting the investment portfolio's exposure to each issue and issuer of debt, and criteria for establishing minimum credit requirements that firms must have in order to effect security transactions with the District.

2.0 SCOPE

This investment policy applies to all the District's investment activities, except for the Employees Retirement and Deferred Compensation funds, which are administered separately. The financial assets of all other District funds shall be administered in accordance with the provisions of this policy. These funds are accounted for in the District's Comprehensive Annual Financial Report and include:

2.1 Funds

2.1.1 General Fund

2.1.2 Capital Outlay Fund

2.1.3 Any new fund created by the Board of Port Commissioners or operation of law, unless specifically exempted.

3.0 PRUDENCE

Persons authorized to make investment decisions for the District are trustees and therefore fiduciaries subject to the prudent investor standard.

3.1 When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.

3.2 Investment officials acting in accordance with written procedures and investment policy and exercising due diligence shall be relieved of personal responsibility of an individual security's credit risk or market price changes, provided deviation from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

4.0 OBJECTIVES

The primary objectives, in priority order, of the District's investment activities shall be:

4.1 **Safety of principal:** Safety of principal is the District's foremost objective. To accomplish this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio. Each investment transaction shall seek to ensure that capital losses are avoided, whether from issuer default, broker/dealer default, or erosion of market value. The District shall seek to preserve principal by mitigating credit risk and market risk.

4.1.1 Credit Risk is the risk of loss due to failure of the issuer to repay an obligation and shall be mitigated by investing in only the highest quality credits and by diversifying the investment portfolio so that the failure of any one issuer would not unduly harm the District's cash flows.

4.1.2 Market risk is the risk of market value fluctuations due to overall changes in the general level of interest rates and shall be mitigated by structuring the portfolio so that securities mature at the same time major cash outflows occur, thereby eliminating the need to sell securities prior to their maturity; and, by prohibiting the taking of short positions, that is, selling securities that the District does not own.

4.1.3 It is explicitly recognized, however, that in a diversified portfolio occasional losses may occur and must be considered within the context of overall investment return.

4.2 **Liquidity:** The District's investment portfolio will be structured to provide sufficient liquidity to meet the operating requirements of the District.

4.3 **Return on investment:** State law requires that the objective of return on investment be subordinate to the objectives of safety and liquidity. Therefore, investment officials shall seek to achieve a return on the funds under their control throughout all economic cycles, taking into consideration the District's investment risk constraints and cash flow requirements.

5.0 AUTHORITY TO INVEST FUNDS

The monies entrusted to the District will be invested and actively managed. This function is viewed as a full-time responsibility. The authority to execute investment transactions shall be limited to the Treasurer and Deputy Treasurer. The Treasurer and Deputy Treasurer will observe, review, and react to the changing conditions that affect the investment portfolio. The Treasurer and Deputy Treasurer will meet on a regular basis to discuss current market conditions and future trends and how each of these affects the investment portfolio and the District. The Treasurer and Deputy Treasurer shall establish a system of controls to ensure compliance with the District's investment policy and to regulate the activities of subordinate officials.

6.0 ETHICS AND CONFLICTS OF INTEREST

Board Commissioners, District officers or District employees involved in the investment process shall refrain from any activity that could conflict with proper execution of the investment program, or which could impair the Treasurer's or Deputy Treasurer's ability to make impartial investment decisions. District staff involved with the investment process shall disclose to the Executive Director/President and Chief Executive Officer any material financial interest in financial institutions that conduct business with the District, and they shall further disclose any large personal financial and/or investment positions that could be related to the performance of the District's portfolio. Board Commissioners, District officials and District employees shall subordinate their personal investment transactions to those of the District, particularly with regard to the timing of purchases and sales.

7.0 QUALIFIED DEALERS

The District shall transact business only with commercial banks, savings and loans, and investment securities dealers. The dealers must be primary dealers regularly reporting to the Federal Reserve Bank of New York. Regional dealers that qualify under the Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule) will be approved at the discretion of the Treasurer.

7.1 All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Treasurer with an audited financial statement, proof of National Association of Security Dealers certification, trading resolution, proof of state registration, completed broker/dealer questionnaire, and certification of (a) having read the District's investment policy and depository contracts and (b) recommending and executing only transactions that comply with same. The Treasurer shall determine if they are adequately capitalized, make markets in securities appropriate to the District's needs, and are recommended by managers of portfolios similar to the District's.

7.2 An annual review of the financial condition and registration of qualified bidders will be conducted by the Treasurer. A current audited financial statement is required to be on file for each financial institution and broker/dealer in which the District invests.

7.3 The District shall at least annually send a copy of the current investment policy to all financial institutions and broker/dealers approved to do business with the District. Confirmation of receipt of this policy shall be considered evidence that the dealer understands the District's investment policy and will recommend and execute only transactions suitable for and in compliance with the District's investment policy.

8.0 AUTHORIZED INVESTMENTS

The District is authorized by California Government Code Section 53600 et seq. to invest in the following types of securities, further limited herein:

8.1 **United States Treasury Bills, Bonds, and Notes**, or those for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no limitation as to the percentage of the portfolio that can be invested in this category.

8.2 **Obligations issued by United States Government Agencies** such as, but not limited to, the Government National Mortgage Association (GNMA), the Federal Farm Credit Bank System (FFCB), the Federal Home Loan Bank (FHLB), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Student Loan Marketing Association (SLMA) and the Tennessee Valley Authority (TVA). Although there is no percentage limitation of the dollar amount that can be invested in these issuers, the "prudent person" rule shall apply for any single agency name.

8.3 Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as **bankers acceptances** which are eligible for purchase by the Federal Reserve System, may not exceed 180 days to maturity or 40 percent of the market value of the portfolio. No more than 10 percent of the market value of the portfolio may be invested in banker's acceptances issued by any one bank.

8.4 **Commercial paper** of prime quality and ranked P1 by Moody's Investor Services and A1 by Standard and Poor's and issued by a domestic corporation having assets in excess of \$500 million and having an A or better rating on its long term debt as provided by Moody's or Standard and Poor's. Purchases of eligible commercial paper may not exceed 270 days to maturity. Purchases of commercial paper may not exceed 15 percent of the market value of the portfolio. No more than 10 percent of the market value of the portfolio may be invested in commercial paper issued by any one corporation. An additional 15 percent, or 30 percent of the market value of the portfolio, may be invested in eligible commercial paper only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

8.5 **Negotiable certificates of deposit (NCDs)** issued by a nationally or state-chartered bank or a state or federal savings institution. Purchased NCDs may not exceed 30 percent of the market value of the portfolio and the maximum maturity date shall not exceed one year.

8.5.1 The Treasurer shall use a nationally recognized statistical rating organization (NRS RO), as designated by the Securities and Exchange Commission, for the qualitative and quantitative analysis of financial institutions.

8.5.2 The Treasurer shall specify minimum criteria for investment as derived from the evaluation service.

8.6 **Medium Term Notes** (MTNs) issued by corporations organized and operating within the United States. MTNs eligible for purchase shall be rated "A" or better by Standard and Poor's or by Moody's rating services. MTNs with an "A" rating shall be limited to 24 months maximum maturity; AA rated MTNs shall be limited to 36 months. The aggregate total of all purchased MTNs may not exceed 30 percent of the market value of the investment portfolio. No more than 5 percent of the market value of the portfolio may be invested in notes issued by any one corporation. Commercial paper holdings shall be considered when calculating the maximum percentage of any issuer name.

8.7 **Repurchase agreements** (RPAs) shall only be made with primary dealers of the Federal Reserve Bank of New York. The Public Securities Association master repurchase agreement shall be the District's master repurchase agreement.

8.7.1 The term of the agreement may not exceed one year.

8.7.2 The market value of the securities used as collateral for repurchase agreements shall be monitored daily by the Deputy Treasurer and will not be allowed to fall below 102 percent of the value of the repurchase agreement.

8.7.3 The market value of the securities that underlay the repurchase agreement shall be adjusted no less than quarterly.

8.7.4 In order to conform with provisions of the Federal Bankruptcy Code, which provides for the liquidation of securities held as collateral for repurchase agreements, the only securities acceptable as collateral shall be certificates of deposit, eligible banker's acceptances, or securities that are direct obligations of the United States government.

8.8 **Reverse Repurchase Agreements** (RRPAs) shall only be made with primary dealers of the Federal Reserve Bank of New York and are authorized when the security to be sold on reverse repurchase agreement has been owned and fully paid for a minimum of 30 days prior to sale, the earnings from the matching investment(s) are greater than or equal to the cost of the reverse(s), and the terms and conditions are otherwise favorable to the District. Reverse repurchase agreements may not exceed 60 days to maturity and the maturity of the security purchased with the proceeds of the reverse must coincide with the date of the expiry of the reverse. No more than 10 percent of the portfolio may be invested in reverse repurchase agreements.

8.9 The **Local Agency Investment Fund** (LAIF), established by the State Treasurer for the benefit of local agencies and identified under Government Code Section 16429.1, is authorized up to the maximum amount permitted by State law.

8.10 The District may place funds in **inactive deposits** with those banks having offices in San Diego County. Such deposits in each bank shall be limited to no more than five percent (5%) of the total assets of the bank. All deposits shall be secured in accordance with California Government Code § 53652 and the District shall not waive the first \$100,000 of deposit insurance for collateral purposes. No more than ten percent (10%) of the portfolio may be invested in this category since time deposits are not liquid. Further, in accordance with California Government Code § 53635, to be eligible to receive funds, a bank, savings association, federal association, or federally insured industrial loan company shall have received an overall rating of not less than “satisfactory” in its most recent evaluation by the appropriate federal financial supervisory agency of its record in meeting the credit needs of California’s communities, including low-and moderate-income neighborhoods, pursuant to Section 2906 of Title 12 of the United States Code.

8.11 The District may place funds in **shares of beneficial interest** issued by diversified management companies investing in the securities and obligations as authorized by California Government Code § 53601 subdivisions (a) to (l) inclusive. To be eligible for investment, these companies shall either:

8.11.1 attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or,

8.11.2 retain an investment adviser registered with the Securities and Exchange Commission with not less than five years’ experience investing in the securities and obligation as authorized by California Government Code §53601 subdivision (a) to (m), inclusive and with assets under management in excess of five hundred million dollars (\$500,000,000).

8.11.3 The purchase price of shares of beneficial interest shall not exceed 20 percent of the portfolio’s market value and no more than 10 percent of the portfolio’s market value may be invested in shares of beneficial interest of any one mutual fund.

8.12 **Derivative securities** are those securities that derive their value from another asset or index, such as Treasury securities or the prime interest rate. A derivative security offers a yield higher than a comparable security because of the intrinsic risk associated with the security’s imbedded option (e.g., an interest rate that floats off the prime rate versus a fixed interest rate). Investments in derivative securities shall be made using the prudent investor person standard and shall be limited to federal agency issues.

8.13 **Investment Trust of California** (CalTRUST), a Public Joint Powers Authority pooled investment program, created by local public agencies and authorized by Government Code sections 53601(p) and 53635. Investments in CalTRUST shall not exceed 30 percent of the portfolio’s market value.

8.14 The District may place funds in **Certificates of Deposit** pursuant to California Government Code Sections 53601.8 and 53635.8. Purchases of Certificates of Deposit pursuant to Sections 53635.8 and subdivision (h) of Section 53601 shall not, in total, exceed 30 percent of the portfolio’s market value.

8.15 In accordance with California Government Code Section 53601 (d), the District may place funds in **California State & Local Agency Obligations** or registered treasury notes or bonds of any other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California; provided that the obligations are rated AAA by a nationally recognized statistical-rating service organization (NRSRO).

9.0 PROHIBITED INVESTMENTS

Investments not described herein, including but not limited to, inverse floating rate notes, range notes, interest-only strips that are derived from a pool of mortgages, common stocks, and long-term corporate notes or bonds are prohibited from use in this portfolio. The District shall not invest any funds in any security that could result in zero interest accrual if held to maturity. Investments that exceed five years to maturity require authorization by the Board of Port Commissioners prior to purchase.

10.0 INVESTMENT POOLS/MUTUAL FUNDS

A thorough investigation of the pool/fund is required prior to investing and on a continual basis. There shall be a questionnaire developed which will answer the following general questions:

- A description of the eligible investment securities and a written statement of investment policy and objectives.
- A description of interest calculations and how interest is distributed and how gains and losses are treated.
- A description of how the securities are safeguarded, including settlement processes, and how often the securities are priced and the program is audited.
- A description of who may invest in the program, how often, what size deposit and withdrawals are allowed, and notification requirements pertaining to deposits or withdrawals.
- A schedule for receiving statements and portfolio holdings.
- A statement that indicates if reserves, retained earnings, etc. are utilized by the pool/fund.
- A fee schedule and when and how fees are assessed.
- A statement that indicates if the pool/fund is eligible for the deposit of bond proceeds and/or if the pool/fund will accept such proceeds.

A published prospectus that answers these questions may be used in lieu of the District questionnaire.

11.0 SAFEKEEPING OF SECURITIES

To protect against potential losses by the collapse of individual securities dealers, all securities owned by the District shall be held in safekeeping by a third party bank trust department acting as agent for the District under the terms of a custody agreement executed by the bank and the District. All securities will be received and delivered using standard **delivery-versus-payment** procedures.

12.0 MAXIMUM MATURITY

The portfolio's weighted average days to maturity shall be limited to a maximum of three years. The maximum maturity of any one security, unless otherwise restricted by Government Code, shall be limited to five years. Investments that exceed five years to maturity require authorization by the Board of Port Commissioners prior to purchase.

13.0 SELLING OR SWAPPING SECURITIES

13.1 The Treasurer has the authority to sell any security in the District's portfolio in order to take advantage of profitable market movements or for the purpose of raising cash. Any security that is sold at a loss will be recorded as such in the District's accounting system; all securities that are sold will be identified in the investment reports issued by the Treasurer.

13.2 A swap is the movement from one security to another and may be done for a variety of reasons, such as to increase yield, lengthen or shorten maturities, to take a profit, or to increase investment quality. Losses or gains on security swaps shall be recorded as a completed sale and purchase in the District's accounting system.

14.0 PORTFOLIO ADJUSTMENTS

Should an investment percentage-of-portfolio limitation be exceeded due to an incident such as fluctuation in portfolio size, the affected securities may be held to maturity to avoid losses. When no loss is indicated, the Treasurer shall consider reconstructing the portfolio basing the decision in part on the expected length of time that the portfolio will be imbalanced.

15.0 PERFORMANCE STANDARDS

The investment portfolio shall be designed with the objective of obtaining a rate of return commensurate with the District's investment risk constraints and its anticipated cash flow requirements.

15.1 Benchmark Market Yield: The basis used by the Treasurer to determine whether market yields are being achieved shall be a comparison of the District's yield to maturity at month end to:

15.1.1 The month end yield to maturity of the State of California's Local Agency Investment Fund; and,

15.1.2 The average monthly yield of the Constant Maturity Treasury (CMT) whose duration most closely approximates the duration of the District's portfolio at month end.

Although the duration of either the LAIF portfolio or the CMT may not be exactly equal to the duration of the District's portfolio, the rationale for using these two benchmarks is to show whether the District's portfolio is following market trends with respect market yields.

16.0 REPORTING REQUIREMENTS

16.1 On a quarterly basis, the Treasurer shall render a report to the Executive Director/President and Chief Executive Officer, the Internal Auditor, and the Board of Port Commissioners.

16.1.1 The report shall be submitted within 30 days of the end of the quarter covered by the report.

16.1.2 The report shall include the type of investment, issuer, date of maturity, par and dollar amount invested on all securities, investments and moneys held by the District.

16.1.3 The report shall include a description of any funds, investments, or programs that are under the management of contracted parties.

16.1.4 The report shall also include a current market value as of the report date and identify the source of the valuation.

16.1.5 The report shall state compliance of the portfolio to the statement of investment policy, or the manner in which it is not in compliance.

16.1.6 The report shall state the District's ability to meet its budgeted expenditure requirements for the next six months, or to explain why sufficient money may not be available.

16.2 The report will consist of:

16.2.1 Portfolio Master Summary: A summary of the District's investment holdings. This report identifies, by investment type, book value (cost), percent of portfolio, average term, average days to maturity, and yield to maturity on a 360 day basis (bond equivalent yield) and 365 day basis (CD equivalent yield).

16.2.2 Investment Portfolio Details: A detailed accounting of the District's investment holdings by investment type. This report identifies each security by subsidiary investment number, issuer, purchase date, book value (cost), face value (par value), market value, stated rate (either interest rate or discount rate), yield to maturity on a 360- and 365-basis, maturity date and days to maturity. Additionally, this report identifies the average balance for each investment class.

16.2.3 Investment Activity Summary: A summary of the District's historic investment activity from the beginning of the fiscal year through the current reporting period. This report identifies, by month, the number of active investments, the total dollar amount

invested, the yield to maturity on a 360- and 365- day basis, the number of securities purchased, the number of securities matured or sold, the average term, and the average days to maturity. The report concludes with averages of each reporting category.

16.2.4 Interest Earnings Summary: A summary of the portfolio earnings for the current month and fiscal year to date.

17.0 INTERNAL CONTROL

The development of internal controls is a function of management. The Treasurer and Deputy Treasurer shall establish an annual process of independent review by an external examiner.

18.0 INVESTMENT POLICY ADOPTION

This investment policy shall be reviewed annually and adopted by resolution to ensure its consistency with the District's objectives of preservation of principal, liquidity, rate of return, and the policy's relevance to current law and financial and economic trends. The Treasurer is responsible for maintaining guidance over this investment policy and ensuring that the District can adapt readily to changing market conditions and shall submit to the Board of Port Commissioners any modification to the investment policy prior to implementation.

GLOSSARY OF TERMS

AGENCIES: Federal agency securities.

ASKED: The price at which securities are offered (that is, the price at which a firm will sell a security to an investor).

BANKERS' ACCEPTANCE (BA): A draft or bill of exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

BASIS POINT: One one-hundredth of a percentage point (i.e., 0.01%).

BENCHMARK: A comparative base for measuring the performance or risk tolerance of the investment portfolio. A benchmark should represent a close correlation to the level of risk and the average duration of the portfolio's investments.

BID: The price offered for securities (that is, the price at which a firm will pay to purchase a security an investor owns).

BROKER: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides; he does not take a position. In the money market, brokers are active in markets in which banks buy and sell money and in interdealer markets.

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Large denomination CDs are typically negotiable.

COLLATERAL: Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

CONSTANT MATURITY TREASURY: An index for a U.S. Treasury maturity that reflects the weekly or monthly average yield adjusted to a constant maturity. Yields on Treasury securities at "constant maturity" are interpolated by the U.S. Treasury from the daily yield curve, which is based on the closing market bid yields on actively traded Treasury securities in the over-the-counter market. The CMT indexes are volatile and move with the market. They reflect the state of the economy, and respond quickly to economic changes.

COUPON: (a) The annual rate of interest that bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a payment date.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

DEBENTURE: A bond secured only by the general credit of the issuer.

DELIVERY VERSUS PAYMENT: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt (also called free delivery). Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

DERIVATIVES: (1) Financial instruments whose return profile is linked to, or derived from, the movement of one or more underlying index or security, and may include a leveraging factor, or (2) financial contracts based upon notional amounts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities or commodities).

DISCOUNT: The difference between the cost price of a security and its value at maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be selling at a discount.

DISCOUNT SECURITIES: Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value (e.g., U.S. Treasury bills).

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns.

DURATION: A measurement of a bond's price volatility. It is the weighted-average term-to-maturity of the bond's cash flows, with the weights being the present value of each cash flow. Mathematically, duration is the first derivative of price with respect to yield.

FEDERAL CREDIT AGENCIES: Agencies of the Federal government set up to supply credit to various classes of institutions and individuals (e.g., small business firms, students, farmers, and farm cooperatives).

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits, currently up to \$100,000 per deposit.

FEDERAL FUNDS RATE: The rate of interest at which the Fed funds are traded. This rate is currently pegged by the Federal Reserve through open market operations.

FEDERAL HOME LOAN BANKS (FHLB): The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-à-vis member commercial banks.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): FNMA, like GNMA, was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development, H.U.D. It is the largest single provider of residential mortgage funds in the

United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL OPEN MARKET COMMITTEE (FOMC): Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and 4,115 commercial banks (at December 31, 1994) that are members of the system.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae): Securities guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by FHA or VA mortgages. The term pass-throughs is often used to describe Ginnie Maes.

INVERSE FLOATING RATE NOTE: A debt security with an interest rate stated as a fixed rate minus an index. This calculation causes the rate on the inverse floater to move in the opposite direction of general interest rates. This instrument generally performs well in a declining interest rate environment but will lose value if rates rise.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between the bid and asked prices is narrow and reasonable size can be done at those quotes.

LOCAL GOVERNMENT INVESTMENT POOL (LGIP): The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment. The State of California's pool is known as the Local Agency Investment Fund, or LAIF.

MARKET VALUE: The price at which a security is trading and could presumable be sold.

MASTER REPURCHASE AGREEMENT: A written contract covering all future transactions between the parties to repurchase agreements and reverse repurchase agreements that establish each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MEDIUM-TERM NOTES: A class of debenture.

MONEY MARKET: The market in which short-term debt instruments (Treasury bills, commercial paper, bankers' acceptances, discount notes, etc.) are issued and traded.

MORTGAGE POOL: A group of mortgages sharing similar characteristics in terms of class of property, interest rate, and maturity. Investors buy participations and receive income derived from payments on the underlying mortgages.

MUTUAL FUND: A fund operated by an investment company that raises money from shareholders and invests it in stocks, bonds, options, commodities, or money market securities. These funds offer investors the advantages of diversification and professional management.

OFFER: The price asked by a seller of securities. See also Asked and Bid.

OPEN MARKET OPERATIONS: Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

PORTFOLIO: Collection of securities held by an investor.

PRIMARY DEALER: A group of government securities dealers that submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC) registered securities broker/dealers, banks, and a few unregulated firms.

PRUDENT INVESTOR STANDARD: An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the state, the-so-called legal list. In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

QUALIFIED PUBLIC DEPOSITORIES: A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

RANGE NOTE: A debt security with a varied interest payment that depends on the number of days the designated index falls within (or in some cases outside) an established range of interest rates. Should rates move beyond the range on either end, the investor faces the risk of a reduced, or zero, interest payment for the applicable interest period.

RATE OF RETURN: The yield obtainable on a security based on its purchase price or its current market price.

REPURCHASE AGREEMENT (RP OR REPO): A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structure to compensate the buyer for this. Dealers use RP extensively to finance their positions. Exception: when the Fed is said to be doing RP, it is lending money, that is, increasing bank reserves.

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

SECONDARY MARKET: A market made for the purchase and sale of outstanding issues following the initial distribution.

SECURITIES AND EXCHANGE COMMISSION: Agency created by Congress to protect investors in securities transactions by administering securities legislation.

SEC RULE 15C3-1: See Uniform Net Capital Rule.

STRIP (Bonds): Brokerage-house practice of separating a bond into its principal and interest, which are then sold as zero coupon bonds.

STRUCTURED NOTES: Notes issued by Government Sponsored Enterprises (e.g., FHLB, FNMA, SLMA, etc.) and Corporations that have imbedded options (e.g., call features, step-up coupons, floating rate coupons, derivative-based returns) into their debt structure. Their market performance is impacted by the fluctuation of interest rates, the volatility of the imbedded options and shifts in the shape of the yield curve.

TREASURY BILLS: A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Treasury bills are issued to mature in one month, three months, or six months.

TREASURY BONDS: Long-term U.S. Treasury securities having initial maturities of more than ten years.

TREASURY NOTES: Intermediate term coupon bearing U.S. Treasury securities having initial maturities of from one year to ten years.

UNIFORM NET CAPITAL RULE: Securities and Exchange Commission requirement that member firms as well as nonmember broker/dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

YIELD: The rate of annual income return on an investment, expressed as a percentage. (a) **INCOME YIELD** is obtained by dividing the current dollar income by the current market price for the security. (b) **NET YIELD** or **YIELD TO MATURITY** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

RESOLUTION NUMBER AND DATE: 2013-115, dated July 16, 2013 (Supersedes BPC Policy No. 115, Resolution 2012-94, dated July 10, 2012; 2011-146, dated October 11, 2011; Resolution 2010-89, dated June 8, 2010; Resolution 2009-123, dated July 7, 2009, Resolution 2008-284, dated December 2, 2008, Resolution 2008-126, dated July 1, 2008, Resolution 2007-103, dated June 12, 2007; Resolution 2006-113, dated July 11, 2006; Resolution 2005-99, dated June 21, 2005; Resolution 2004-87, dated June 22, 2004; Resolution 2003-114, dated June 17, 2003; Resolution 2002-148, dated June 18, 2002; Resolution 2001-118, dated June 19, 2001; Resolution 2000-132, dated June 27, 2000; Resolution 99-151, dated June 22, 1999; Resolution 98-158, dated June 30, 1998; Resolution 97-115, dated June 17, 1997; Resolution 96-165, dated June 25, 1996; Resolution 95-242, dated July 25, 1995; Resolution 95-321, dated September 26, 1995; Resolution 86-23, dated January 14, 1986; Resolution 81-328, dated October 6, 1981; and Resolution 75-15, dated January 21, 1975)



(3)

San Diego Unified Port District
Document No. **55299**
Filed **AUG 07 2009**
Office of the District Clerk

BPC Policy No. 117

SUBJECT: OPERATING RESERVE POLICY

PURPOSE: The purpose of this policy is to establish general guidelines for the establishment, maintenance, and use of an operating reserve.

POLICY STATEMENT:

Operating reserves (i.e., cash reserves) are a measurement of sound fiscal management. Operating reserves generate investment income, provide a margin of safety and stability to protect the Port from exposure to catastrophic events and economic impacts, and provide flexibility to pursue emergent opportunities. To ensure long-term financial sustainability, the San Diego Unified Port District shall establish and endeavor to maintain an operating reserve balance that is available at the end of each fiscal year in an amount equal to six months of budgeted operating and maintenance expenditures.

PROCEDURE:

1. Establishing the operating reserve balance
 - a. The operating reserve balance shall be established annually upon the adoption of the fiscal year budget.
 - b. The dollar amount of the operating reserve balance shall be one-half the sum of budgeted operating and maintenance expenses minus budgeted expenses for the SDCRAA Harbor Police Service Level Agreement and any other operating expense for which a separate reserve exists.
 - c. The operating reserve balance includes a \$20 million minimum required operating reserve balance, which is established for the purpose of self-insurance against possible losses that could occur as the result of a catastrophic event (i.e., a natural or man-made disaster).
2. Maintaining the operating reserve balance
 - a. At least annually, Financial Services staff will forecast cash inflows and outflows over a five-year period to evaluate the sufficiency of the target operating reserve balance over the forecast horizon.

- b. Financial Services staff will present the results of the cash flow forecast to the Senior Management Team and discuss the target operating reserve balance over the forecast horizon.
- c. In the event that forecast cash inflows are insufficient to maintain the target operating reserve balance, staff will propose strategies to replenish the operating reserve balance, which include using one-time revenues, reducing expenses, suspending programs not linked to strategic goals, increasing revenues, or any combination of those strategies.
- d. At no time, except due to the occurrence of a catastrophic event, shall the operating reserve balance be allowed to fall below the \$20 million minimum required operating reserve balance without approval by the Board of Port Commissioners.

3. Uses of the operating reserve balance

- a. Operating reserves above the \$20 million minimum required operating reserve balance are authorized for use for the following purposes and in accordance with the following criteria.
 - i. A project is needed to comply with a current regulatory requirement or legal mandate.
 - ii. Cash flow requirements

Temporarily needed as a result of unfavorable financial performance due to the impact of an unfavorable economic environment.
 - iii. Major maintenance
 - 1. Project is necessary for the preservation of prior capital investment or an existing revenue stream; or
 - 2. Project costs exceed initial estimates due to higher than expected construction or material costs or an unforeseen problem during construction; or
 - 3. Project is scheduled to commence in a future fiscal year but is critical to complete earlier than planned.

iv. Capital development

Project is directly linked to and strongly supports one of the Port's strategic goals and is needed to start, resume, accelerate, or augment a currently approved Capital Development Program project.

v. Emergent opportunities

1. Directly benefits the Port by:

- a. Creating a new revenue stream; or
- b. Significantly enhancing an existing revenue stream; or
- c. Preserving an existing revenue stream; or
- d. Strengthening the Port's financial performance; and

2. Project payback is five years or less.

- b. Except in the case of a catastrophic event and in accordance with the San Diego Unified Port District Act § 58 "Suspension of Rules and Regulations in Emergencies; Emergency Regulations," any use of the \$20 million minimum required operating reserve balance requires approval by the Board of Port Commissioners.
- 4. The balance in the operating reserve shall be reported quarterly as necessary. Use of the operating reserve balance in no way contradicts, nullifies or usurps any other Board Policy, including but not limited to, BPC 110, "Procedure for the Administration of Contracts, Agreements, and the Purchasing of Supplies, Materials, and Equipment."

RESOLUTION NUMBER AND DATE: 2009-128, dated July 7, 2009

BPC Policy No. 117

Page 3 of 3

(1)

Re Adoption of BPC Policy 117,]
Operating Reserve Policy]
_____]

REFERENCE
COPY
55299

RESOLUTION 2009-128

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

That Board of Port Commissioners Policy No. 117, Operating Reserve Policy, a copy of which shall be placed on file in the office of the District Clerk, is hereby adopted.

ADOPTED this 7th day of July, 2009.

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7/7/09



(14)

San Diego Unified Port District

Document No. **61719**

Filed **APR 18 2014**
Office of the District Clerk

BPC Policy No. 120

SUBJECT: CAPITAL IMPROVEMENT PROGRAM (CIP)

PURPOSE: To establish a policy for the orderly development or improvement of the capital assets of the Port District through a Capital Improvement Program ("CIP Policy").

PREAMBLE: The Unified Port District of San Diego has a responsibility to provide for the orderly development and improvement of the lands and capital assets under its jurisdiction to execute its State Tidelands Trust obligations. The Port District acknowledges that each area of tidelands in its trust offers different Public Trust assets and value, and that each possesses varying degrees of opportunity for development, real estate, maritime, recreation and conservation as well as constraints.

The Port District, therefore, establishes this CIP Policy for the purpose of improving its CIP process and results. This CIP Policy is intended to facilitate capital development projects and budgets which are strategically cohesive, ensure clear and consistent treatment of all proposed capital projects on the tidelands, streamline the process, increase efficiency, reduce costs and improve outcomes.

It is the policy of the Port District to evaluate and rank capital development projects as follows:

- To reflect sound land use and capital improvement planning principles, as well as the strategic development, business and operational goals set by the Board of Port Commissioners ("BPC").
- To implement the appropriate and necessary sequencing of capital improvement projects based upon operational and business demands.
- To ensure projects given priority have a direct relationship to the establishment or improvement of capital assets needed to facilitate upcoming priority developments and pressing operational needs.
- To distribute the Port's capital investments in a balanced manner throughout the tidelands located in all of the Member Cities.
- To advance projects that are consistent with the Port District Act and the Port's numerous duties and state mandates:

- B) To be an environmental steward of the bay and tidelands;
- C) To provide public access to the waterfront;
- D) To provide recreational and community services as specified under the Port District Act;
- E) To ensure public safety and Homeland Security; and
- To provide a process for identifying, evaluating and mitigating the detrimental impacts of tidelands operations on adjacent off-tidelands communities, including maritime terminal impacts that qualify for Maritime Terminal Impact Funds ("MTIF").

The CIP process will proceed as follows:

Five Year CIP Program

1. The CIP will be developed using a long-term land use planning strategy every five (5) years. A flow chart of a typical five year process is shown in Attachment (1).
2. The CIP project selection process should be open, inclusive, efficient and effective by producing a program within a reasonable period of time. The resulting CIP program should reflect the Port District's specific strategic goals (COMPASS) and business or operational needs.
 - A) Port Staff, Port Commissioners, representatives of Member Cities, Port Tenants, and other public stakeholders may propose CIP projects for Port tidelands;
 - B) Port Staff, Port Commissioners, and representatives of Member Cities may propose off-tidelands projects to address Port operational and marine terminal impacts using the process described below.

3. On-Tidelands Projects:

For consideration during the five-year CIP review process, a project proponent will develop for each proposed on-tidelands project the following objective assessment:

- A) A project description including a statement of need for the project;
- B) Identification of the specific strategic goals (COMPASS) the project addresses;
- C) A financial analysis of the costs of the project, the availability of grant funding or matching funds, as well as any expected return on investment

("ROI") – including operational costs, maintenance costs, and life-cycle costs – of the project;

- D) An analysis of any anticipated non-monetary public benefits of the project;
- E) An explanation of the project's compatibility with existing, related development projects both on and off-tidelands (including non-Port District development projects);
- F) A rational assessment of the need for the timing of the improvements, and an explanation of the appropriateness of the timing of the investment;
- G) An explanation of how the project implements or facilitates the implementation of the Port Master Plan or other approved plans; and
- H) An analysis of the project's potential to create future economic benefit or impact if no immediate economic benefit is identified.

4. **Off-Tidelands Projects:**

The Port District recognizes that certain communities may be subject to disproportionate adverse impacts and constraints as a result of the presence of Maritime Terminals, and potentially other Port operations on the tidelands, while at the same time enabling a significant benefit to the District, or region, as a whole.

The Port District, therefore, includes as part of this CIP Policy a provision for the inclusion of off-tidelands projects in the CIP and the establishment of a Maritime Terminal Impact Fund (the "MTIF") as set forth below.

For purposes of this policy, "Off-Tidelands Impacts" are defined as impacts to communities adjacent to, directly associated with, or which are a result of the Port District's maritime terminals and other operations, which are of a unique, adverse or exclusionary nature.

Off-Tideland Impacts are recognized only when a direct relationship between the Port District's on-tidelands operations clearly result in adverse impacts that can be reasonably established as specified under the Port District Act. Examples of such impacts can include, but are not limited to, diminished air quality, heavy movement of vehicles or equipment through adjacent commercial or residential areas, or disproportionate degradation or use of public infrastructure such as roads, streets, sidewalks, all of which may occur within and disproportionately impact the communities in proximity to the Port's tidelands operations.

The Port District is currently, and intends to remain, in compliance with all applicable regulatory requirements with respect to maritime terminal operations and adjacent impacts. The Port considers this element of the CIP policy to be

above and beyond compliance, to reflect best practices and sound land use planning principles, and to be in the public interest.

Proponents of proposed CIP projects related to Off-Tidelands Impacts must present the following for inclusion in the CIP process:

- A) A project description including a statement of need for the project;
 - B) A statement of how the project relates to on-tidelands operations;
 - C) Identification of the Off-Tidelands Impacts and a description, supported by independent verification, of the *pro rata* shares of the Off-Tidelands Impacts caused by on-tidelands operations on the off-tidelands infrastructure;
 - D) A financial analysis of the costs of the project, the availability of grant funding or matching funds, how the Member City anticipates funding its proportional share of the costs, as well as any expected ROI – including operational costs, maintenance costs, and life-cycle costs – of the project;
 - E) An analysis of any anticipated non-monetary public benefits of the project;
 - F) A statement of whether the infrastructure impacts are the result of on-tidelands maritime terminal operations that would qualify for MTIF funding;
 - G) An explanation of how the project implements or facilitates the implementation of the Port Master Plan or other approved plans; and
 - H) An analysis of the project's potential to create future economic benefit or impact if no immediate economic benefit is identified.
5. Where a proponent proposes a CIP project, the Port District must receive the proponent's completed information regarding the project at least 120 days before the BPC begins its five year review of the CIP. Once this information is received, an objective Port Staff assessment of the project including the factors set forth in sections 3 and 4 will be prepared. That Port Staff assessment shall attach the proponent's information to the Staff assessment and forward it directly to the BPC as part of the public CIP process.
6. The proposed list of CIP projects, along with the proponent's information and Port Staff's assessment, shall be made publicly available at least 10 days before a CIP workshop or BPC meeting in which the CIP program will be considered.
7. Proposed CIP projects will be evaluated and ranked based on the following criteria (in no particular order):
- A) Contribution to the Port's strategic goals (COMPASS);

- B) Adherence to Port objectives and the Port District Act;
- C) Represents a balanced distribution of the Port District's proposed capital investment throughout the tidelands and Member Cities;
- D) Capacity to produce revenue and to enhance local and regional economic growth;
- E) Capacity to provide non-monetary public benefits; and
- F) Maintains off-tidelands infrastructure and mitigates Off-Tidelands Impacts necessary to support tidelands operations, particularly maritime terminal operations.

Annual CIP Reviews

The annual CIP reviews will focus on review of existing projects in the approved CIP. Working through a staff committee, staff will review the existing CIP to determine recommendations for existing projects (such as remain funded; be postponed, delayed or removed; or added back into the CIP list if previously removed). New projects will be considered for funding during the annual reviews only when new funding is available, as defined below. A flow chart of a typical annual review process is shown in Attachment(2).

8. The procedure for the annual reviews shall be as follows:

- A. For the annual reviews, an additional set of project filters will be applied to evaluations of existing projects. An example list of project filters is included in Attachment(3). Use of the filters during the annual reviews will be based on a ranking or decision matrix developed to provide a detailed methodology for applying the filters to individual projects. The filters and ranking process to apply them may be modified from time to time based upon Board direction.
- B. Existing projects will not be re-ranked against each other during the annual reviews. The project filters will be applied to determine if projects remain on the list, are removed from the list or deferred for future consideration. If projects are removed or deferred, any remaining funding balances will be reallocated to the CIP contingency.
- C. During the annual reviews, additional funding may be recommended for continuation of existing approved projects as determined by the CIP staff committee.
- D. With respect to funding for new projects, each spring prior to the fall workshop, there shall be a determination made by District staff regarding availability of additional funding for CIP.

- E. If new funding of \$1,000,000 or more is projected to be available (including the balance in the CIP contingency at the time of funding determination), project application forms will be solicited for consideration at the fall CIP workshop. The available funding determination, based on the prior fiscal year's audited financial results, and the subsequent decision on solicitation of project application forms for the fall CIP workshop, will be made by May 1st of each year.
- F. Application forms for new projects may be submitted for the annual CIP reviews by Port staff, Commissioners and Member Cities. Forms must be received by July 15th of each year for consideration for the fall CIP workshop.
- G. For new projects, application forms shall be prepared in accordance with Items (3) (On Tidelands Projects) and (4) (Off Tidelands Projects) above.
- H. New projects will be evaluated based upon criteria in Item (7) (page 5) above. Proposed new projects must meet both criteria 7(A) and 7(B) and at least one of the criteria 7(C), 7(D), 7(E) and/or 7(F). Projects which do not meet the criteria as described will not be considered for funding during that year's annual review. New projects which are found to meet the initial criteria will be reviewed for funding recommendation and will be prioritized through the staff committee reviews.
- I. For the annual reviews, the proposed list of CIP projects (new and existing), shall be made publicly available at least 7 calendar days before the CIP workshop or BPC meeting in which the CIP program will be considered.

Out of Cycle Requests

- 9. Out of cycle requests are defined as requests for modifications to the CIP which arise between the fall CIP workshops.

Out of cycle requests may be considered by the Board for the following situations:

- i. Additional funding needed to complete approved CIP projects in progress,
- ii. Unplanned projects as defined in Board Policy No. 080, Unplanned Work Consideration,
- iii. Maritime Terminal Impact Fund (MTIF) projects,
- iv. Opportunities for grants that require matching funds or to position the District to receive grants,
- v. Member City requests for re-prioritization of funds among existing approved projects which require no additional CIP funding and where there is a business reason for consideration as an out of cycle request

Out of cycle requests will be reviewed by the staff committee and if recommended to move forward will proceed to the Board as soon as practical.

10. Funding for CIP projects will be established by the Executive Director consistent with the BPC-adopted budget, and the calculations for MTIF funding. Only off-tidelands, maritime-terminal-related impact projects will qualify for MTIF funding. Funds for new CIP projects will be placed in a CIP reserve at the end of each fiscal year based on available unrestricted/undesignated reserves. Once in the CIP reserve, the funds can be allocated to projects in the five-year plan in accord with the procedures set forth above.

Once a particular MTIF project is identified for funding, those funds will be placed in reserve at the end of each fiscal year without regard to actual revenues and expenses. CIP projects may be phased such that the completion of a phase of the project results in a complete and usable product even if the project in its entirety is not complete.

11. Maritime Terminal Impact Fund:

On July 6, 2010, the Port District established the MTIF with an initial capital contribution of \$500,000. Additional funding for the MTIF will include one-half of one percent (.5%) of gross maritime terminal revenues earned from the operation of the Tenth Avenue Marine Terminal and the National City Marine Terminal each year. These funds shall be in addition to other CIP funds allocated to capital development or improvement to be put towards maritime-terminal-impact projects.

12. Reporting to the Board:

The CIP budget once approved by the BPC shall constitute direction from the BPC regarding Port District administration of the program. The Executive Director will update the BPC periodically on the execution of the approved CIP program, and may propose on an individual basis, consistent with the objectives and analysis identified above, additional projects for BPC consideration and approval. If new or additional information is discovered during the implementation of an approved CIP project that makes the implementation of the project infeasible or impractical, then this information will be reported promptly to the Board.

13. CIP Contingency:

At the completion of a CIP project, any funds remaining in the approved CIP budget will be reallocated to the CIP contingency account. Contingency funds are available for allocation to existing or new CIP projects at the discretion of the Board. Reallocation of funds from CIP contingency to any individual projects will require Board approval in accordance with this policy as well as other applicable policies including Board Policy No. 090, Transfer Between or Within Appropriated Items in Budget.

14. Notwithstanding any other provision of this policy, the annual funding for the CIP may be changed or otherwise suspended from time to time if the BPC makes a finding that, because of a fiscal emergency there is an established need for all or part of these funds to be expended for the repair, operation, maintenance or development of Port District infrastructure critical and paramount to the operation of the Port District.

For purposes of this provision, "fiscal emergency" means an extraordinary occurrence or combination of circumstances that was unforeseen and unexpected and which requires immediate and sudden action of a drastic but temporary nature.

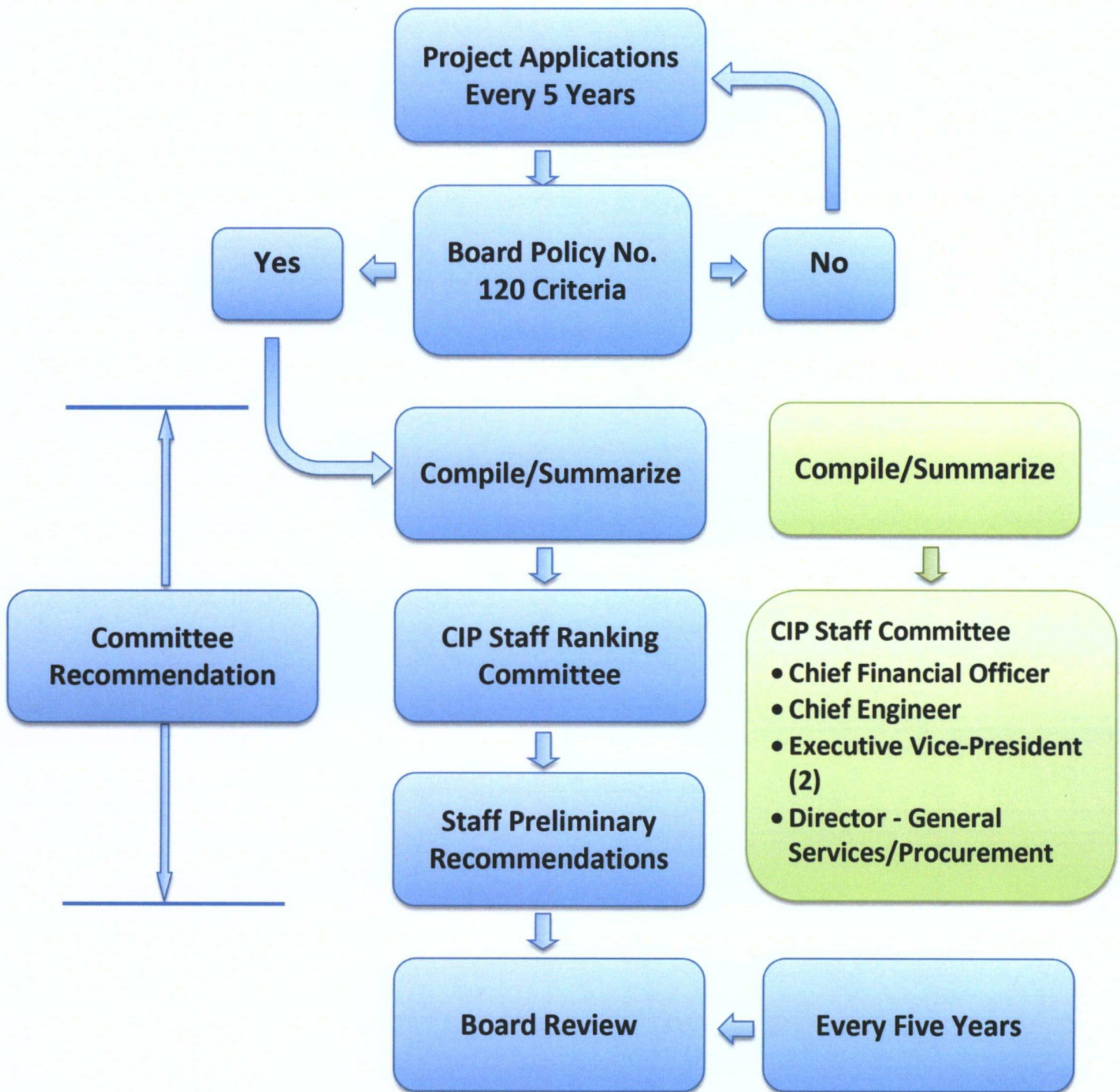
Attachment (1): Flow chart – typical five year CIP process (EXAMPLE)

Attachment (2): Flow chart – typical annual CIP process (EXAMPLE)

Attachment (3): Project filters for annual reviews (EXAMPLE)

RESOLUTION NUMBER AND DATE: 2014-45, dated March 4, 2014 (Supersedes BPC Policy 120, Resolution 2011-45 dated April 12, 2011; 2008-116, dated July 1, 2008; and Resolution 82-13, dated January 5, 1982)

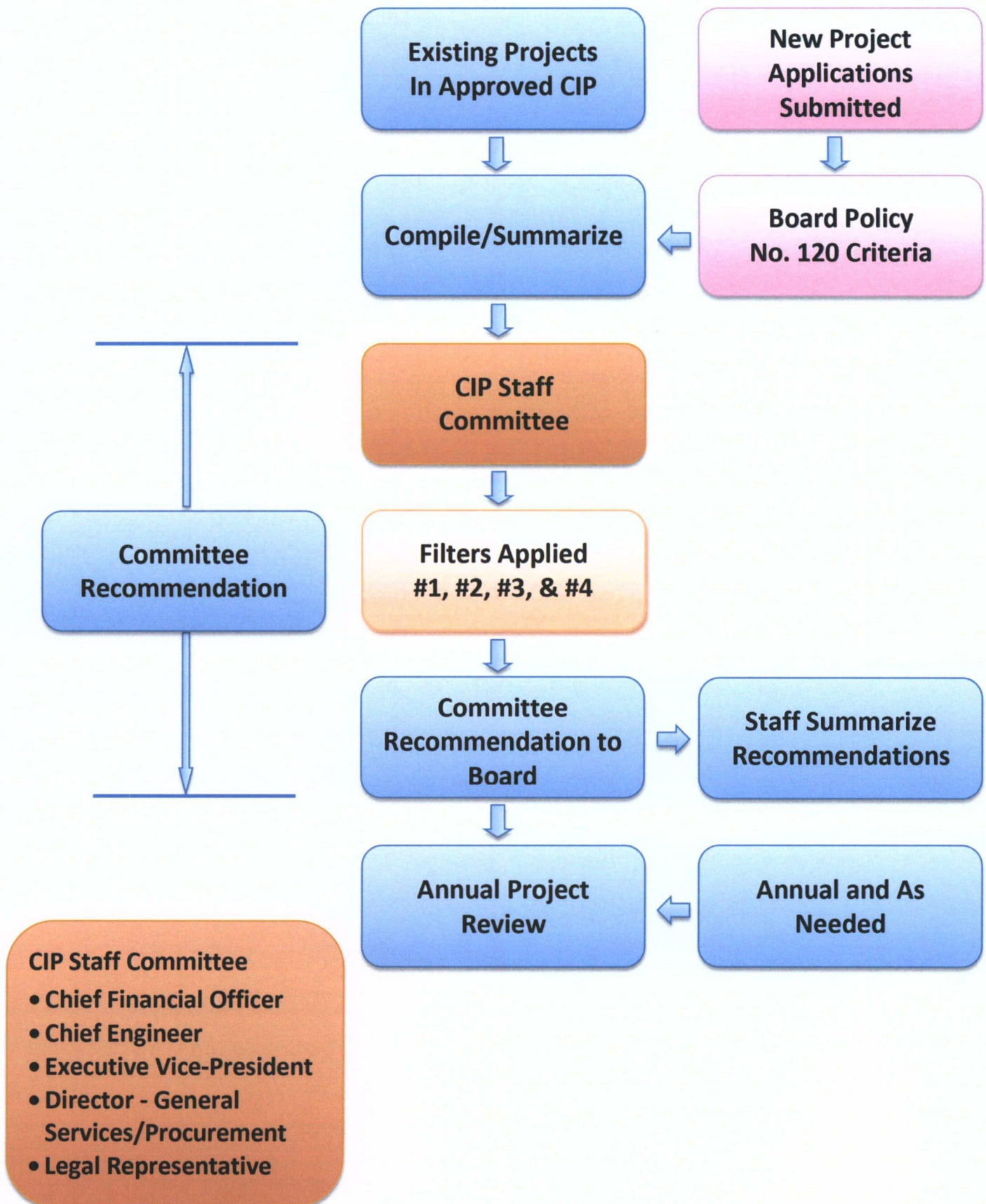
Attachment (1)
Capital Improvement Program (CIP)
5 Year-Process Used in 2012-Per Board Policy 120 (Example)



Attachment (2)

Capital Improvement Program (CIP)

Annual Review (Example)



Capital Improvement Program Filters for Project Reviews

Project Filters 1- Go Forward	
Under Construction	Board has awarded construction contract and project is in construction phase.
Legal/Contractual Obligations	There is a legal or contractual obligation related to the project.
Regulatory Mandate Or Permit Requirement	Project is required to comply with a Federal, state or local regulation or required under a permit issued by a jurisdictional agency.
Public Safety Or Homeland Security	Project will enhance protection of public safety and/or Homeland Security.
Operational Necessity	Project is necessary to improve Port operations and implement District's strategic goals and objectives.

Capital Improvement Program Filters for Project Reviews

Project Filters 2-Continue Stay Funded	
Implements Approved Plan Or Board Direction	Project will implement a Board approved plan or direction.
Revenue Generating	Project is estimated to generate a Return on Investment (ROI).
Short Payback Period	Project is projected to have a payback period of three years or less.
Public & Or Stakeholder Expectation	There is a stakeholder expectation surrounding the completion of the project that has been confirmed through Board action or direction.
Grant or Outside Funding Potential	Project will position the District for potential grants or outside funding agreements and priority is confirmed through Board action or direction.
Project That Has Obtained Entitlements	Project has obtained entitlements necessary to implement project through design and construction.

Capital Improvement Program Filters for Project Reviews

Project Filters 3- Postpone/Delay/Remove	
New Information/Infeasible	Projects determined infeasible to implement based upon new information or developments.
Changes In Applicable Laws, Regulations Or Contractual Requirements	Projects for which new laws, regulations or contractual requirements render them infeasible as scoped.
New Funding Source	Projects where a new funding source has been identified and District funding is anticipated to be reduced or modified substantially.
Blocked Or Stalled	Projects which have been blocked or stalled and implementation as planned is no longer feasible.
Removal Requested By Proponent	Projects which original proponents no longer desire to implement.

Capital Improvement Program Filters for Project Reviews

Project Filters 4- Back on the List	
Changes Which Warrant Reconsideration	Changes in project circumstances which warrant a reevaluation or reconsideration for funding approval.
Change In Litigation Status	Resolution of pending or ongoing litigation will permit project to proceed.
Reasons Put "On-Hold" Resolved	Factors which led to project being placed in an "on hold" status were resolved.
Project Proponent Request Reconsideration	Request was received to reconsider project previously removed from CIP list.



San Diego Unified Port District

Document No. 60578

Filed JUL 24 2013
Office of the District Clerk

BPC Policy No. 130

SUBJECT: MAJOR MAINTENANCE PROGRAM

PURPOSE: To establish a policy for the orderly maintenance of the capital assets of the San Diego Unified Port District (District) through a Major Maintenance Program Policy.

PREAMBLE: The District has a responsibility to provide for the orderly maintenance of the lands and capital assets under its jurisdiction for the execution of its responsibilities under the State of California Tidelands Trust obligations. Each area of tidelands within the District's jurisdiction offers different kinds of assets, function and value; accordingly, there exist different cost levels of and justifications for maintenance for real estate, maritime, recreation and conservation assets.

The District, therefore, establishes this Major Maintenance Policy for the purpose of improving its Major Maintenance process and results, to streamline project selection and funding process, to address the repair, operation, maintenance or development of District infrastructure and facilities.

Major Maintenance is distinguished from routine operational maintenance in that Major Maintenance replaces or restores an asset to an improved condition, typically through a public works contract and may require an engineering design or technical evaluation prior to commencement of work.

Major Maintenance Annual Project Approval Process:

Projects recommended for Major Maintenance funding are primarily derived from two sources:

- The District's Infrastructure Management Program which critically assesses expected wear and tear; and
- Requests from the District's operating departments.

District staff will perform a preliminary prioritization of all Infrastructure Management Program and operating department projects on an annual basis each January and February, utilizing ranking criteria. The ranked project list will be reviewed for staff capacity and available funding.

Staff recommendations will be formulated, and then submitted with a Major Maintenance Workbook to the Board of Port Commissioners (Board) annually in the first quarter of the calendar year. The workbook will describe each project and its proposed scope, schedule and budget together with the business justification for the

project recommendation, along with site photographs.

The staff submission will include a recommendation for a contingency fund to address emergency projects and emergent Major Maintenance needs. The Board's review and preliminary approval will be conducted at an annual Major Maintenance Workshop early in the budget preparation cycle so that final selection and funding decisions will be available for the Preliminary Budget Workshop in May or June.

Major Maintenance Actions that require Board Approval:

The Major Maintenance project list and budget, once approved by the Board, shall constitute Board direction regarding staff administration of the program. Throughout the year, the following actions require Board approval:

- Recommendations for deferral, significant delays or cancellations of approved projects;
- Recommendations for action in situations where new or additional information makes a project infeasible or impractical;
- Recommendations for any new Major Maintenance projects, that were not included in the Board approved annual budget, require approval in compliance with PBC Policy No. 080, Unplanned Work Consideration;
- Recommendations for transfer of funds from one project to another where the amount of the funds transferred exceeds the threshold as defined in BPC Policy No. 090, Transfer Between or Within Appropriated Items in Budget.

Major Maintenance Reporting to the Board:

The Major Maintenance budget, once approved by the Board, shall constitute Board direction regarding staff administration of the program. The Executive Director or Designee will update the Board quarterly on the execution of the approved Major Maintenance Program, on a project-by-project basis, through the issuance of a report that will include the following elements:

- Scope, schedule, budget (with variances);
- Status, events and issues for each project;
- Information concerning actions taken by staff, that did not require Board approval, in the prior quarter;
- Information concerning actions taken in the prior quarter, approved by the Board for deferrals, delays, cancellations, addition of new projects, transfers of funds.

Quarterly reports, via a Board Memo, will be submitted to the Board 45 days after the end of each quarter.

RESOLUTION NUMBER AND DATE: 2013-104, dated June 11, 2013



San Diego Unified Port District

Document No. **60007**

Filed **MAR 21 2013**
Office of the District Clerk

(34)

BPC Policy No. 609

SUBJECT: PUBLIC ART

PURPOSE:

To establish a policy for the inclusion of Artworks in Public Art Office and Capital Improvement Program projects within San Diego Unified Port District's (District) Public Places while providing for Public Art Office and Public Art Committee operations, strategic curatorial planning, project management activities and Collections Management.

The Board of Port Commissioners (Board) is committed to expanding opportunities for the citizens of California and visitors to the region to experience Public Art and other Artworks resulting from the creative expression of Artists in Public Places throughout the District's 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 District envisions building a critically acclaimed art collection that embodies the essence of the District's maritime, environmental and civic character.

To that end, a Public Art Office was created and invested with the mission of supporting the District, its tenants and member communities by providing leadership, advocacy and stewardship for art; acquiring Artworks, organizing exhibitions and supporting Tenant Artworks that enhance the visual excitement, aesthetic appeal and cultural richness of the tidelands; and managing the Tidelands Collection as a regional cultural asset. Furthermore, a Public Art Committee was established to serve in an advisory capacity to the Board and the Public Art Office, upholding the District's vision for art on the tidelands, ensuring that the District's Artwork policies and procedures are followed, and supporting the development and stewardship of the District's Tidelands Collection and other Artwork on District Public Places.

POLICY STATEMENT:

1. Public Art Office

The Public Art Office oversees the District's Public Art, Tenant Percent for Art, and other Artwork related programs, services and activities. The Office supports the District, its tenants and member communities by providing leadership, advocacy and stewardship for Public Art; acquires Artworks, organizes

Page 1 of 34

exhibitions and supports Tenant Artworks that enhance the visual excitement, aesthetic appeal and cultural richness of the Tidelands; and manages the Tidelands Collection as a regional cultural asset.

2. Duties and Functions – Public Art Office

The Public Art Office shall:

- a. Prepare the Annual Office Budget.
- b. Develop collaborative relationships within the District staff and with potential project partners.
- c. Facilitate the development of the multi-year Curatorial Strategy as outlined in section 15a.
- d. Oversee the Acquisition and exhibition of Artworks as outlined in section 15.
- e. Oversee the review and approval of Tenant Artwork projects.
- f. Oversee the review of proposed Donations, loans and temporary exhibits of Artworks.
- g. Develop and ensure that the District's adopted art policies and procedures are followed.
- h. Serve as the steward of the Tidelands Collection, ensure that the Tidelands Collection is documented, maintained and conserved and manage any financial transactions related to Collections Management and public art project activities pertaining to all existing and proposed Artworks in/proposed for the Tidelands Collection, or contracted for, exhibited on, or erected on Public Places.
- i. Develop materials, programs and initiatives to inform and engage the public about the District's Tidelands Collection and other Artworks on District Public Places.
- j. Staff the Public Art Committee.

3. **Public Art Committee**

There is hereby established an advisory Public Art Committee consisting of thirteen members of the public, who shall serve without compensation. No more than two Commissioners shall serve on the Committee. Commissioners shall not offer a motion or vote on any matter coming before the Committee. The Chair of the Board shall approve all recommendations to the Public Art Committee, subject to the following conditions: 1) Seven members shall be recommended by the Public Art Office Curator, in concurrence with the Public Art Committee Chair; 2) Five members, one from each of the five member cities, shall be recommended by their respective city mayors; 3) One member shall be recommended by the San Diego Port Tenant's Association, in concurrence with the Curator. The Curator shall develop a list of candidates to submit to the Chair of the Board for appointment or reappointment to the Public Art Committee in January.

4. **Duties and Functions – Public Art Committee**

The Public Art Committee serves in an advisory capacity upholding the District's vision for art on the tidelands and making recommendations for programs, services and activities related to Public Art, Tenant Artworks or otherwise to the Board and the Public Art Office, when appropriate.

The Public Art Committee shall:

- a. Serve as an advocate for the District's Public Art Office and the District's vision for art on the tidelands.
- b. Assist the Public Art Office in reviewing and recommending adoption of the Public Art master plan as outlined in section 15a.
- c. Assist the Public Art Office in reviewing District art related policies.
- d. Assist the Public Art Office Curator in developing the Curatorial Strategy to implement the Office's Creative Directions and recommend approval of the Curatorial Strategy to the Board as outlined in section 15a.
- e. Assist the Public Art Office Curator in developing Individual Project Plans and recommend approval of Individual Project Plans to the Board as outlined in section 15a.

- f. Assist the Public Art Office in reviewing Artwork commissioned or purchased through the Public Art Fund or as part of Capital Improvement Projects as outlined in section 15b and 15c.
- g. Assist the Public Art Office in reviewing Tenant Artwork projects as required.
- h. For proposed Donations of Artworks, evaluate the Artwork, Artist, and project for aesthetic and site review, and recommend acceptance or rejection of the proposed Donation, as required.
- i. Make recommendations regarding the Deaccession of Artwork from the Tidelands Collection as outlined in section 19.
- j. Make recommendations regarding Incoming Loans and temporary exhibits as outlined in sections 21 and 22.

5. **Qualifications of Public Art Committee Members**

Members shall be recommended based upon their substantive professional or volunteer experience in the visual arts (professional or volunteer experience for this purpose shall be defined as: individuals recognized by peers as curators, Artists, art critics, art historians, art collections managers, professors of art, art collectors, art fabricators, art preparators; and other persons with considerable visual arts experience as well as architects and landscape architects); an interest in contributing to the development of the District's art activities; and the ability to commit to volunteering time to serve on the Public Art Committee, as well as on Selection Panels on an as needed basis.

Membership of the Public Art Committee shall include individuals from diverse locales throughout the region as well as representation from all five District member cities.

Elected officials, agents, officers, and employees of the District and its member cities shall not be considered for an appointment to the Public Art Committee or accept such a position while a member of the Public Art Committee.

6. Designation of Public Art Committee Chair

The Chair of the Public Art Committee may be a Public Art Committee member, appointed by the Chair of the Board. The Chair of the Board may appoint a Commissioner to serve as Committee Chair. Commissioners shall not offer a motion or vote on any matter before the Committee.

7. Public Art Committee Members Terms

Public Art Committee members may serve up to two consecutive three-year terms. The expiration date of all terms shall be December 31. No member shall serve for more than two, three-year terms.

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

The Public Art Committee Chair shall serve a one-year term and may be reappointed as Chair by the Chair of the Board.

Should a Public Art Committee vacancy occur prior to the end of a member's scheduled term, the Curator shall recommend candidates to fill the seat or review recommendations in accordance with section 3. The Chair of the Board shall approve any recommendation to fill the vacated seat.

8. Public Art Committee Meetings and Reporting

Meetings of the Public Art Committee shall be noticed and open to the public. Public Art Committee meetings shall be conducted according to applicable California state laws.

Summary reports of each Public Art Committee meeting shall be prepared by Public Art Office staff. The summary reports shall be forwarded to the Board, and Public Art Committee updates may be reported at Board meetings.

9. Resignation and Removal of Public Art Committee Members

Any Public Art Committee member may submit written resignation to the Public Art Office Curator. The Curator shall notify the Public Art Committee Chair and the Chair of the Board of any such resignation.

The Curator may recommend to the Chair of the Board that an individual Public Art Committee member be removed.

10. Public Art Committee Quorum

A quorum shall be a majority of the members of the PAC.

11. Public Art 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

There is hereby established a fund designated as the Public Art Fund into which shall be deposited the Annual Office Budget of \$1.2 million in funds as the Board shall appropriate for the Public Art Office, and from which expenditures may be made for new permanent and temporary Artwork Acquisitions and exhibitions, Artist design fees, fabrication and installation of Artworks, competition costs and for Public Art Office staff costs and administrative costs that are associated with developing and implementing the Public Art Office programs, services and activities, including Collections Management.

The Public Art Fund can accept additional funds dedicated to acquiring Artworks through Capital Improvement Program projects specified in section 14. In addition, District tenant contributions, monetary bequests and Donations, grants and/or grant matching funds may be deposited into the Public Art Fund for general or specific programs, projects, services, activities or otherwise related to Public Art or other Public Art Office activities. 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 in Public Art Office Projects

- a. **Artwork Allocation.** Public Art Office initiated projects, including the Acquisition of Artworks, exhibition of Artworks or otherwise, funded through the Public Art Fund and/or other sources, in whole or in part, shall be consistent with section 15.

b. **Miscellaneous Provisions.**

The Public Art Office shall be the project manager and contract administrator for all Artist and Artworks agreements awarded by the District.

14. **Inclusion of Artworks in Capital Improvement Program (CIP) Projects**

- a. **Percent for Art Allocation.** All requests for appropriations for the construction of any CIP projects set forth in subsection 14b, with the exception of those outlined in subsection 14c, shall include an amount no less than one (1) percent of the total proposed project budget of such CIP project for Artworks. When the Board approves such a CIP project request, the appropriation shall be made and the same shall include an appropriation of funds for Public Art, at the rate of no less than one (1) percent of the total proposed project budget presented to the Board to be deposited into the Public Art Fund or held in the appropriate District fund.
- b. **Application.** The Percent for Art Allocation requirement shall apply to the construction and/or Alteration of the following:
- (1) a building;
 - (2) an aboveground structure;
 - (3) a park or green space;
 - (4) a trail or bikeway;
 - (5) a transportation improvement project;
 - (6) transit facility; or
 - (7) above-grade utility.
- c. **Exemptions.** The following shall be exempt from the Percent for Art Allocation requirements of this section:
- (1) Transportation projects limited to construction of a street, slurry or restriping.
 - (2) Mechanical, plumbing and electrical system upgrades, structural or seismic upgrades, and modifications for disabled access, unless occurring in conjunction with the construction or Alteration of any of the project types in section 14b;
 - (3) Landscape renovation projects, unless occurring in conjunction with the construction or Alteration of any of the project types in section 14b, including, landscape replanting; dredging and sand replenishment;

sewer and water lines; drainage and irrigation systems; wells; erosion control; repaving; new paving; stairway repair or replacement; utilities; modifications for disabled access; signage; lighting; fence replacement or repair; and replacement or repair of existing play structures.

- (4) Demolition projects, when not occurring in conjunction with the construction or Alteration of any of the project types in section 14b.
 - (5) CIP funded improvements for security/public safety and health deficiencies when not occurring in conjunction with the construction or Alteration of any of the project types in section 14b.
- d. **Artwork Related Expenses.** The Public Art Office shall supervise and control the expenditure of all Percent for Art Allocations and may allocate up to twenty percent of said allocations for each project for all necessary and reasonable project and administrative costs incurred in connection therewith and for Collections Management purposes, including maintenance and conservation. Funds set aside pursuant to this section shall be deposited in the Public Art Fund.
- e. **Aggregation of Funds.** When the Public Art Office and Engineering and Construction Department mutually determine that the Percent for Art Allocation is either insufficient to execute a significant Artwork, or other factors, such as lack of public visibility or accessibility make an Artwork at a particular location undesirable, the Public Art Office shall have the authority to aggregate Percent for Art Allocation funds for use at other Public Places. Such funds may be deposited into the Public Art Fund or held in the appropriate District fund.
- f. **Miscellaneous Provisions**
- (1) Public Art projects funded through CIP funds shall be consistent with section 15.
 - (2) The Public Art Office shall be the project manager and contract administrator for all Artist and Artwork agreements awarded by the District.

15. Planning and Acquisition Process for Artworks

To carry out its responsibilities under sections 13 and 14, the Public Art Office shall conduct program and project management activities which include, but are not limited to, the following tasks:

a. The Planning Process

- (1) Prepare, adopt, and evaluate a Public Art master plan to develop the District's programs, services and activities related to Public Art, Tenant Artwork or otherwise. The Public Art master plan shall be submitted to the Public Art Committee for input and recommendation to the Board for approval. The Board's role shall be to ensure that procedure was followed utilizing the criteria for the Board outlined in section 16d.
- (2) Prepare and submit a Curatorial Strategy and periodic updates thereof, as needed, that outline the priorities for the types of projects that it will be developing over a finite period of time to the Public Art Committee for input and recommendation. The Public Art Committee's recommendation to approve the Curatorial Strategy shall be submitted to the Board for approval. The Board's role shall be to ensure that the Curatorial Strategy conforms to relevant budgets and that procedure was followed utilizing the criteria for the Board outlined in section 16d.
- (3) Prepare and submit Individual Project Plans for each Acquisition, exhibition or otherwise that it desires to pursue, to the Public Art Committee for input and recommendation. The Public Art Committee's recommendation to approve the Individual Project Plans shall be submitted to the Board for approval. The Board's role shall be to ensure that Individual Project Plans conform to relevant budgets and that procedure was followed utilizing the criteria for the Board outlined in section 16d.

b. The Commissioning Process

- (1) Identify potential Artists through a variety of selection methods, including but not limited to requests for qualifications that will be considered for new projects which shall result in collecting qualifications.
- (2) Organize Selection Panels and manage selection activities as needed to select and recommend Artists for each new Acquisition, exhibition or

otherwise, whether a Public Art Fund or CIP project or otherwise, utilizing the evaluation criteria outlined in section 16a.

- (3) Submit Selection Panels' recommendations to the Public Art Committee for review and recommendation utilizing the evaluation criteria outlined in section 16a.
- (4) Review and submit the Public Art Committee's recommendation to the Curator, the Executive Director's (President/CEO) authorized designee or the Board, depending on the amount of the Art Budget as follows:
 - (a) The Curator shall have the authority to approve the Artist selection and authorize an agreement with Artist for projects, with an Art Budget of up to \$75,000, ensuring that it has adequately addressed the evaluation criteria outlined in section 16a.
 - (b) The Curator shall recommend approval of the Artist selection and recommend authorizing an agreement with Artist to the Executive Director's (President/CEO) authorized designee for projects, with an Art Budget greater than \$75,000 and up to \$125,000, ensuring that it has adequately addressed the evaluation criteria outlined in section 16a. The Executive Director's (President/CEO) authorized designee shall determine, at their discretion, whether projects with Art Budgets within this subsection should go to the Board for final approval as set forth in subsection 15b(4)(c).
 - (c) The Curator shall prepare a report for the Board, with the Public Art Committee's recommendation for approval of the project, and recommend authorizing an agreement with Artist, with an Art Budget greater than \$125,000. The Board's role shall be to ensure that the selection conforms to the approved budget, and that procedures were followed utilizing the criteria for the Board outlined in section 16d.
- (5) When projects are approved by District staff as outlined in sections 15b(4)(a) and 15b(4)(b), prepare a Board memo and periodic project update memos.
- (6) Review and submit Artist Concept Proposals to the Public Art Committee who shall review and make recommendations to the Curator utilizing the evaluation criteria outlined in section 16b.

- (7) Review and submit final design of Artwork to the Public Art Committee who shall review and make recommendations to the Curator utilizing the evaluation criteria outlined in section 16b.
- (8) When, Artists are requested to develop Artist Concept Proposals as part of the Artist selection process, the Artist Concept Proposals and Artist qualifications shall be reviewed and processed together as set forth in subsections 15b(2)-15b(5) and 15b(7) utilizing the evaluation criteria outlined in section 16a and 16b.
- (9) During progress of the agreement with the Artist, authorization to negotiate and execute any amendments is as follows:
 - (a) The Curator shall have the authority to authorize any amendments to agreements with Artists as long as the aggregate agreement total does not exceed \$75,000.
 - (b) The Curator shall recommend authorizing any amendments to agreements with Artists greater than \$75,000 and up to \$125,000 to the Executive Director's (President/CEO) authorized designee as long as the aggregate agreement total does not exceed \$125,000.
 - (c) The Curator shall recommend authorizing any amendments to agreements with Artists greater than \$125,000 to the Board when the aggregate agreement total exceeds \$125,000.
 - (d) The Curator shall provide the Board with a written summary reporting any Artist agreements and/or amendments executed by the Curator or Executive Director's (President/CEO) authorized for the prior month.

c. The Purchasing Process

- (1) Identify potential Artworks through a variety of selection methods which shall result in collecting qualifications, images, asking prices and other pertinent information about Artworks.
- (2) Organize Selection Panels and manage selection activities as needed to select and recommend Artworks, whether a Public Art Fund or CIP

project or otherwise utilizing the evaluation criteria outlined in section 16c.

- (3) Submit Selection Panels' recommendations to the Public Art Committee for review and recommendation utilizing the evaluation criteria outlined in section 16c.
- (4) Review and submit the Public Art Committee's recommendation to Curator, the Executive Director's (President/CEO) authorized designee or the Board, depending on the amount of the Art Budget that follows:
 - (a) The Curator shall have the authority to approve Artwork selection and authorize purchase of Artwork, with negotiated prices of up to \$75,000 ensuring that it has adequately addressed the evaluation criteria outlined in section 16c.
 - (b) The Curator shall recommend approval of Artwork selection and recommend authorizing purchase of Artwork, to the Executive Director's (President/CEO) authorized designee for purchases with negotiated prices greater than \$75,000 and up to \$125,000 ensuring that it has adequately addressed the evaluation criteria outlined in section 16c. The Executive Director's (President/CEO) authorized designee shall determine, at their discretion, whether projects with Artworks with negotiated purchase prices within this subsection should go to the Board for final approval as set forth in subsection 15c(4)(c).
 - (c) The Curator shall prepare a report for the Board, with the Public Art Committee's recommendation for approval of the project, and recommend authorizing purchase of Artwork with a negotiated purchase price greater than \$125,000. The Board's role shall be to ensure that the selection conforms to the relevant budget, and that procedure was followed utilizing the criteria for the Board outlined in section 16d.
- (5) When projects are approved by District staff as outlined in sections 15c(4)(a) and 15c(4)(b), prepare an initial Board memo and periodic project update memos.
- (6) When Artwork is being considered for direct purchase, the Public Art Office shall prepare and submit a report to Public Art Committee and follow the purchasing process as set forth in subsections 15c(4)-15c(5).

16. Evaluation Criteria

a. Criteria for Evaluating Artist Qualifications

- (1) Meets the definition of Artist as set forth herein.
- (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 public Artworks in collaboration with the District, Public Art Office, the design team (if applicable) and other project partners.
- (5) Demonstrates experience in successfully completing Artworks of similar scope, scale, budget and complexity, or 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) Builds the diversity of the District's Tidelands Collection.
- (9) If applicable, demonstrates a cohesive team.
- (10) If applicable, past performance on agreements.

b. Criteria for Evaluating Artist Concept Proposals

- (1) Clearly responds to the District's vision for art on the tidelands.
- (2) Meets the definition of Artwork as set forth herein.
- (3) Demonstrates excellence in aesthetic quality, workmanship, innovation, and creativity.

- (4) Demonstrates appropriateness in scale, form and is of materials/media suitable for the site.
- (5) Meets the project's goals as outlined in the Individual Project Plan and relates to one or more of the Public Art Office's Creative Directions.
- (6) Demonstrates feasibility in terms of budget, timeline, safety, durability, operation, maintenance, conservation, legal and ethical issues related to possession and use of proposed Artwork, security, and/or storage and siting.
- (7) Builds the diversity of the District's Tideland Collection.

c. Criteria for Evaluating Purchases of Existing Artworks

- (1) Clearly responds to the District's vision for art on the tidelands.
- (2) Meets the definition of Artwork as set forth herein.
- (3) Demonstrates excellence in aesthetic quality, workmanship, innovation and creativity.
- (4) Demonstrates appropriateness in scale, form, and is of materials /media suitable for the site.
- (5) Meets the project's goals as outlined in the Individual Project Plan and relates to one or more of the Public Art Office's Creative Directions.
- (6) Demonstrates feasibility in terms of cost, timeline, safety, durability, operation, condition, maintenance, conservation, legal and ethical issues related to possession and use of Artwork, security, and/or storage and siting.
- (7) Builds the diversity of the District's Tideland Collection.

d. Criteria for Board Evaluation

- (1) The District policy, as set forth herein, and as administered by the Public Art Office and/or the Public Art Committee, have been followed properly.

- (2) Recommendations are consistent with relevant budgets, Curatorial Strategies, Individual Project Plans, and/or redevelopment plans.

17. Management and Control of Artworks

Any Artworks proposed to be contracted for, exhibited on, or erected on Public Places, or become the property of the District by Acquisition or otherwise, or be in the custody of the District by loan or otherwise, shall first have been submitted to Public Art Office staff, and following review and recommendation as required by the Curator, Public Art 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 Public Art Office staff, and following review and recommendation as required in section 19 by the Curator, Public Art Committee and the Board.

Collections Management shall be the responsibility of the Public Art Office staff under the direction of the Curator, with input from the Public Art Committee and Board, as required in this policy. The General Services and Procurement Department shall support the Public Art Office's Collections Management activities by providing Ordinary Artwork Maintenance for Artworks at the direction of Public Art Office staff.

18. Acquisition of Artworks

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

19. Deaccession and Disposal of Artworks

The District intends to acquire Artworks for the Tidelands Collection through such thoughtful evaluation that deaccessioning Artworks is seldom necessary.

However, careful deaccessioning of Artworks may be considered in the interest of improving the quality and value of the Tidelands Collection over time. Deaccessioning should be applied only after evaluation of an Artwork to avoid the premature Disposal of an Artwork from the Tidelands Collection.

a. General Provisions

- (1) An Artwork accessioned into the Tidelands Collection, in general, will

not be deaccessioned within five years of its Acquisition and Accession, unless the Artwork has been acquired for the stated purpose of being sold or special circumstances apply.

- (2) The District shall comply with state, federal, or 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.
- (3) The District shall observe any mandatory restrictions applied to Artworks 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.
- (4) Public Art Office staff shall initiate Deaccession evaluations as part of a periodic review of the Tidelands Collection.

b. **Deaccession Evaluation.** The Public Art Office shall:

- (1) Initiate a Deaccession evaluation, which includes recommendations from Public Art Office staff on whether to Deaccession Artworks from the Tidelands Collection.
- (2) Submit a Deaccession evaluation to the Public Art Committee for each Deaccession evaluation for input and recommendation.
- (3) Review and submit the Public Art Committee's recommendation as follows:
 - (a) The Curator shall have the authority to approve the Deaccession of Artworks from the Tidelands Collection with a fair market value up to \$75,000 utilizing the Deaccession criteria outlined in subsection 19c.
 - (b) The Curator shall recommend approval of the Deaccession of Artworks from the Tidelands Collection to the Executive Director's (President/CEO) authorized designee with a fair market value greater than \$75,000 and up to \$125,000 utilizing the Deaccession criteria outlined in subsection 19c.

- (c) The Curator shall prepare a report for the Board, with the Public Art Committee's recommendation for approval of the Deaccession of Artworks from the Tidelands Collection, and make a recommendation for approval of the Deaccession of Artworks with a fair market value greater than \$125,000. The Board's role shall be to ensure that the Deaccession evaluation process outlined herein has been followed utilizing the criteria for the Board outlined in section 16d.
- (4) When Deaccession of an Artwork from the Tidelands Collection is approved by District staff as outlined in sections 19b(3)(a) and 19b(3)(b), prepare a memo informing the Board of the Deaccession evaluation outcome.
- (5) When Deaccession of an Artwork is approved, the Curator shall determine the preferred method of Disposal and authorize the Disposal of the Artwork.

c. Deaccession Criteria

Criteria for deaccessioning Artworks from the Tidelands Collection may include, but are not limited to:

- (1) Condition. The Artwork has deteriorated beyond a reasonable means of conservation, has been damaged beyond reasonable repair or is actively deteriorating in a manner that affects the Artwork's site and/or other District property.
- (2) Maintenance. The Artwork needs excessive maintenance or conservation or the Artwork repeatedly fails to operate properly.
- (3) Excellence. The authenticity, level of aesthetic quality and workmanship of the Artwork and/or the relationship of the Artwork to the Artist's body of work is determined to be false, insufficient or insignificant.
- (4) Duplicative. The Artwork is redundant or is a duplicate in a large holding of Artwork of that type, category or by that Artist.
- (5) Legal and Ethical Considerations. The District's possession of the Artwork violates state, federal or international laws, the provenance of

the Artwork is unknown or unconfirmed, and/or the District does not have a clear legal title to the Artwork.

- (6) **Site.** The Artwork 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.
- (7) **Significance.** The Artwork has little or no correlation to the District's vision for art on the tidelands and Creative Directions.
- (8) **Safety.** The security of the Artwork cannot be sustained; the Artwork poses public safety, public health risks, and/or other potential safety risks for the District.
- (9) **Resources.** The Artwork 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.

20. **Outgoing Loans**

The Curator is authorized to loan Artworks from the Tidelands Collection for use in exhibitions, research and education. In general, the District lends Artworks to government entities, agencies, institutions, or organizations and only to private individuals, companies and commercial galleries when to do so is likely to elevate the value and/or significance of the Tidelands Collection.

21. **Incoming Loans**

The District may accept Incoming Loans of Artworks. The District shall consider the following types of proposed Incoming Loans to be placed on Public Places:

- a. **Public Art Office Initiated Incoming Loans.** In cases where Public Art Office staff solicits the loan, Public Art Office staff shall prepare an Individual Project Plan as outlined in section 15a(3) and as applicable, follow the process for purchasing existing Artwork as outlined in section 15c. The term "incoming loan" shall replace the term "purchase."
- b. **Outside Party Initiated Incoming Loans.** In cases where an Incoming Loan of Artwork and/or Commemorative Artwork is proposed by any party other than the Public Art Office, the process shall include the following steps:

- (1) **Preliminary Inquiry.** All potential lenders shall begin the process by contacting the Public Art Office staff about the requirements as set forth herein.
- (2) **Application.** All potential lenders shall submit to Public Art Office staff applications for proposed Incoming Loans of Artworks.
- (3) **Preliminary Review.** The Curator shall conduct preliminary reviews of applications for all proposed Incoming Loans of Artworks satisfactory to the Curator, that they:
 - (a) Include all required elements as set forth in the application.
 - (b) Meet the definition of Artwork as set forth herein.
 - (c) Meet the criteria for review of aesthetic and site outlined in section 21b(9)(c).
 - (d) When applicable, meet the criteria for review of social and merit for Commemorative Artworks outlined in section 21b(9)(a).
- (4) **Technical Review.** For proposed Incoming Loans of Artworks that pass the preliminary review as outlined in subsection 21b(3), Public Art Office staff shall organize an interdepartmental technical review conducted by District staff utilizing the criteria for technical review outlined in section 21b(9)(b).
- (5) **Staff Approval or Rejection.** After technical review, applications for proposed Incoming Loans of Artworks shall be either:
 - (a) Returned to the potential lender for additional development and documentation;
 - (b) Forwarded to the Public Art Committee; or
 - (c) Rejected.
- (6) **Public Art Committee.** The Public Art Committee shall review applications for proposed Incoming Loans of Artworks and accompanying staff reports and make recommendations to either accept or reject proposed Incoming Loans of Artworks utilizing the criteria for aesthetic and site review in section 21b(9)(c).

(7) **Final Approval.**

- (a) For proposed Incoming Loans of Artworks that the Public Art Committee recommends to accept, the Curator shall have the authority to approve the Incoming Loan.
- (b) When Incoming Loans of Artworks are approved, the Curator shall prepare a Board memo to inform the Board of the approval of the loan.

(8) **Acceptance Conditions for Incoming Loans of Artworks from Outside Parties.** The following conditions shall be met for the District to consider accepting proposed Incoming Loans of Artworks from outside parties:

- (a) All expenses for proposed Incoming Loans of Artworks from outside parties shall be the responsibility of the lender, except in extraordinary circumstances. These expenses may include, but are not limited to: design, fabrication, shipping, insuring, site preparation, installation, signage and lighting.
- (b) The Public Art Office shall consider funding a portion of the costs associated with proposed Incoming Loan of Artworks from outside parties only if, in the opinion of the Public Art Office and the Public Art Committee, the Artworks meet all the criteria to be considered as Artworks that the District would acquire on its own.
- (c) Proposed Loans of Commemorative Artworks shall be presented by a Civic Lender.

(9) **Evaluation Criteria for Incoming Loans of Artworks from Outside Parties**

(a) **Criteria for Review of Social and Merit Issues**

- 1) Proposed Incoming Loans of Artworks for commemorating individuals should not be considered until at least ten years after the death of the individual. Proposed Incoming Loans of Artworks for commemorating ideas or events will not be considered until at least twenty years after the occurrence of the event. Where an overwhelming and undisputed

community consensus exists, proposals may be considered before these periods have passed.

- 2) Proposed Incoming Loans of Artworks that commemorate specific disasters (whether natural or man-made), health-related themes, or organizations in general should not normally be considered, unless it can be demonstrated that they are unique to the tidelands and that their long-term impact has uniquely shaped the history of the tidelands or its member cities.
- 3) Proposed Incoming Loans of Artworks that are commemorative in nature must concern subjects that have been tangibly and directly associated with the tidelands or the member cities of the District. The strongest consideration will be given to proposals with a direct relation to the tidelands, as opposed to the member cities in general. In the case of contributions of an individual or a particular group of people, for example, strongest consideration will be given to those who have had an impact on the history of the tidelands, which goes beyond the impact they may have had on a particular community, or the world at large.
- 4) Proposed Incoming Loans of Artworks that are commemorative in nature must have cultural significance to the general public, not one interest group. The subject will be commemorated only if it is generally accepted as having had an exemplary and a positive influence on the tidelands, or on the life of residents of member cities of the District.
- 5) Proposed Incoming Loans of Artworks that are commemorative in nature must not duplicate the themes or subject matter of an existing Artwork and/or commemorative site in the tidelands or its member cities.
- 6) In no instance should proposed Incoming Loans of Artworks that are commemorative in nature depict subjects that are trademarked or commercially licensed.

(b) Criteria for Technical Review

- 1) Ownership. Has the potential lender documented that the Artwork can be legally loaned to the District?
- 2) Financial Costs. Has the potential lender documented that the financial costs associated with the Artwork have been adequately anticipated and can be met? These costs may include, but are not limited to, shipping, insurance, site preparation, installation, dedication, signage and lighting.
- 3) Safety and Liability. Is Artwork durable? Does it pose any safety or liability concerns?
- 4) Maintenance and Conservation. Has the potential lender provided a professional art conservator's report indicating anticipated maintenance needs?
- 5) Availability of Site. Is the proposed site available for the installation of Artwork? Are necessary electrical, plumbing or other utility requirements defined and available?

Additional criteria for technical review may be developed as necessary by Public Art Office staff.

(c) Criteria for Aesthetic / Site Review

- 1) Clearly responds to the District's vision for art on the tidelands, relates to one or more of the Public Art Office's Creative Directions, and relates to its Curatorial Strategy.
- 2) Meets the definition of Artwork, as set forth herein.
- 3) Demonstrates excellence in aesthetic quality, workmanship, innovation and creativity.
- 4) Demonstrates appropriateness in scale, form, and is of materials/media suitable for the site.

- 5) Demonstrates feasibility in terms of cost, timeline, safety, durability, operation, condition, maintenance, conservation, legal and ethical issues related to possession and use of Artwork, security, and/or storage and siting.
 - 6) Builds the diversity of the District's Tideland Collection.
- (10) **Loan Agreement.** Before Incoming Loans of Artworks are approved and accepted by the District, any agreements including the terms and conditions of the loan, between lender and the District, must be prepared by or approved by the District's Legal Department. Public Art Office staff is authorized to negotiate loan period extensions when it is determined to be advantageous to District.

22. Temporary Exhibits of Artworks from Outside Parties

If a temporary exhibit of Artworks is proposed by a party other than the Public Art Office, the Public Art Office staff may authorize temporary exhibits of Artworks in Public Places. All temporary exhibits of Artworks from outside parties other than the Public Art Office shall follow the process for Incoming Loans set forth in section 21b using the criteria given in section 21b(9) herein. The term "temporary exhibit" shall replace the term "incoming loan" and the term "exhibitor" shall replace the term "lender."

Any temporary exhibit of artwork proposed for exhibition in Public Places for one year or longer will be identified and processed as an Incoming Loan.

23. Donations of Artworks

- a. **Donation Proposal Types.** The District through the Public Art Office shall consider the following types of proposed Donations of Artworks to be placed on Public Places:
 - (1) A Donor's offer to Commission an Artwork.
 - (2) A Donor's offer of an already existing Artwork.
 - (3) A Donor's offer to support projects or initiatives of the Public Art Office through a Monetary Donation.

Donations are solely offers until accepted by the District. Bequests of Artworks are subject to the same review process for Donations of Artwork as outlined herein.

b. **Acceptance Conditions.** The following conditions shall be met for the District to consider accepting proposed Donations of Artworks:

- (1) All expenses for proposed Donations of Artworks shall be the responsibility of the Donors, except in extraordinary circumstances. These expenses may include, but are not limited to: design, fabrication, shipping, insuring, site preparation, installation, signage and lighting.
- (2) The Public Art Office shall consider funding a portion of the costs associated with proposed Donations of Artworks only if, in the opinion of the Public Art Office and the Public Art Committee, the Artworks meet all the criteria to be considered as Artworks that the District would acquire on its own.
- (3) A Donor shall deposit funds equal to or greater than ten percent of the Commission cost or the fair market value of an Artwork into the Public Art Fund for Collections Management, at the time the proposed Donation of Artwork is accepted by the District.
- (4) Proposed Donations of Commemorative Artworks shall be presented by a Civic Donor.

c. **Review Process for Proposed Donations of Artworks.** The process for proposing and reviewing proposed Donations of Artworks to the District shall include the following steps:

- (1) **Preliminary Inquiry.** All potential Donors shall begin the process by contacting the Public Art Office staff about the requirements as set forth herein.
- (2) **Application.** All potential Donors shall submit to Public Art Office staff applications for proposed Donations of Artworks. Applications can be obtained from Public Art Office staff.
- (3) **Preliminary Review.** The Curator shall conduct preliminary reviews of applications for all proposed Donations of Artworks satisfactory to the Curator, that they:

- (a) Include all elements as required in the application.
 - (b) Meet the definition of Artwork as set forth herein or is for an Artist Commission.
 - (c) Meet the criteria for aesthetic and site review outlined in section 23h(3).
 - (d) When applicable, meet the criteria for review of social and merit for Commemorative Artworks outlined in section 23h(1).
- d. **Technical Review.** For proposed Donations of Artworks that pass the preliminary review as outlined in section 23c, Public Art Office staff shall organize an interdepartmental technical review conducted by District staff utilizing the criteria for technical review outlined in section 23h(2).
- e. **Staff Approval or Rejection.** After technical review, applications for proposed Donations of Artworks shall be either:
- (1) Returned to the Donor for additional development and documentation;
 - (2) Forwarded to the Public Art Committee, with a staff report, for review and recommendation as set forth in section 23f; or
 - (3) Rejected.

The Curator, at his or her discretion, may convene an ad hoc panel to review proposed Donations of Artworks and make recommendations to the Public Art Committee.

The Curator, at his or her discretion, may undertake additional community consultation, before forwarding the application to the Public Art Committee.

- f. **Public Art Committee.** The Public Art Committee shall review applications for proposed Donations of Artworks and accompanying staff reports and make recommendations to either accept or reject proposed Donations of Artworks as set forth in section 23g utilizing the criteria for aesthetic and site review in section 23h(3). In the event that the Public Art Committee makes recommendations to reject proposed Donations of Artworks, the Donor shall be notified and given the option of revising the proposed Donation and resubmitting for review as set forth in section 23c.

g. Final Approval.

- (1) For proposed Donations of Artworks with a fair market value of up to \$75,000 that the Public Art Committee recommends to accept, the Curator shall have the authority to accept the Donations.
- (2) For proposed Donations of Artworks with a fair market value of greater than \$75,000 and up to \$125,000 that the Public Art Committee recommends to accept, the Curator shall submit the recommendation to the Executive Director's (President/CEO) authorized designee, whom shall have the authority to either accept the Donations or forward the recommendation to the Board for final approval as set forth in section 23g(4).
- (3) When Donations of Artworks are approved and accepted by District staff as outlined in sections 23g(1) and 23g(2), the Curator shall prepare a Board memo to inform the Board of the acceptance.
- (4) For proposed Donations of Artworks with a fair market value of more than \$125,000 that the Public Art Committee recommends to accept, the Public Art Office staff shall prepare and submit a report, including the Public Art Committee's recommendation and staff's recommendation to the Board for review. The Board's role shall be to ensure that the review process was followed utilizing the criteria for the Board outlined in section 23h(4).

h. Evaluation Criteria for Reviewing Donations of Artworks

(1) Criteria for Review of Social and Merit Issues

- (a) Proposed Donations for commemorating individuals should not be considered until at least ten years after the death of the individual. Proposed Donations of Artworks for commemorating ideas or events will not be considered until at least twenty years after the occurrence of the event. Where an overwhelming and undisputed community consensus exists, proposals may be considered before these periods have passed.
- (b) Proposed Donations that commemorate specific disasters (whether natural or man-made), health-related themes, or organizations in general should not normally be considered,

unless it can be demonstrated that they are unique to the tidelands and that their long-term impact has uniquely shaped the history of the tidelands or its member cities.

- (c) Proposed Donations that are commemorative in nature must concern subjects that have been tangibly and directly associated with Public Places or the member cities of the District. The strongest consideration will be given to proposals with a direct relation to the tidelands, as opposed to the member cities in general. In the case of contributions of an individual or a particular group of people, for example, strongest consideration will be given to those who have had an impact on the history of the tidelands, which goes beyond the impact they may have had on a particular community, or the world at large.
- (d) Proposed Donations that are commemorative in nature must have cultural significance to the general public, not one interest group. The subject will be commemorated only if it is generally accepted as having had an exemplary and a positive influence on the tidelands, or on the life of residents of member cities of the District.
- (e) Proposed Donations that are commemorative in nature must not duplicate the themes or subject matter of an existing Artwork and/or commemorative site in the tidelands or its member cities.
- (f) In no instance should proposed Donations that are commemorative in nature depict subjects that are trademarked or commercially licensed.

(2) Criteria for Technical Review

- (a) Ownership. Has the potential Donor documented that the Artwork can be legally donated to the District?
- (b) Financial Costs. Has the potential Donor documented that the financial costs associated with the Artwork have been adequately anticipated and can be met? These costs may include, but are not limited to, shipping, insurance, site preparation, installation, dedication, signage, lighting and maintenance.

- (c) Safety and Liability. Is Artwork durable? Does it pose any safety or liability concerns?
- (d) Maintenance and Conservation. Has the potential Donor provided a professional art conservator's report indicating anticipated maintenance needs?
- (e) Availability of Site. Is the proposed site available for the installation of Artwork? Are necessary electrical, plumbing or other utility requirements defined and available?

Additional criteria for technical review may be developed as necessary by the Public Art Office staff.

(3) Criteria for Aesthetic / Site Review

- (a) Clearly responds to the District's vision for art on the tidelands, relates to one or more of the Public Art Office's Creative Directions, and relates to its Curatorial Strategy.
- (b) Meets the definition of Artwork, as set forth herein.
- (c) Demonstrates excellence in aesthetic quality, workmanship, innovation and creativity.
- (d) Demonstrates appropriateness in scale and form, and is of materials/media suitable for the site.
- (e) Demonstrates feasibility in terms of cost, timeline, safety, durability, operation, condition, maintenance, conservation, legal and ethical issues related to possession and use of Artwork, security, and/or storage and siting.
- (f) Builds the diversity of the District's Tidelands Collection.

(4) Criteria for Board Review

- (a) The District's policy, as set forth herein, and as administered by the Public Art Office and/or the Public Art Committee, have been followed properly.

- (b) Recommendations are consistent with relevant budgets, Curatorial Strategies, and/or redevelopment plans.

- i. **No Obligation to Accept Proposed Donations**

Within thirty business days following the District's decision to accept or reject the proposed Donation of Artwork, designated Public Art Office staff shall give notice of the District's decision to the Donor. The District has no obligation to accept any Artworks proposed for Donation to the District. The District has the right to determine, in its sole and absolute discretion, what Artwork offered to it will be accepted by the District.

- j. **Records of Donations**

District staff will be responsible for maintaining detailed Donation records. Upon acceptance of a Monetary Donation, District staff will deposit the Monetary Donation according to the terms of the District's acceptance.

- k. **Transfer of Donations of Artworks**

- (1) **Acceptance**

All Donations of Artworks shall become District property upon formal acceptance by the District.

- (2) **Condition of Title**

The District prefers Unrestricted Donations of Artworks. Restricted Donations may, however, be accepted, if the District pre-approves the restrictions or limitations and such are expressly stated in the title conveyance documents.

- l. **Legal Documents**

Before Donations of Artworks are accepted by the District, title conveyance documents, including any limitations or restrictions, and/or any agreements between Donor and the District regarding same, must be prepared by or approved by the District's Legal Department.

- m. **Appraisals**

The District will not provide or assume responsibility for appraisals for tax-

deduction or other external purposes.

n. **Compliance with Laws**

The District reserves the right to require a Donor to comply with state, federal, or international laws.

24. **Reproductions or Adaptations of Artworks**

Public Art Office staff is authorized to negotiate with the copyright holder for each Artwork in or proposed for inclusion in the Tidelands Collection or exhibited on District Public Places for the purpose of acquiring a license to make, or cause to be made reproductions or adaptations of an Artwork. Reproductions or adaptations of Artworks are made according to the terms and conditions of licensing agreements.

25. **Proceeds from the Sale, Loan, Reproduction or Adaptation of Artworks**

Funds realized from the sale of Artworks from the Tidelands Collection shall be expended on new Acquisitions for the Tidelands Collection. Proceeds from the loan of Artworks from the Tidelands Collection or from the licensing of the making of reproductions or adaptations thereof, less any payments due, shall be deposited into the Public Art Fund.

26. **Administrative Procedures**

The Public Art Office shall promulgate office administrative procedures and/or guidelines as needed consistent with this policy to facilitate the implementation of its responsibilities under this policy.

DEFINITIONS:

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

Accession: The formal process used to accept and record an Artwork as a Tidelands Collection Artwork.

Acquisition: Artworks that are Commissioned or purchased by the District or transferred to the District by Donation, bequest, transfer or exchange.

Alteration: Substantial refurbishments, betterments and/or upgrades to existing assets which may include, but are not limited to, additions to, removal of, and modification of elements such as walls, ceilings, and doors.

Annual Office Budget: The Public Art Office's budget, which is folded into the annual District budget. It outlines broad categories of expenditures, such as personnel, operations, administrative expenses, new projects, committed/continuing projects, marketing, and Collections Management.

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.

Artist Concept Proposal: The Artist's Concept Design before it has been approved by the Curator, the Executive Director's (President/CEO) Authorized Designee, or the Board of Port Commissioners.

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 Public Art Office, Artwork shall be defined in terms of the visual arts, as distinguished from performing arts and literary arts. However, Artworks can include visual representations of performing and literary arts, or can incorporate performative or narrative elements.

Capital Improvement Program: Any acquisition, construction or Alteration project, or portion or phase thereof, by the District.

Civic Donor: A Donor that is an incorporated, non-profit organization, organized at least five years before submitting written information and/or application for a proposed Donation to the District, or a municipal government or other public agency.

Civic Lender: A lender that is an incorporated, non-profit organization, organized at least five years before an Application for a proposed Incoming Loan of Commemorative Artwork to the District, or a municipal government or other public agency.

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.

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

Commission: An Artwork, permanent or temporary, that is created by an Artist specifically for Public Places.

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

Creative Direction: A broadly described thematic area, established in the public art master plan, that the Public Art Office will use to explore curatorial possibilities and define individual projects.

Curatorial Strategy: A multi-year work plan that establishes priorities for the types of projects the Public Art Office will be developing over a three to five year period. The strategy describes the types of projects the Public Art Office will work to develop, the kinds of Artists it wishes to recruit, any specific geographic areas it wishes to focus on and any partnerships it would like to establish. It will anticipate upcoming Capital Improvement Program projects, Tenant projects and redevelopment plans, and describe how those can be shaped to support the Public Art Office's Creative Directions.

Deaccession: The formal process used to remove an Artwork from the Tidelands Collection.

Disposal: The permanent exchange, sale, destruction or transfer of an Artwork.

Donation: A charitable contribution to the District, during lifetime or testamentary transfer, whether whole or fractional interest, including, but not limited to, cash and cash equivalents, personal tangible property, intellectual property, and/or Artworks which would serve a useful purpose in the fulfillment of District's goals and priorities.

Donor: An individual or entity that proposes a Donation to the District.

Incoming Loan: An Artwork borrowed by the District.

Individual Project Plan: A detailed document outlining all parameters for each Acquisition or exhibition that the Public Art Office intends to pursue.

Monetary Donation: Cash and cash equivalents.

Ordinary Artwork Maintenance: The routine oversight of the operation, maintenance and superficial cleaning of and around Artworks.

Outgoing Loan: The loan of an Artwork from the Tidelands Collection.

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: Artworks acquired using funds appropriated by the District and located in Public Places.

Public Art Committee: A committee appointed by the Chair of the Board that serves as an advisory body to the Public Art Office and to the Board. The Public Art Committee upholds the Public Art Office's vision, ensuring that the District's art policies and procedures are followed, and supporting the development and stewardship of the District's Tidelands Collection and other Artworks on District Public Places.

Public Art Fund: An annual allocation of \$1.2 million from the District's general operating budget that is set aside for the Public Art Office. The amount includes expenses for staffing, operations, new permanent and temporary Public Art Commissions and purchases, project management activities, competition costs, Artist design fees, fabrication and installation of Artworks and Collections Management. The Public Art Fund can accept additional funds dedicated to acquiring Artwork, such as Tenant contributions or Monetary Donations.

Public Places: The tidelands and submerged lands granted to the District pursuant to the Port Act and any other lands conveyed to the District by any City of the County of San Diego or acquired by the District or any area, land, water, building or otherwise, where the District manages its land management authority and powers.

Restricted Donation: A Donation to the District with limitations placed on its use. Restrictions must be formally outlined in writing and are distinct from informal recommendations or expressions of preference.

Selection Panel: An ad-hoc panel that reviews Artist materials and makes recommendations to the Public Art Committee and Public Art Office Curator regarding Acquisitions and exhibitions.

Tenant Artworks: Artworks commissioned or purchased by District tenants.

Tidelands Collection: Artworks which have been Accessioned and are publicly owned, possessed, or controlled by the District and administered by the Public Art Office. Incoming loans of Artworks shall be incorporated into the Tidelands Collection for the duration of the loan but are not considered Acquisitions.

Unrestricted Donation: A Donation to the District without any limitation placed on its use.

RESOLUTION NUMBER AND DATE: 2013-27, February 12, 2013 (Supersedes BPC Policy No. 609, 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 2013-27**RESOLUTION AMENDING BPC POLICIES 018, 730, 609, 255, ENVIRONMENTAL ADVISORY COMMITTEE CHARTER, AUDIT ADVISORY COMMITTEE CHARTER, AND ACCESSIBILITY ADVISORY COMMITTEE BYLAWS TO INCLUDE AMENDED CONFLICT OF INTEREST LANGUAGE AND COMMITTEE MEMBERSHIP STRUCTURE, AND ADOPTING BPC POLICY NO. 018A ESTABLISHING BOARD STAKEHOLDER FORUMS**

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 I (Port Act); and

WHEREAS, the District's advisory committees are established by the Board of Port Commissioners (BPC) Chair each calendar year pursuant to BPC Policy No. 018; and

WHEREAS, at the November 2011 meeting, the BPC considered recommendations made by former Port Attorney Duane Bennett regarding conflict of interest issues affecting advisory committees; and

WHEREAS, at the March 2012 meeting the BPC considered conflict of interest issues affecting advisory committees and made a determination as to how to avoid actual and perceived conflicts of interest on BPC advisory committees, as well as determinations as to the composition of the Maritime and Real Estate advisory committees; and

WHEREAS, at the July 2012 meeting the BPC adopted District staff recommendations to streamline advisory committees, to eliminate certain committees; and

WHEREAS, at the December 2012 meeting the BPC adopted District staff recommendations related to the establishment of "Board Stakeholder Forums" and conflict of interest language for advisory committees; and

WHEREAS, the BPC directed that BPC Policy No. 018 be amended to add that, Commissioners shall not offer a motion or vote at any Board Advisory Committee Meeting, no more than two Commissioners shall serve on any Board Advisory Committee, a Commissioner may serve as an advisory committee Chair, the Chair of the BPC is authorized to immediately remove any advisory committee member who violates BPC Policy No. 018 provisions governing

conflicts of interest, and to the extent required by law, advisory committees 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; and

WHEREAS, BPC Policy No. 730, "Port Environmental Advisory Committee," "Environmental Advisory Committee Charter," BPC Policy No. 609, "Public Art," BPC Policy No. 255, "Port With No Borders Scholarship Program," the "Audit Advisory Committee Charter," and the "Accessibility Advisory Committee Bylaws" have been amended to reflect the BPC's direction and to eliminate conflicting language between those BPC advisory committee policies, charters, and bylaws, and the amended language contained in BPC Policy No. 018; and

WHEREAS, BPC Policy No. 018A, "Board Stakeholder Forums" (Forum) has been established to provide:

- Venues for the District, Port tenants, and other stakeholder discussions, and sets forth that, Forum issues may be referred by the BPC.
- District staff may convene a Forum on an as-needed basis.
- Forums shall be for discussion only, no voting will occur.
- District staff shall prepare a summary of Forum discussions for review by the BPC after each Forum.
- An annual work plan for each Forum shall be adopted by the BPC and may be modified by the BPC as other issues arise.
- The Chair of the BPC may consider new matters requested by District staff, stakeholders or tenants for inclusion in the work plan.
- Any new matters to be included in the work plan shall be approved by the BPC prior to convening a Forum on the new matter.
- The BPC may refer matters to Forums as it deems appropriate.
- The BPC Chair may appoint a minimum of two members from the BPC as Forum facilitators.

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

That BPC Policy No. 018, "Board Advisory Committees," BPC Policy No. 730, "Environmental Advisory Committee," "Environmental Advisory Committee Charter," BPC Policy No. 609, "Public Art," BPC Policy No. 255, "Port With No Borders Scholarship Program," the "Audit Advisory Committee Charter," the "Accessibility Advisory Committee Bylaws", as amended, and BPC Policy No. 018A, "Board Stakeholder Forums" copies of which are on file in the Office of the District Clerk are hereby adopted.

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 12th day of February, 2013, by the following vote:

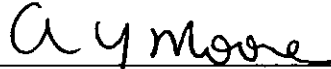
AYES: Malcolm, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)

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San Diego Unified Port District

Document No. 60008

Filed MAR 21 2013
Office of the District Clerk

BPC Policy No. 730

SUBJECT: PORT ENVIRONMENTAL ADVISORY COMMITTEE POLICY

PURPOSE: To review and provide input and recommendations on all Port environmental programs and initiatives, and comment on funding projects aimed at improving the condition of the Bay and surrounding Port tidelands, and provide a Tenant Environmental Compliance Loan Program.

POLICY STATEMENT:

The Board of Port Commissioners (Board) is committed to protecting and improving the environmental conditions of San Diego Bay and Port tidelands (Bay). To that end, an Environmental Services Department (ESD) and Environmental Advisory Committee (EAC) were created and invested with the responsibility of ensuring the Port's compliance with environmental laws and regulations, as well as advising the Board on actions that can be taken to improve the condition of the Bay.

San Diego Bay is often referred to as the "Crown Jewel" of San Diego. Beneath its beautiful surface, the Bay serves a number of important ecological roles, serving as a spawning ground for many local fish species, acting as a key stopping point for a variety of bird species traveling along the Pacific Fly Way, and providing the discharge point for numerous creeks and rivers within the San Diego Bay watershed.

The Bay also has played an essential role in supporting the growth of the region's population and economy. In the past, fulfilling this role often has resulted in negative impacts on the Bay. For years, raw sewage and industrial wastes were discharged, untreated, into the waters of the Bay. Modern environmental laws, coupled with the corporate commitments of Port industry, have significantly reduced some industrial sources of Bay pollution. Unfortunately, discharges continue in the form of urban runoff from businesses and homes throughout San Diego Bay's extensive watershed.

The development of the Bay with hotels, roads and businesses has significantly altered the natural condition of the Bay. During the last 100 years, natural shoreline has been removed and replaced with artificial hard structures, a type of substrate not native to the Bay and of limited value to native wildlife. As a result, there has been a 70% loss of salt marsh, 84% loss of intertidal areas other than salt marsh, and a 42% loss of shallow subtidal zone habitats.



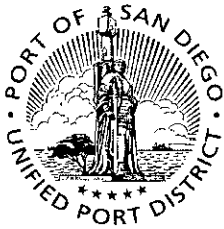
BPC Policy No. 730

Improving the condition of the Bay cannot be accomplished solely through regulatory compliance. The restoration of the Bay to a more pristine condition requires efforts that are beyond mere regulatory compliance. This will require the concerted, coordinated efforts of all the stakeholders of the Bay - academia, environmental groups, government, Port tenants, and regulatory and resource agencies. The Board has created the Environmental Advisory Committee (Committee) to function as a forum to provide the Board with input and recommendations for accomplishing the Port's strategic goal to "protect and improve the environmental conditions of San Diego Bay and the Tidelands."

This Committee Policy details the organization, structure and functioning of the Committee and management of the Environmental Fund.

ANALYSIS:

1. The Bay is the "Crown Jewel" of the San Diego region and a focal point in media descriptions of the San Diego region.
2. The Bay is an ecosystem which plays an important role in the broader, regional ecosystem, as illustrated by the U.S. Fish and Wildlife Service's designation of south San Diego Bay as a National Wildlife refuge. The Bay is home to 89 species of fish, seven endangered species and thousands of birds visiting San Diego during their annual migration along the Pacific Fly Way.
3. The Bay is an important economic resource for the region, supporting the U.S. Navy's Pacific Fleet, two marine terminals, three shipyards, other maritime industries, and 8,000 recreational boat slips, as well as a wide range of hotels, restaurants and convention facilities to support the tourism industry.
4. The Bay is the discharge point of urban runoff from throughout the San Diego Bay watershed, an area of 415 square miles and where 50% of the county's population lives or works.
5. The ecological and economic roles or "uses" of the Bay have not always been compatible. As a result, the Bay's sediments, home to organisms at the base of the food chain, contain "legacy" pollutants and historic habitat along the shoreline has been replaced by artificial concrete structures, including



BPC Policy No. 730

seawalls, which are inefficient as habitat.

6. The Port of San Diego has accepted the role of "environmental steward" of the Bay, responsible for the protection and enhancement of 2,508 acres of tideland and 2,860 acres of water in the Bay.
7. The ESD and EAC were created to ensure that the Port is in compliance with environmental laws and regulations. ESD programs include but are not limited to: Green Port; Urban Runoff; Redevelopment; and Natural Resources. The ESD staffs the Committee and manages the Environmental Fund, awarding grants to environmental programs and projects.
8. The Port's environmental efforts are a regional investment, benefiting the entire county by supporting assets such as hotels and shipyards, which provide jobs and support businesses throughout the region. The Port also incurs significant costs associated with the impacts of pollution from the region entering the Bay via urban runoff.

ENVIRONMENTAL ADVISORY COMMITTEE:

The Committee operates according to the guidelines for all Board advisory committees, as established in BPC Policy No. 018 (2008-273, 2 December 2008) and articulated in the Charter prepared specifically for the Committee. The purpose of this, and all other Port advisory committees, is to advise the Board. The Committee is advisory in nature and has no authority to negotiate for, represent, or commit the Port in any respect.

The membership of all committees is the prerogative of the Chair of the Board. In January of each calendar year, the incoming Chair establishes the slate of committees for that year and appoints the members of each. The Committee shall be composed of no more than two (2) members of the Board, and representatives of stakeholder groups including, but not limited to: Port tenants; environmental advocacy groups; the U.S. Navy; regulatory agencies; resource agencies; member cities; academia; local business; and labor. Committee membership shall not exceed eighteen members (stakeholders and two commissioners). Commissioners shall not offer a motion or vote on any matter coming before the Committee. This diverse membership will allow the Committee to achieve the Board's goal of receiving input from a broad and balanced cross section of the community. Committee meetings are intended to encourage input from stakeholders



BPC Policy No. 730

and interaction with Port staff and Board members.

TERMS:

Committee membership is the prerogative of the Chair of the Board. It is the intent of the Board to control the terms of an individual's or organization's participation in order to: (1) provide an opportunity for as many qualified and willing individuals as possible to serve their community; (2) promote equal opportunity for membership; (3) most precisely match membership's expertise to the program's needs.

Should a Committee vacancy occur prior to the end of a member's term, the Chair may choose to appoint a replacement for the unexpired portion of that term and notify the Board of such action. There will be no alternate Committee members. Committee members shall receive no compensation for their services.

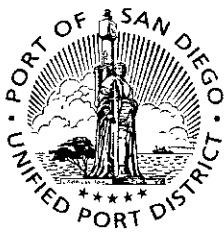
CONFLICTS OF INTEREST:

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. Members and their organizations seeking funding from the Committee will not be able to participate in the matter and may be subject to disqualifying requirements of Government Code section 1090.

Although Port District staff cannot provide legal advice to Committee members regarding potential conflicts of interest, staff will be available to provide members with information to assist members in making appropriate determinations.

FUNDING MECHANISMS:

Environmental regulatory programs are focused largely on preventing contamination of the air, water and land or on maintaining habitat for birds, fish and wildlife. Efforts to restore areas to historic conditions are more problematic, whether it be by the remediation of areas with legacy contamination or the recovery of lost wetlands. Although regulatory programs exist to effect these changes, in almost all cases their implementation is exceedingly slow and drawn out, often by technical and legal challenges and, thus, the success of such programs often is less than optimal.



BPC Policy No. 730

The Board has developed a program to assist in funding environmental projects.

1. ENVIRONMENTAL FUND

Purpose: The purpose of the Environmental Fund (Fund) is to fund projects that address air, water and sediment quality, sustainability, natural resources management, habitat creation or protection, reclaiming natural shoreline conditions, and/or other issues in the Bay and/or the tidelands.

Project Selection: Projects will be identified and reviewed by staff of the ESD Projects to be considered will be ranked on a Project List (List), which will be revised and/or updated as new potential projects are identified or other projects are removed. In evaluating a project for inclusion on the List, staff will determine if it meets the objectives identified by the Committee.

In selecting projects, staff will address questions such as, but not limited to:

- Will the project create new habitat for fish or birds?
- Will the project restore historic habitat that has been lost through development or other means?
- Will the project remediate, or hasten the move towards remediation, of a contaminated area of the Bay?
- Will the project enhance the public's enjoyment of the Bay without impacting the environment?
- Will the project improve air quality in the region?
- Will the project reduce energy and/or water use?
- Will the project improve environmental decision-making?
- Will the project prevent contamination of the Bay?
- Will the project resolve a regulatory impasse which has prevented, or significantly slowed, the restoration of the Bay?
- Is the project located within the Bay, or is it of direct benefit to the Bay and the surrounding region?

Project Approval: In order for a project to receive funding, whether partial, in-kind, or complete, the project must be approved by the Board. Neither staff nor the Committee has the authority to act on behalf of the Board. The Board is the ultimate and final decision maker on all matters related to the expenditure of



BPC Policy No. 730

funds.

Funding: Each year, the Board shall set aside $\frac{1}{2}$ of 1% of the Port District's projected gross revenues for that year. For the purpose of this calculation, gross revenue shall not include anticipated grants from any source or any other restricted revenue source. Such money set aside shall be expended for specific environmental projects or allocated to a fund set aside within the Port District Revenue Fund for environmental projects within the Port District.

The Port Act allows the maintenance of a single, general fund (Port Act, Section 10) and does not allow the creation and maintenance of multiple funds. The Board can choose to set aside money for an Environmental Fund within the Port District Revenue Fund. Money so set aside may be accumulated for more than one year, but its use, from year-to-year, will be subject to the discretion of the Board.

Staff will recommend projects to the Committee, which will provide comments. Staff will then make a recommendation to the Board to approve funding for projects.

1. Seek funding from sources other than the Fund, and/or
2. Seek matching funds from other sources.

2. TENANT ENVIRONMENTAL COMPLIANCE LOAN PROGRAM

Purpose: The goal of the Environmental Loan Program is to achieve environmental compliance and produce an overall environmental benefit to the Bay.

Background: The Port Tenants' Environmental Compliance Loan Program (Loan Program) was created by the Board in 2001 (Docket No. 43239, December 21, 2004, approved by resolution 2001-66, dated April 3, 2001, and amended by resolution 2001-273, dated December 11, 2001). The Loan Program provides a low-cost source of funds to Port tenants to support environmental remediation or tenant environmental enhancement. The Port makes available to its tenants low interest loans for projects that will improve the environmental conditions of the Bay. Tenants may qualify for a maximum amount of \$100,000 at a low fixed interest rate, payable over 5 years.



BPC Policy No. 730

Project Selection: Proposals are evaluated by a committee, which includes representatives from several Port departments, the Port Tenants Association and the Environmental Health Coalition.

In selecting projects, the Tenant Environmental Loan Committee will consider answers to such questions as:

- Will the proposed project further protect the natural resources of the Bay?
- Will the project enhance the survivability of marine or bird life, increase the visibility of endangered species and/or allow the survival of currently absent species?
- Will the project allow the removal of contamination from the Bay?
- Will the project result in an increase in the quality of the water, sediment and/or air quality of the area?

Project Approval: Recommended projects are submitted by the selection committee to the Committee, who will make a recommendation to the Board. The Board has sole discretion to award funds.

Funding: Loans are made available through a lending institution. A fixed interest rate for the life of the loan will be fixed on the day the loan is dispersed. The loan rate will be the interest-earning rate paid by the lending institution to the Port on the collateralized certificate of deposit, securing the loan plus one hundred twenty-five basis points (1.25%). The term is a maximum of five years.

RESOLUTION NUMBER AND DATE: 2013-27, dated February 12, 2013 (Supersedes BPC Policy 730, Resolution 2010-96; dated June 8, 2010; Resolution 2010-34, dated March 2, 2010; Resolution 2007-138, dated July 10, 2007; and Resolution 2006-111, dated June 6, 2006)

San Diego Unified Port District Environmental ADVISORY Committee

CHARTER

BACKGROUND

The Board of Port Commissioners (Board) is committed to protecting and improving the environmental conditions of San Diego Bay and Port tidelands (Bay). To that end, an Environmental Services Department (ESD) and Environmental Advisory Committee (EAC) were created and invested with the responsibility of ensuring the Port's compliance with environmental laws and regulations, as well as advising the Board on actions that can be taken to improve the condition of the Bay.

Improving the condition of the Bay cannot be accomplished solely through regulatory compliance. The restoration of the Bay to a more pristine condition requires efforts that go beyond mere regulatory compliance. This will require the concerted, coordinated efforts of all the stakeholders of the Bay - academia, environmental groups, government, Port tenants, and regulatory and resource agencies. The Board has created the Environmental Advisory Committee (Committee) to function as a forum to provide the Port with input and recommendations for accomplishing the Port's strategic goal to "protect and improve the environmental conditions of San Diego Bay and the Tidelands."

COMMITTEE PURPOSE

Advise the Board on programs, policies and projects that would ensure the protection and improvement of the environmental condition of the Bay.

COMMITTEE OBJECTIVES

1. Strengthen relationships between and among the Port, Port tenants, the scientific community, environmental organizations, and regulatory and resource agencies.
2. Identify innovative approaches to resolving Bay environmental issues.
3. Identify opportunities for enhancing natural resources and developing strategies for implementation of programs and/or projects.

COMMITTEE STRUCTURE AND OPERATION

The Committee operates according to the guidelines for all Board Advisory Committees as detailed in BPC Policy No. 018 (2008-273, 2 December 2008) and BPC Policy 730 (the Port Environmental Advisory Committee Policy), and as articulated in this Charter prepared specifically for the Committee. The purpose of this, and all other Port advisory committees, is to advise the Board. This Committee is advisory in nature and has no authority to negotiate for, represent, or commit the Port in any respect.

Membership of the Committee: The membership of all committees is the prerogative of the Chair of the Board. In January of each calendar year, the incoming Chair establishes the slate of committees for that year and appoints the members of each. The Committee shall be composed of up to two (2) members of the Board and representatives of stakeholder groups including, but not limited to: the Port tenants; environmental advocacy groups; the U.S. Navy; regulatory and resource agencies; member cities; academia; local businesses; and labor. The Committee membership shall not exceed eighteen members (stakeholders and two Commissioners). Commissioners shall not offer a motion or vote on any matter coming before the Committee. This diverse membership will allow the Committee to achieve the Board's goal of receiving input from a broad and balanced cross section of the community. Committee meetings are intended to encourage input from stakeholders and interaction with Port staff and Board members.

Meeting Attendance: In order for this committee to work effectively, the full participation of members will be essential. Committee members are asked to commit to attend meetings consistently.

Committee Operation: Committee meetings are noticed and open to the public. Meetings will be constructed to encourage input from Committee members, stakeholders and interaction with Board members and Port staff. Summary reports of each Committee meeting will be prepared by Port staff and forwarded to the Board.

EXPECTATIONS OF THE PORT

To assist in achieving the Committee's Purpose and Objectives, Port staff will:

- Coordinate all Committee meetings.
- Prepare and advertise meeting agendas.
- Prepare and present information specified in each agenda.
- Insure compliance with the Brown Act.
- Prepare meeting summaries and forward to the Board and Committee members.

EXPECTATIONS OF COMMITTEE MEMBERS

To assist in achieving the Committee's Purpose and Objectives, Committee members

will provide input and:

- Commit to the success of the Committee, its Purpose and Objectives, and this Charter.
- Share data and information that will assist each other and the Committee as a whole in meeting its objectives.
- Identify existing and additional resources that would be useful in conducting the Committee's work and assist each other in utilizing or obtaining these resources.
- Identify obstacles in achieving the Committee's Purpose and Objectives and develop a solution for overcoming them.
- Respect each other's individual roles and contributions.
- Attempt to resolve conflicts in a positive and constructive manner.
- Keep an open mind to new ideas.

RESPONSIBILITIES OF THE COMMITTEE

It is intended that the Committee will have four primary responsibilities:

1. Provide input to the Port on new or emerging approaches to Bay environmental issues, including: remediation of contamination; enhancement of habitat for native fish and wildlife; increasing native fish and wildlife populations; controlling and eliminating pollutant discharges, and eliminating air emissions.
2. Provide input to the Port on setting priorities for environmental issues.
3. Provide input on projects to be recommended to the Board for funding through the Port Environmental Fund.
4. Assist in identifying grants and/or matching funds.

DECISION MAKING

On issues that require the Committee to present an opinion or recommendation, consensus, defined as no opposition, will be sought. If consensus is reached, the opinion or recommendation will be forwarded to the Board for their action.

If consensus is not reached on a matter, the Committee Chair may direct Port staff to take the matter to the Board for their input or action. If so, staff will advise the Board on the failure of the Committee to reach consensus and a minority opinion may be presented.

In the course of Committee activities, disagreements may arise regarding whether a course of action should or should not be taken. Committee members agree to work in a collaborative fashion and to facilitate consensus on these issues whenever possible. Further, Committee members agree to attempt to resolve the disagreement expeditiously and constructively to benefit Committee goals.

The Committee has no authority to act on behalf of the Board or Port staff. The Board

is the ultimate authority on all Port matters and its decisions are final.

RESOLUTION 2013-27**RESOLUTION AMENDING BPC POLICIES 018, 730, 609, 255, ENVIRONMENTAL ADVISORY COMMITTEE CHARTER, AUDIT ADVISORY COMMITTEE CHARTER, AND ACCESSIBILITY ADVISORY COMMITTEE BYLAWS TO INCLUDE AMENDED CONFLICT OF INTEREST LANGUAGE AND COMMITTEE MEMBERSHIP STRUCTURE, AND ADOPTING BPC POLICY NO. 018A ESTABLISHING BOARD STAKEHOLDER FORUMS**

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 I (Port Act); and

WHEREAS, the District's advisory committees are established by the Board of Port Commissioners (BPC) Chair each calendar year pursuant to BPC Policy No. 018; and

WHEREAS, at the November 2011 meeting, the BPC considered recommendations made by former Port Attorney Duane Bennett regarding conflict of interest issues affecting advisory committees; and

WHEREAS, at the March 2012 meeting the BPC considered conflict of interest issues affecting advisory committees and made a determination as to how to avoid actual and perceived conflicts of interest on BPC advisory committees, as well as determinations as to the composition of the Maritime and Real Estate advisory committees; and

WHEREAS, at the July 2012 meeting the BPC adopted District staff recommendations to streamline advisory committees, to eliminate certain committees; and

WHEREAS, at the December 2012 meeting the BPC adopted District staff recommendations related to the establishment of "Board Stakeholder Forums" and conflict of interest language for advisory committees; and

WHEREAS, the BPC directed that BPC Policy No. 018 be amended to add that, Commissioners shall not offer a motion or vote at any Board Advisory Committee Meeting, no more than two Commissioners shall serve on any Board Advisory Committee, a Commissioner may serve as an advisory committee Chair, the Chair of the BPC is authorized to immediately remove any advisory committee member who violates BPC Policy No. 018 provisions governing

conflicts of interest, and to the extent required by law, advisory committees 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; and

WHEREAS, BPC Policy No. 730, "Port Environmental Advisory Committee," "Environmental Advisory Committee Charter," BPC Policy No. 609, "Public Art," BPC Policy No. 255, "Port With No Borders Scholarship Program," the "Audit Advisory Committee Charter," and the "Accessibility Advisory Committee Bylaws" have been amended to reflect the BPC's direction and to eliminate conflicting language between those BPC advisory committee policies, charters, and bylaws, and the amended language contained in BPC Policy No. 018; and

WHEREAS, BPC Policy No. 018A, "Board Stakeholder Forums" (Forum) has been established to provide:

- Venues for the District, Port tenants, and other stakeholder discussions, and sets forth that, Forum issues may be referred by the BPC.
- District staff may convene a Forum on an as-needed basis.
- Forums shall be for discussion only, no voting will occur.
- District staff shall prepare a summary of Forum discussions for review by the BPC after each Forum.
- An annual work plan for each Forum shall be adopted by the BPC and may be modified by the BPC as other issues arise.
- The Chair of the BPC may consider new matters requested by District staff, stakeholders or tenants for inclusion in the work plan.
- Any new matters to be included in the work plan shall be approved by the BPC prior to convening a Forum on the new matter.
- The BPC may refer matters to Forums as it deems appropriate.
- The BPC Chair may appoint a minimum of two members from the BPC as Forum facilitators.

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

That BPC Policy No. 018, "Board Advisory Committees," BPC Policy No. 730, "Environmental Advisory Committee," "Environmental Advisory Committee Charter," BPC Policy No. 609, "Public Art," BPC Policy No. 255, "Port With No Borders Scholarship Program," the "Audit Advisory Committee Charter," the "Accessibility Advisory Committee Bylaws", as amended, and BPC Policy No. 018A, "Board Stakeholder Forums" copies of which are on file in the Office of the District Clerk are hereby adopted.

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 12th day of February, 2013, by the following vote:

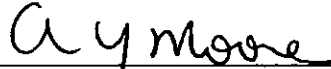
AYES: Malcolm, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)

RESOLUTION 2013-111

RESOLUTION ADOPTING NON-BINDING SENSE OF THE BOARD RELATED TO AMENDMENT OF FISCAL YEAR 2012/2013 BUDGET

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 I, (Port Act); and

WHEREAS, on June 11, 2013, the Board of Port Commissioners (Board) approved an ordinance Amending Fiscal Year 2012/2013 Budget (Amendment); and

WHEREAS, on June 11, 2013, the Board voted to express the non-binding sense of the Board related to the amendment of the Fiscal Year 2012/2013 Budget.

NOW THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District that it is the non-binding sense of the Board that:

- (1) the adoption of the Fiscal Year 2012/2013 Final Budget constituted, and the Fiscal Year 2013/2014 Preliminary Budget proposes, a waiver of BPC Policy 730 (Port Environmental Advisory Committee Policy) and that in future years as and if the District generates revenues exceeding expenses enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy 117, the District shall reclassify \$2.5 million from the revenues exceeding expenses into the Environmental Fund; and
- (2) the adoption of the Fiscal Year 2012/2013 Final Budget constituted a waiver of BPC Policy 609 (Public Art) and that in future years as and if the District generates revenues exceeding expenses enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy 117, the District shall reclassify \$1.0 million from the revenues exceeding expenses into the Public Art Fund; and
- (3) that insurance payments, reimbursement of attorney fees, legal settlements/verdicts, or disputed invoices by the District for services rendered shall not be a basis for revenue assumptions for future fiscal years, and the District shall base future year budgets on undisputed revenues from services.

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11th day of June, 2013, by the following vote:

AYES: Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

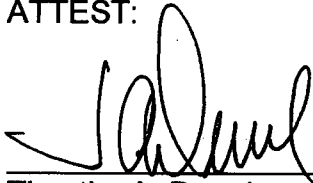
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)

RESOLUTION 2013-110

RESOLUTION ADOPTING THE FISCAL YEAR 2013/2014 PRELIMINARY BUDGET AND SETTING THE DATE FOR A PUBLIC HEARING ON THE BUDGET AS JULY 16, 2013

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 I, (Port Act); and

WHEREAS, Section 46 of the Port Act requires that on or before the 15th day of June each year the District shall estimate and determine the amount of money required by the District and shall adopt a preliminary budget; and

WHEREAS, Section 47 of the Port Act, requires the Board of Port Commissioners (Board) is to meet for the purposes of fixing the final budget; and

WHEREAS, Section 47 of the Port Act requires that on or before the 15th day of June of each year, the Board shall publish a notice stating:

- (1) That the preliminary budget has been adopted and is available at a time and at a place within the District specified in the notice for inspection by interested taxpayers; and
- (2) That on a specified date not less than one month after the publication of the notice and at specified time and place, the District's Board will meet for the purpose of fixing the final budget, and that any taxpayer may appear and be heard regarding the increase, decrease or omission of any item in the budget, or for the inclusion of additional items; and

WHEREAS, on June 11, 2013, the Board voted to express the non-binding sense of the Board related to the adoption of the preliminary budget for Fiscal Year 2013-2014.

NOW THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District that the Preliminary Budget of the San Diego Unified Port District for the Fiscal Year 2013-2014, a copy of which is on file in the office of the District Clerk, is hereby adopted and available for inspection by interested taxpayers and any other interested parties at 3165 Pacific Highway, San Diego.

BE IT FURTHER RESOLVED that on July 16, 2013, at the above-mentioned location, shall be the time and place the Board of Port Commissioners shall meet for the purpose of fixing the final budget, and any taxpayer and any other interested party may appear and be heard regarding the increase, decrease or omission of any item in the budget or the inclusion of additional items.

BE IT FURTHER RESOLVED that it is the non-binding sense of the Board that:

- 1) as approved, the Preliminary Budget constitutes a waiver of BPC Policy 609 (Public Art) and that in future years as and if the District generates revenues exceeding expenses enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy 117, the District shall reclassify \$2.1 million from the revenues exceeding expenses into the Public Art Fund; and
- 2) as approved, the Preliminary Budget constitutes waiver of BPC Policy 730 (Port Environmental Advisory Committee Policy) and that in future years as and if the District generates revenues exceeding expenses enabling the Board to fully fund and maintain the Operating Reserve pursuant to BPC Policy 117, the District shall reclassify \$524,000 from the revenues exceeding expenses into the Environmental Fund; and
- 3) the Audit Committee of the Board is charged with the following tasks and shall provide quarterly progress reports to the Board, and the Board Chair is authorized to designate an Audit Committee member to draw on reasonable staff resources to implement this course of action:
 - a) more vigorously govern and track progress on budgeted revenues and expenses and recommend timely action to prevent an operating deficit from occurring in FY 13-14;
 - b) prior to the April 2014 regular Board meeting, identify new revenue streams and/or expense reductions that achieve a balanced budget for FY 14-15 without use of reserves; and
 - c) prior to the May 2014 regular Board meeting, create a five-year revenue and expense model for Board consideration to ensure Zero Deficit budgets for those future years.

2013-110

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11th day of June, 2013, by the following vote:

AYES: Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

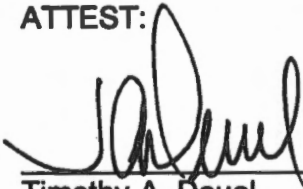
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)

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