

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2713

**ORDINANCE AMENDING THE SOUTH CAMPUS
RELOCATION AGREEMENT TO EXTEND THE
CURRENT ENVIRONMENTAL CONTAMINATION
DISCOVERY CUT-OFF DATE OF 15 YEARS AFTER
CLOSING BY TEN YEARS, FOR A NEW
DISCOVERY CUT-OFF DATE AFTER CLOSING OF
25 YEARS, ENDING DECEMBER 30, 2024, AND
CLARIFYING ROLES OF THE PARTIES AND THE
TIMING OF THE REMOVAL OF THE ASPHALT
AND CONCRETE COVERING THE SITE**

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 21 of the Port Act authorizes the Board of Port Commissioners (BPC) to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, in 1999, the District entered into a Relocation Agreement with Rohr Industries, Inc. operating as BF Goodrich Aerostructures Group (BFG), the City of Chula Vista (City) and the Redevelopment Agency of the City of Chula Vista for a series of land transactions that included the transfer of a uplands portion of BFG's industrial campus located south of H Street (referred to as South Campus) from BFG to the District, in exchange for BFG's tidelands portion of its campus north of H Street, on file in the Office of the District as Document No. 39466; and

WHEREAS, on November 1, 1999 the Board of Port Commissioners (BPC) adopted Ordinance 2075 amending the Relocation Agreement (Amendment No.), on file in the office of the District Clerk as Document No. 39787; and

WHEREAS, on February 2, 2010 the BPC adopted Ordinance 2598 amending the Relocation Agreement (Amendment No. 2), on file in the office of the District Clerk as Document No. 56072; and

WHEREAS, the Agreement states that, to the extent that BFG is liable for South Campus environmental conditions, it shall be liable only for South Campus environmental conditions that are discovered within 15 years after closing; and

WHEREAS, the Closing date was December 30, 1999 and as a result the discovery cut-off date is December 30, 2014; and

WHEREAS, recently, the District was approached by BFG regarding their desire to amend the relocation agreement to include the following:

- 1) extending the contaminant discovery dates beyond the current December 30, 2014 date,
- 2) clarifying the authority of designated representatives,
- 3) clarifying the roles of joint and independent consultants, and
- 4) clarifying that the District will not remove the asphalt and concrete (Cap) covering the site earlier than reasonably necessary to allow development (including, without limitation, installation of infrastructure) to proceed in accordance with the approved development plans consistent with the Chula Vista Bayfront Master Plan.

WHEREAS, extending the 2014 date for ten years will benefit the District by allowing the additional time for environmental testing; and

WHEREAS, the District's demolition time frame will not be driven by the current discovery cut-off date and allows cleanup to be tailored to the future development of the site and provide ten more years past the current 2014 discovery date for the discovery of contaminants for which BFG is responsible; and

WHEREAS, the amendment will also clarify the authority of the parties' representatives, the roles of consultants, and that the District will not remove the concrete covering the site until it is reasonably necessary to allow for development in accordance with approved development plans consistent with the Chula Vista Bayfront Master Plan.

NOW, THEREFORE, the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

Section 1. That Amendment No. 3 to Relocation Agreement with the City of Chula Vista and Rohr Industries, Inc. operating as BF Goodrich Aerostructures Group, and the Redevelopment Agency for the City of Chula Vista to extend the Relocation Agreement environmental contamination discovery cut-off date of 15 years after closing by ten years, for a new discovery cut-off date after closing of 25 years, ending December 30, 2024, and clarifying the roles and authority of designated representatives and joint and independent consultants, and the timing of the removal of the asphalt and concrete covering the site, contingent upon BFG, the City of Chula Vista and the Successor Agency to the Redevelopment Agency of the City of Chula Vista, executing Amendment No. 3 is hereby approved and granted.

Section 2. The Executive Director or his designated representative is hereby directed to execute said Amendment No. 3 to the Relocation Agreement on behalf of the San Diego Unified Port District.

Section 3. This ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 9th day of April, 2013, by the following vote:

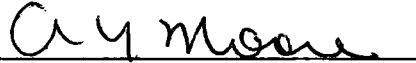
AYES: Malcolm, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

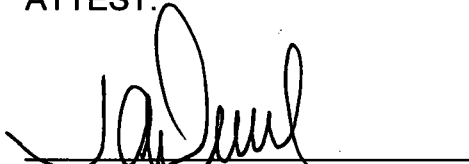
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)