

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2737

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$80,000,000 AGGREGATE PRINCIPAL AMOUNT OF SAN DIEGO UNIFIED PORT DISTRICT REFUNDING REVENUE BONDS, AND NOT TO EXCEED \$10,000,000 AGGREGATE PRINCIPAL AMOUNT OF SAN DIEGO UNIFIED PORT DISTRICT REVENUE BONDS, THE EXECUTION AND DELIVERY OF SUPPLEMENTAL INDENTURES, ESCROW AGREEMENTS, BOND PURCHASE AGREEMENTS, OFFICIAL STATEMENTS AND CONTINUING DISCLOSURE AGREEMENTS, AND THE TAKING OF CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, the San Diego Unified Port District (the "District") is a public entity duly organized and existing as a port district pursuant to Appendix 1 of the Harbors and Navigation Code of the State of California (the "Port District Act") for the acquisition, construction, maintenance, operation, development and regulation of harbor works and improvements, including rail and water facilities, for the development, operation, maintenance, control, regulation and management of the harbor of San Diego upon the tidelands and lands lying under the inland navigable waters of San Diego Bay, and for the promotion of commerce, navigation, fisheries and recreation thereon; and

WHEREAS, pursuant to Section 51 of the Port District Act, the District may issue refunding revenue bonds to redeem or retire any revenue bonds issued by the District, and the District may issue revenue bonds for the acquisition, construction, completion, or repair of any or all improvements, works, property or facilities authorized by the Port District Act, upon the terms, at the times, and in the manner which the Board of Port Commissioners of the San Diego Unified Port District (the "Board of Port Commissioners"), by ordinance, determines; and

WHEREAS, such refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding obligations to be refunded, all expenses of the refunding, and the interest on the obligations to be refunded to the date of payment or redemption of such obligations; and

WHEREAS, in order to refund a portion of the District's outstanding Revenue Bonds, 2004 Series B (the "Refunded 2004 Bonds") and a portion of the District's outstanding Amended and Restated Subordinated, Fully-Negotiable

Promissory Note (the "Refunded Airport Note"), the District hereby proposes to issue certain refunding revenue bonds (the "Refunding Bonds") in one or more series, in an aggregate principal amount not to exceed eighty million dollars (\$80,000,000), pursuant to the provisions of the Port District Act and the Indenture (as hereinafter defined); and

WHEREAS, in order to finance the acquisition, construction, completion, or repair of improvements, works, property or facilities authorized by the Port District Act, the District hereby proposes to issue certain revenue bonds (the "Revenue Bonds" and, together with the Refunding Bonds, the "Bonds") in one or more series, in an aggregate principal amount not to exceed ten million dollars (\$10,000,000), pursuant to the provisions of the Port District Act and the Indenture (as hereinafter defined); and

WHEREAS, the Bonds will be issued pursuant to an Indenture dated as of October 1, 2004 (the "Master Indenture") between the District and U.S. Bank National Association, as trustee (the "Trustee"), as supplemented and amended by one or more Supplemental Indentures thereto (the "Supplemental Indentures" and, together with the Master Indenture, the "Indenture"), which are proposed to be entered into between the District and the Trustee; and

WHEREAS, there has been prepared and presented to the Board of Port Commissioners a proposed form of the Second Supplemental Indenture; and

WHEREAS, the proceeds of the Refunding Bonds will be applied pursuant to the provisions of the Port District Act, the Indenture and one or more Escrow Agreements which are proposed to be entered into between the District and the Trustee acting as Escrow Agent thereunder (the "Escrow Agreements"), to provide funds to refund the Refunded 2004 Bonds and the Refunded Airport Note, to fund a reserve fund (the "Reserve Fund") established pursuant to the provisions of the Indenture, and to pay certain costs incurred in connection with the issuance of the Refunding Bonds; and

WHEREAS, there has been prepared and presented to the Board of Port Commissioners a proposed form of Escrow Agreement; and

WHEREAS, the proceeds of the Revenue Bonds will be applied pursuant to the provisions of the Port District Act and the Indenture to provide funds for the acquisition, construction, completion, or repair of improvements, works, property or facilities authorized by the Port District Act, to fund a reserve fund (the "Reserve Fund") if so established pursuant to the provisions of the Indenture, and to pay certain costs incurred in connection with the issuance of the Revenue Bonds; and

WHEREAS, Citigroup Global Markets Inc. ("Citigroup") intends to purchase all or a portion of the Bonds pursuant to one or more Bond Purchase Agreements (the "Bond Purchase Agreements"), which Bond Purchase

Agreements are proposed to be entered into between the Citigroup and the District or between the District and other underwriters (collectively, including Citigroup, the "Underwriters"); and

WHEREAS, there has been prepared and presented to the Board of Port Commissioners a proposed form of Bond Purchase Agreement; and

WHEREAS, in order to facilitate the offering of the Bonds by the Underwriters, the District proposes to approve, execute and deliver one or more Official Statements of the District (the "Official Statements") describing the Bonds, the District and certain related matters; and

WHEREAS, in order to assist the Underwriters in complying with Securities and Exchange Commission Rule 15(c)2-12 ("Rule 15(c)2-12"), the District proposes to enter into one or more Continuing Disclosure Agreements (the "Continuing Disclosure Agreements") with the Trustee acting as dissemination agent (the "Dissemination Agent"); and

WHEREAS, in order to obtain the lowest cost of borrowing obtainable at a prudent level of risk, it may be desirable to obtain bond insurance or other credit enhancement for the Bonds of one or more series or stated maturity dates, and/or to secure a surety bond or an insurance policy or an irrevocable letter of credit (hereinafter collectively referred to as a "Credit Instrument") to fund the Reserve Fund; and

WHEREAS, in order to accomplish the foregoing, it will be necessary for the District to enter into or approve and deliver the following documents, instruments and agreements, forms of which have been prepared and presented to this meeting:

- (1) Second Supplemental Indenture;
- (2) Escrow Agreement;
- (3) Bond Purchase Agreement;
- (4) Official Statement; and
- (5) Continuing Disclosure Agreement; and

WHEREAS, the Board of Port Commissioners desires to authorize and direct the execution and delivery of each of the above-identified documents, to authorize the issuance and sale of the Bonds pursuant thereto, and to authorize the taking of such other actions as shall be necessary to consummate the refinancing and financing described in the above-identified documents and herein, **NOW, THEREFORE**,

The Board of Port Commissioners does ordain as follows:

Section 1. Findings. The Board of Port Commissioners hereby finds and determines that the foregoing recitals and findings are true and correct.

Section 2. Approval of the Refunding Bonds. The issuance by the District of the Refunding Bonds, such Refunding Bonds to be issued in one or more series between now and December 31, 2014, in an aggregate principal amount not to exceed eighty million dollars (\$80,000,000), is hereby approved; provided that (i) Refunding Bonds shall only be issued to refund the Refunded 2004 Bonds if the net present value debt service savings equal or exceed 3.0% of the principal amount of the Refunded 2004 Bonds, and (ii) Refunding Bonds shall only be issued to refund the Refunded Airport Note if the net present value debt service savings equal or exceed 3.0% of the principal amount of the Refunded Airport Note. The Refunding Bonds shall be designated as "San Diego Unified Port District Refunding Revenue Bonds" and shall bear such additional designation as shall be specified in the Indenture. The Refunding Bonds shall be executed by the manual or facsimile signature of the Chairman of the Board of Port Commissioners and the manual or facsimile signature of the Chief Financial Officer/Treasurer of the District (the "Chief Financial Officer"), shall be countersigned by the manual or facsimile signature of the Clerk of the District, and shall have the seal of the District attached or affixed thereon in manual or facsimile form.

Section 3. Approval of the Revenue Bonds. The issuance by the District of the Revenue Bonds, such Revenue Bonds to be issued in one or more series between now and December 31, 2014, in an aggregate principal amount not to exceed ten million dollars (\$10,000,000), is hereby approved. The Revenue Bonds shall be designated as "San Diego Unified Port District Revenue Bonds" and shall bear such additional designation as shall be specified in the Indenture. The Revenue Bonds shall be executed by the manual or facsimile signature of the Chairman of the Board of Port Commissioners and the manual or facsimile signature of the Chief Financial Officer/Treasurer of the District (the "Chief Financial Officer"), shall be countersigned by the manual or facsimile signature of the Clerk of the District, and shall have the seal of the District attached or affixed thereon in manual or facsimile form.

Section 4. Approval of the Second Supplemental Indenture. The proposed form of Second Supplemental Indenture presented to this meeting and the terms and conditions thereof are hereby approved. The date, maturity dates (not to exceed thirty (30) years from the date of issuance of Refunding Bonds and not to exceed forty (40) years from the date of issuance of Revenue Bonds), interest rate or rates (maximum coupon rate not to exceed 6.50% per annum), denominations, forms, registration and exchange privileges, place or places of payment, terms of redemption, if any, and other terms of the Bonds shall be as provided in said Indenture.

The President/CEO (the "President") or the Chief Financial Officer is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver one or more Supplemental Indentures, in substantially the form of the Second Supplemental Indenture presented to this meeting, with such changes therein as the officer executing the same, with the advice of counsel to

the District (the "Port Attorney"), may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Application of Proceeds. The proceeds of the Refunding Bonds shall be applied to refund the Refunded 2004 Bonds and the Refunded Airport Note, to fund the Reserve Fund, and to pay certain costs incurred in connection with the issuance of the Refunding Bonds, all in accordance with the provisions of the Indenture and as shall be described in a final Official Statement. The proceeds of the Revenue Bonds shall be applied to finance the acquisition, construction, completion, or repair of improvements, works, property or facilities authorized by the Port District Act, to fund the Reserve Fund, and to pay certain costs incurred in connection with the issuance of the Revenue Bonds, all in accordance with the provisions of the Indenture and as shall be described in a final Official Statement.

Section 6. Approval of Escrow Agreement. The proposed form of Escrow Agreement presented to this meeting and the terms and conditions thereof are hereby approved. The deposit and investment of funds to refund the Refunded 2004 Bonds shall be as provided therein. The President or the Chief Financial Officer is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver one or more Escrow Agreements, in substantially said form, with such changes therein as the officer executing the same, with the advice of Port Attorney, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 7. Approval of Bond Purchase Agreement. The proposed form of Bond Purchase Agreement presented to this meeting and the terms and conditions thereof are hereby approved. The sale of the Bonds to the Underwriters at the principal amount thereof, less an underwriter's discount of not to exceed 1.50% of such principal amount, less any original issue discount not to exceed 10% of the principal amount of said Bonds, plus any original issue premium not to exceed 10% of the principal amount of said Bonds, in accordance with said form of Bond Purchase Agreement, is hereby approved. The President or the Chief Financial Officer is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver one or more Bond Purchase Agreements, in substantially said form, with such changes therein as the officer executing the same, with the advice of Port Attorney, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 8. Approval of Official Statement. The proposed form of Official Statement presented to this meeting is hereby approved. An Official Statement in preliminary form may be deemed final by the President or Chief Financial Officer for purposes of compliance with Rule 15(c)2-12 and the distribution of an Official Statement in printed and/or electronic format in such preliminary form as is deemed final (hereinafter referred to as the "Deemed Final Preliminary Official Statement") by the President or Chief Financial Officer is hereby authorized;

provided, however, that prior to distribution of any Deemed Final Preliminary Official Statement, the President, the Chief Financial Officer and the Port Attorney, acting collectively, shall determine if there has been a material change in the information relating to the District set forth in the Deemed Final Preliminary Official Statement from the information relating to the District set forth in the Official Statement in preliminary form previously provided to the Board of Port Commissioners by District staff by way of a Board Memorandum. If the President, the Chief Financial Officer and the Port Attorney, acting collectively, determine that there is a material change in such information, the President shall forward the Deemed Final Preliminary Official Statement to the Board of Port Commissioners for approval prior to its distribution, such approval of the Deemed Final Preliminary Official Statement by the Board of Port Commissioners will be evidenced by adoption of a resolution authorizing the distribution of the Deemed Final Preliminary Official Statement.

The President or Chief Financial Officer is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver to the Underwriters one or more final Official Statements, in substantially said form, with such changes therein as the officer executing the same, with the advice of the Port Attorney, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The Underwriters are hereby authorized to distribute copies of said Official Statements in printed and/or electronic format, as finally executed, to persons who may be interested in the purchase of the Bonds and are directed to deliver such copies to all actual purchasers of the Bonds.

Section 9. Approval of Continuing Disclosure Agreement. The proposed form of Continuing Disclosure Agreement presented to this meeting is hereby approved. The President or the Chief Financial Officer is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver one or more Continuing Disclosure Agreements, in substantially said form, with such changes therein as the officer executing the same, with the advice of the Port Attorney, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 10. Credit Enhancement. The Chief Financial Officer is hereby authorized and directed, for and in the name and on behalf of the District, to negotiate with bond insurance companies and other providers of credit enhancement, and, if the Chief Financial Officer determines that it is in the best interest of the District to commit to purchase bond insurance or to secure other credit enhancement for Bonds of one or more series or stated maturity dates, the Chief Financial Officer is authorized to commit to purchase bond insurance or to secure other credit enhancement on such terms as the Chief Financial Officer, with the advice of the Port Attorney and Public Financial Management, Inc. (hereinafter referred to as the "Financial Advisor to the District"), determines are appropriate.

Section 11. Credit Instruments. The Chief Financial Officer is hereby authorized and directed, for and in the name and on behalf of the District, to negotiate with providers of Credit Instruments, and, if the Chief Financial Officer determines that it is in the best interest of the District to secure a Credit Instrument to fund the Reserve Fund, the Chief Financial Officer is authorized to commit to purchase or secure a Credit Instrument to fund the Reserve Fund on such terms as the Chief Financial Officer, with the advice of the Port Attorney, the Underwriter and the Financial Advisors to the District, determines are appropriate.

Section 12. Authorized Representative. All approvals, consents, directions, notices, orders, requests, executions, and other actions permitted or required by any of the documents authorized by this Ordinance, including, without limitation, any of the foregoing which may be necessary or desirable in connection with any investment of the proceeds of the Bonds, any amendment of such documents or any tax certificate delivered in connection with such Bonds or the redemption, refunding or defeasance of any Bonds, may be given or taken by any Authorized Representative (as such term is defined in the Indenture) without further authorization by this Board of Port Commissioners, and each Authorized Representative is hereby authorized and directed to give any such approval, consent, direction, notice, order or request and to take any such action which such Authorized Representative, with the advice of Port Attorney, may deem necessary or desirable to further the purposes of this Ordinance.

Section 13. Ratification of Actions; Completion of Refinancing. All actions heretofore taken by the officers and agents of the District, including, without limitation, the Financial Advisor of the District, with respect to the transactions contemplated hereby and the issuance and sale of the Bonds are hereby ratified, confirmed and approved and the officers and agents of the District are hereby authorized and directed, for and in the name and on behalf of the District, to do any and all things and to take any and all actions and execute and deliver any and all agreements, certificates and documents, including, without limitation, any tax certificates or agreements, any investment agreements, any agreements concerning depository services and any agreements concerning rebate services, which any such officer or agent of the District may deem necessary or advisable in order to consummate the transactions contemplated hereby and the issuance and sale of the Bonds and otherwise to carry out, give effect to and comply with the terms and intent of this Ordinance and the Bonds and the documents approved hereby.

Section 14. Effective Date. This Ordinance shall take effect on the thirty-first (31st) day from its passage and any provisions of any previous ordinance or resolution in conflict with the provisions herein are hereby superseded to the extent of such conflict.

APPROVED AS TO FORM AND LEGALITY:



PORT ATTORNEY

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 10th day of September, 2013, by the following vote:

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

NAYS: None.

EXCUSED: None.

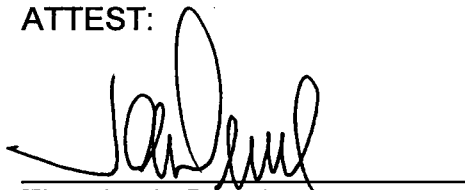
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)