

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2741

**ORDINANCE AMENDING SECTIONS 4.10 AND
4.13 AND REPEALING SECTIONS 4.11 AND 4.12
OF THE SAN DIEGO UNIFIED PORT DISTRICT
(UPD) CODE REGARDING TERMINAL
OPERATORS**

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 to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, the Unified Port Code (UPD) is prepared by the District to codify District ordinances establishing the rules and regulations governing the use and control of all navigable waters, tidelands and submerged lands within the District, as well as police and sanitary regulations; and

WHEREAS, staff recommends that UPD Code Sections 4.10 and 4.13 be amended and Section 4.11 and 4.12 be repealed to update the requirements for entities performing terminal operator services at District facilities; and

WHEREAS, the current UPD Code Sections 4.10 through 4.13 were adopted in 1966, by Ordinance No. 227, and have not been updated since, and no longer reflect the nature of the current relationships between the District and entities performing terminal operator services at District facilities.

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

Section 1. The UPD is hereby amended as follows:

SEC. 4.10 – TERMINAL OPERATOR DEFINED

A Terminal Operator shall be any person offering to perform the following services in connection with a common carrier by water in interstate or foreign commerce upon facilities of the District:

- (a) The handling, storing and/or delivering such merchandise and cargoes;

- (b) Such additional accessorial services as may be required in connection with such merchandise and cargoes, including but not limited to the loading, unloading, marking, labeling, and transferring.

SEC. 4.11 – TERMINAL OPERATOR REGULATIONS – REPEALED

SEC. 4.12 – TERMINAL OPERATOR TARIFFS – REPEALED

SEC. 4.13 – TERMINAL OPERATOR AGREEMENTS REQUIRED

- (a) It shall be unlawful for any person to perform terminal operator services upon facilities of the District, as such terminal operator services are herein defined, without first entering into a Terminal Operator Agreement with the District.
- (b) Terminal Operator Agreements, as required by subsection (a), shall contain terms including, but not be limited to, the Terminal Operator indemnifying and holding harmless the District against liability arising out of Terminal Operator's performance of the Terminal Operator Agreement; Terminal Operator maintaining adequate insurance; and other terms and conditions as deemed appropriate by the District.
- (c) The Executive Director has the authority to execute Terminal Operator Agreements in accordance with this Section.

Section 2. This ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:



PORT ATTORNEY

2741

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8th day of October, 2013, by the following vote:

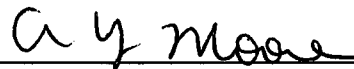
AYES: Castellanos, Malcolm, Merrifield, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: Moore

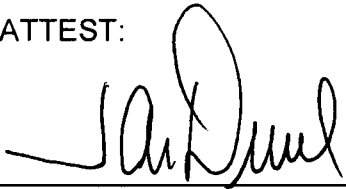
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)