

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2802

ORDINANCE GRANTING TEN-YEAR LEASE WITH TWO, FIVE-YEAR OPTIONS TO CALIBER BODY WORKS, INC. FOR AUTO BODY COLLISION REPAIR AT THE DISTRICT-OWNED BUILDING LOCATED AT 1411 W. PALM STREET IN SAN DIEGO, CALIFORNIA

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 87(b) of the Port Act grants authority to the District to lease the tidelands or submerged lands, or parts thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which those lands are held, by the State of California; and

WHEREAS, the District owns a one acre upland property located at 1411 W. Palm Street in San Diego, California (Premises); and

WHEREAS, staff is recommending approval of a new lease (Lease) for the Premises with Caliber Body Works, Inc. (Caliber), the nation's largest auto collision repair company, for an initial lease term of 10 years, along with two, five-year options to extend; and

WHEREAS, Caliber will invest approximately \$1 million into the Premises, including painting of the buildings, improvements to the interior office spaces, and installation of necessary equipment and fixtures; and

WHEREAS, Caliber will service damaged vehicles from personal owners, District rental car tenants, and Pasha Automotive Services; and

WHEREAS, Caliber will pay fixed rent to the District equal to \$165,000 in Lease Year 1, \$247,200 in Lease Year 2, and increasing by three percent (3%) each Lease year thereafter, including any options to extend; and

WHEREAS, Caliber will pay profit participation rent to the District equal to 2% of net profits starting with the first option extension period in the 11th Lease year, if exercised; and

WHEREAS, in consultation with California State Lands Commission staff (State Lands) regarding the intended use of the Premises and public trust

consistency, State Lands recommended the District document its process to obtain Caliber as a tenant for the Premises, including (i) how long the Premises had been vacant, (ii) the District's effort and time spent marketing the Premises, (iii) how and why the District's efforts to obtain a higher priority, public trust use have not been possible, and (iv) Caliber's public trust nexus and how the location of the Premises is ideal for Caliber's use; and

WHEREAS, the Premises has been vacant since April 2012 and was subsequently marketed to find a tenant; and

WHEREAS, due to the upland location of the Premises away from the bay, and warehouse improvements, finding a higher priority, public trust use proved difficult and marketing efforts took place over two years before proposals from potential tenants were received; and

WHEREAS, Caliber's proposed use has been determined an appropriate, trust-consistent use for the Premises since it is in close proximity to rental cars, the airport and Caliber services certain damaged cars from Pasha Automotive Services; and

WHEREAS, in consultation with State Lands regarding the intended use of the Premises and public trust consistency, State Lands also recommended that the District make a reasonable effort to relocate or displace Caliber from the Premises should a higher priority, public trust, maritime-related, and/or water dependent use be presented to the District; and

WHEREAS, in the event the District receives an unsolicited proposal(s) for higher priority, public trust, maritime-related, and/or water dependent use, staff may present the proposal(s) to the Board and recommend further direction from the Board, which recommendation could involve the District's use of eminent domain to re-acquire the leasehold.

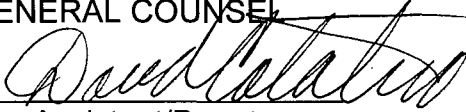
NOW, THEREFORE, the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

Section 1. That a 10-year Lease with two, five-year options to Caliber Body Works, Inc. for auto body collision repair at the District-owned building located at 1411 W. Palm Street in San Diego, California is hereby granted.

Section 2. The Assistant Executive Director or his designated representative is hereby directed to execute said Lease.

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

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 10th day of March 2015, by the following vote:

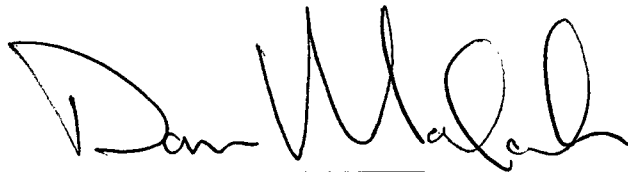
AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

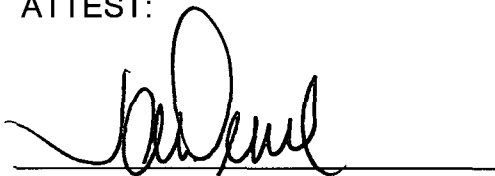
ABSENT: None.

ABSTAIN: None.



Dan Malcolm, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk



(Seal)