

**SAN DIEGO UNIFIED PORT DISTRICT**

**ORDINANCE 2955**

**ORDINANCE AUTHORIZING THE DISTRICT'S  
EXECUTIVE DIRECTOR AND AUTHORIZED  
DESIGNEE TO GRANT FIVE (5) YEAR WAIVERS ON  
TENANT RENT PAYMENTS FOR ELECTRICITY  
CHARGES PASSED THROUGH TO SLIP RENTERS  
AT MARINAS AND YACHT CLUBS THAT ARE  
FULLY SUB-METERED**

**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's real estate portfolio includes forty (40) marinas and six (6) yacht clubs, which leases are predominantly percentage rent leases whereby the District receives certain percentages of the gross income generated by the master tenant from a variety of activities conducted on the leased premises; and

**WHEREAS**, the gross income from marina and yacht club leases include payments made by boat slips renters for their use of electricity; and

**WHEREAS**, at the May 8, 2018 Board of Port Commissioner's meeting, concerns were raised by members of the Port Tenant's Association regarding the District's practice of including electricity payments in the calculation of gross income and subjecting the income to percentage rent; and

**WHEREAS**, though the existing Port practice is legal, staff recommends encouraging the installation and continued preservation of sub-metered slips, as there is evidence, supported by State-sponsored studies, suggesting that sub-metered marinas use significantly less energy than marinas without sub-metered slips and sub-metering slips allows a marina to pass on the full charge for each individual boater's energy use, as opposed to one charge for the entire marina, eventually being divided among the slips; and

**WHEREAS**, by incentivizing marinas and yacht clubs to become fully sub-metered, the District will potentially reduce the overall amount of energy consumed by marinas and yacht clubs, furthering the District's environmental goals; and

**WHEREAS**, if approved, this action would authorize the District's Executive Director and authorized designee to waive the District's right to collect rent on gross income from electricity pass-throughs for all marinas and yacht clubs that have fully sub-metered slips; and

**WHEREAS**, the waiver will result in a reduction in revenue to the District, which is estimated to be between \$155,000 and \$220,000 annually; and

**WHEREAS**, staff believes the benefits gained from the waiver mitigate the estimated reduction in revenue.

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

1. The Executive Director or his/her designated representative is hereby authorized, acting within his/her discretion, to execute five (5) year waivers on tenant rent payments for electricity charges passed through to slip renters at marinas and yacht clubs that are fully sub-metered in conformance with applicable laws and regulations.
2. This Ordinance shall take effect on the 31<sup>st</sup> 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 8<sup>th</sup> day of October 2019, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Valderrama, and Zucchet

NAYS: None.

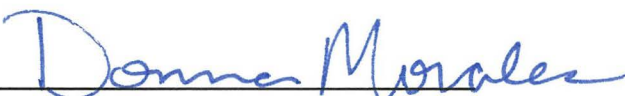
EXCUSED: None.

ABSENT: None.

ABSTAIN: None.

  
\_\_\_\_\_  
Garry J. Bonelli, Chairman  
Board of Port Commissioners

ATTEST:

  
\_\_\_\_\_  
Donna Morales  
District Clerk

(Seal)