

## **RESOLUTION 2013-84**

### **RESOLUTION FINDING THE COST RECOVERY PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS SPECIFIED UNDER SECTION 15273 OF THE CEQA GUIDELINES**

**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 36 of the Port Act provides at pertinent part that "the Board of Port Commissioners shall by ordinance fix the rate of ...services furnished or provided by the District; and

**WHEREAS**, at its Fiscal Year 12/13 Preliminary Budget workshop the Board of Port Commissioners (BPC) directed staff to analyze services provided by the District that should be subject to cost recovery resulting in the letting of a Request for Proposals (RFP) and the selection of MGT of America, Inc. (MGT) to review the District's existing services and create a cost recovery user fee schedule; and

**WHEREAS**, MGT prepared a Cost of Services Study which analyzed \$53 million in total costs incurred by the District and found that \$2.7 million or 5% was related to user fee services and further found that current user fee levels recover approximately \$0.1million or 5% of the full cost of services leaving 95% or \$2.6 million to be funded by the District or other sources; and

**WHEREAS**, the Cost of Services Study proposes an additional \$2.6 million in potential cost recovery; and

**WHEREAS**, the data obtained for the Cost of Services Study was received by MGT through interviews with primary departments consisting of Real Estate, Environmental and Land Use Services (ELUM), Harbor Police and Office of the District Clerk through a process identifying staff time spent on each user fee activity, the staff positions involved in the user fee services, the time spent to complete each activity and review of salary information, the Maximus Cost Allocation Plan and the Fiscal Year 12/13 budget which resulted in the overall cost analysis and cost recovery calculations; and

**WHEREAS**, staff proposes a Cost Recovery User Fee Policy be implemented as BPC Policy No. 106 which sets forth a method for setting up fees and the extent to which they cover the cost of service provided as

recommended by the Government Finance Officers Association (GFOA), Federal Government Office of Management and Budget (Circular A-87) which provides that it is a best management practice for governments to calculate the full costs of the different services they provide and recommend a formal fee policy; and

**WHEREAS**, the proposed BPC Policy No. 106 will also identify factors that should be considered when setting user fees, the level of cost recovery, and the frequency of comprehensive user fee studies with a key component of BPC Policy No. 106 being to review and update user fees on an on-going basis to ensure that they keep pace with changes in the cost-of living as well as changes in methods or levels of service delivery; and

**WHEREAS**, a Cost Recovery User Fee Schedule (Schedule) was prepared which lists all of the fees charged by the District for its user fee services and related administrative tasks with the user fees set forth in the Schedule generally applying to activities that provide special benefits to members of the public, and the amount of the fee is usually related to the cost of the service provided to ensure that the District charges fees for those proprietary services which are paid by the persons or companies benefitting from the services; and

**WHEREAS**, user fees proposed by the District will take one of two forms: flat user fees and variable user fees based on costs requiring a deposit with the user fees in the Schedule reflecting staff time and exclude third-party costs that may be necessary in providing the service and with actual external costs incurred directly for a specified service being charged in addition to the user fees; and

**WHEREAS**, this proposed BPC action to adopt a cost recovery policy and user fee schedule is statutorily exempt pursuant to CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) and Section 2.h of the District's Guidelines for Compliance with CEQA.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

Pursuant to CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) and Section 2.h of the District's Guidelines for Compliance with CEQA, the Board of Port Commissioners finds pursuant to CEQA Guidelines Section 15273(c) as follows:

1. The fees set forth in the Cost Recovery User Fee Schedule are based on the District's and consultant MGT of America Inc.'s calculations, including direct and indirect costs incurred through the provision of District services and are to meet operational expenses of the District.

2. Consistent with the Board of Port Commissioners adopted BPC Policy No. 106 – Cost Recovery User Fee Policy, these fees are necessary to recover actual costs incurred by the District associated with provision of specific services relating to permit and other entitlement processing.

3. The District is entitled to recover its costs for providing or furnishing the services set forth in the Cost Recovery User Fee Schedule pursuant to Section 36 of the Port Act and applicable law.

4. These actions are an administrative activity and are not subject to CEQA pursuant to CEQA Guidelines Section 15378.

Further, the Board of Port Commissioners finds that its approvals of BPC Policy No. 106 – Cost Recovery User Fee Policy and the Cost Recovery User Fee Schedule are exempt from CEQA pursuant to Section 15601(b) (3) in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, as the user fees established in the Cost Recovery User Fee Schedule will have only financial effects.

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 7th day of May, 2013, by the following vote:

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

NAYS: None.

EXCUSED: None.

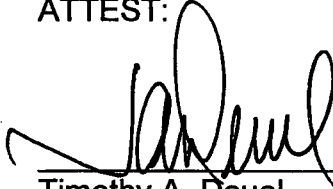
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk

(Seal)