

RESOLUTION 2015-178

RESOLUTION AMENDING BPC POLICY NO. 355 REAL ESTATE LEASING ADMINISTRATIVE PRACTICES TO INCLUDE ELIMINATION OF THE TWENTY PERCENT (20%) RULE REGARDING DEFERRAL OF THE DISTRICT'S REVERSIONARY INTEREST IN LEASEHOLD IMPROVEMENTS

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 1 (Port Act); and

WHEREAS, Section 21 of the Port Act authorizes the Board of Port Commissioners (BPC) to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, BPC Policy No. 355 Real Estate Leasing Policy and Administrative Practices Real Estate Leasing is the District's current leasing policy for real estate and maritime assets; and

WHEREAS, the BPC-approved 2015 Work Plan for the Real Estate Forum included benchmarking of the District's real estate policy and practices contained in BPC Policy No. 355; and

WHEREAS the 2014 Real Estate Benchmarking Studies prepared by AECOM Technical Services, Inc. (AECOM) compared the District's leasing policy and practices to those of similar agencies throughout the country; and

WHEREAS, the key findings of the report covered methods for financing public infrastructure, lease maintenance and repair obligations, participation for sale and finance transactions, environmental and land use planning integration with leases and the basis for lease term extensions; and

WHEREAS, staff has also conducted informal surveys and had discussions with tenants, stakeholders and the Real Estate Forum; and

WHEREAS, through the benchmarking study and those efforts, it was determined that the District should be compensated at all times throughout the term of the lease for the value of the land, taking care not to credit the District with the value of the improvements owned by the tenant and related business valuations; the District should be compensated for deferring its reversionary interest in the improvements; and the District should be compensated for its land value either through the current practice embodied in BPC Policy No. 355 by

adjusting the rent to market or through obtaining a portion of the transaction to be negotiated in each lease; and

WHEREAS, based on the findings in the benchmarking studies and input received from stakeholders both individually and in public at the Real Estate Forum, staff recommends the following change to BPC Policy No. 355:

- Eliminate the 20% rule regarding deferral of reversionary interest in the leasehold for projects submitted prior to the final 20% of the lease term. This would ensure that the District is adequately compensated for granting lease term extensions and enable tenants to purchase additional lease term without making a qualified capital investment; and

WHEREAS, the proposed change to BPC Policy No. 355 would compensate the District for the value of the land that is leased to tenants and significantly enhanced through District investment in public infrastructure and planning efforts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby amends Board of Port Commissioners Policy No. 355 to include elimination of the twenty percent (20%) rule regarding deferral of the District's reversionary interest in leasehold improvements.

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 8th day of December, 2015, by the following vote:

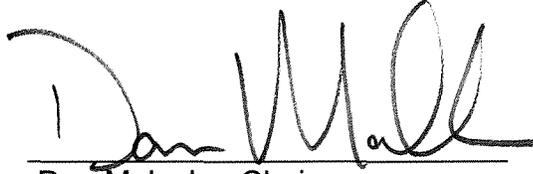
AYES: Bonelli, Malcolm, Merrifield, Moore, and Nelson.

NAYS: None.

EXCUSED: Castellanos and Valderrama.

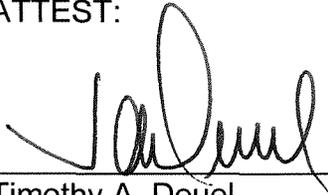
ABSENT: None.

ABSTAIN: None.

A handwritten signature in black ink, appearing to read "Dan Malcolm", written over a horizontal line.

Dan Malcolm, Chairman
Board of Port Commissioners

ATTEST:

A handwritten signature in black ink, appearing to read "Timothy A. Deuel", written over a horizontal line.

Timothy A. Deuel
District Clerk

(Seal)