

RESOLUTION 2015-179

RESOLUTION AMENDING BPC POLICY NO. 355 REAL ESTATE LEASING ADMINISTRATIVE PRACTICES TO INCLUDE DISTRICT PARTICIPATION IN PROCEEDS FROM LEASEHOLD ASSIGNMENTS

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:

- District to participate in a share of the proceeds on a sale or assignment of the leasehold interest or increase rent to market; 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 District participation in proceeds from leasehold assignments.

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:

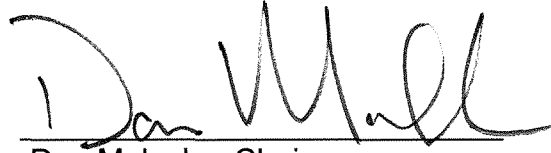
AYES: Bonelli, Malcolm, Moore, and Nelson.

NAYS: Merrifield.

EXCUSED: Castellanos and Valderrama.

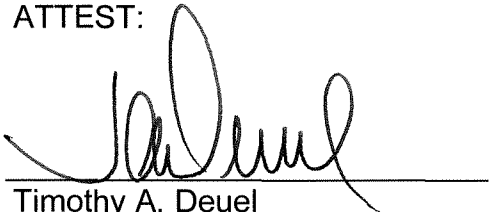
ABSENT: None.

ABSTAIN: None.



Dan Malcolm, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)