

RESOLUTION 2016-136

**RESOLUTION ESTABLISHING PROPOSED RENT
FOR FIFTH AVENUE LANDING, LLC DBA FIFTH
AVENUE LANDING LOCATED AT 600
CONVENTION WAY IN THE CITY OF SAN DIEGO
FOR THE PERIOD OF JULY 1, 2016 THROUGH
APRIL 5, 2020**

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 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 has a 40-year lease (Lease) with Fifth Avenue Landing, LLC dba Fifth Avenue Landing (FAL) located at 600 Convention Way in the city of San Diego; and

WHEREAS, the Lease term commenced on July 1, 1984 and will end on June 30, 2024; and

WHEREAS, the Lease comprises approximately 4.5 acres, including 3.4 acres for public parking and 1.1 acre for a public park/plaza; and

WHEREAS, pursuant to the Lease, a Rent Review is required for the period of July 1, 2016 through April 5, 2020; and

WHEREAS, the existing percentage rental rates in the Lease are consistent with the Board of Port Commissioners (BPC) adopted rental rates and will remain unchanged; and

WHEREAS, the existing minimum annual rent (MAR) for FAL of \$401,305.00 is higher than concession rent calculated on the current percentage rates; and

WHEREAS, as a result, FAL has been paying MAR to the District; and

WHEREAS, FAL has agreed to increase the MAR to \$441,034.20 per year, effective retroactively to July 1, 2016; and

WHEREAS, the increased MAR exceeds 75% of the average total percentage rents paid during the last three accounting years of the previous rental period.

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

That the Executive Director or her designated representative is hereby authorized on behalf of the San Diego Unified Port District to establish existing percentage rental rates to remain unchanged and Minimum Annual Rent to be increased from \$401,305 to \$441,034.20 for Fifth Avenue Landing, LLC dba Fifth Avenue Landing located at 600 Convention Way in the City of San Diego for the period of July 1, 2016 through April 5, 2020.

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 September, 2016, by the following vote:

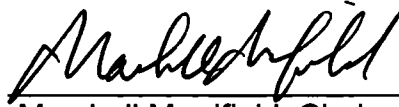
AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

For

(Seal)