

RESOLUTION 2016-77

**RESOLUTION AMENDING BPC POLICY NO. 608 –
TENANT PERCENT FOR ART, TO PROVIDE
TENANTS WITH AN OPTION TO DESIGNATE
THEIR PERCENT FOR ART CONTRIBUTIONS FOR
USE IN THE SAN DIEGO-CORONADO BRIDGE
LIGHTING PROJECT**

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, the Board of Port Commissioners (BPC) adopted BPC Policy No. 608 to establish a policy for the inclusion of Artworks in San Diego Unified Port District (District) Tenant improvements; and

WHEREAS, in 2002, the District established and adopted its first tenant percent for art requirement for the inclusion of artwork in tenant improvement projects; and

WHEREAS, at the time of its adoption, the requirement applied to tenant improvement projects with approved budgets of \$500,000 or more; and

WHEREAS, since its inception, over 40 tenant artworks have been installed or are currently projected for installation on tidelands as part of the tenant percent for art program; and

WHEREAS, on November 8, 2011, the Board adopted BPC Policy No. 608 as a standalone policy to govern the tenant percent for art program, which had previously been administered in accordance with provisions contained in BPC Policy No. 609: Public Art; and

WHEREAS, one of the changes embodied in the newly adopted policy was the tenant percent for art applicability threshold, which was raised from a minimum of \$500,000 to \$1 million per tenant improvement project, in order to provide for more adequate tenant art budgets; and

WHEREAS, on April 14, 2015, the Board adopted changes to BPC Policy No. 608 that further raised the threshold for the tenant percent for art requirement from \$1 million to \$5 million, yielding minimum tenant percent for art budgets of \$50,000; and

WHEREAS, increasing the art budgets to this level enables tenants to install more substantial and significant artworks on their leaseholds; and

WHEREAS, raising the applicability threshold exempts tenants from a percent for art requirement for smaller development projects under \$5 million; and

WHEREAS, for those tenants who incur a percent for art requirement as part of a development or redevelopment project, there are three methods prescribed in BPC Policy No. 608 for fulfilling the art allocation requirement: (1) commissioning an artwork to be sited on the leasehold; (2) purchasing an artwork for placement on the leasehold; or (3) making an in-lieu monetary contribution to the District's Public Art Fund in an amount equivalent to the tenant percent for art allocation, i.e., one percent of the tenant's approved development or redevelopment project budget; and

WHEREAS, the in-lieu monetary contribution can also be used in combination with the artwork commissioning and/or purchasing options to meet the full amount of the tenant percent for art allocation; and

WHEREAS, on November 13, 2012, the Board adopted Resolution No. 2012-169 approving a multi-faceted fundraising strategy designed to acquire funds, primarily from donations and grants, for the implementation of a public art lighting project to illuminate the San Diego-Coronado Bay Bridge (Bridge Project); and

WHEREAS, the approved funding strategy also included a provision for tenants to designate their in-lieu percent for art contributions specifically for the Bridge Project, but BPC Policy No. 608 was not revised to memorialize the new provision; and

WHEREAS, this revision to BPC Policy No. 608 will update the policy to memorialize the provision previously authorized in Resolution No. 2012-169 that permits tenants to designate in-lieu percent for art contributions for use in the Bridge Project; and

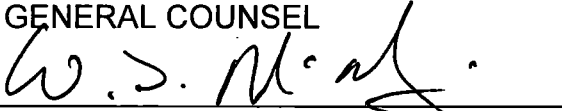
WHEREAS, the amendment also includes language that states that, the in-lieu option shall remain in effect until the District determines that contributions are no longer required for the Bridge Project; and

WHEREAS, the amendment also includes language that states that if the Bridge Project is not realized for any reason, any funds contributed shall remain in the Public Art Fund for future projects at the District's discretion.

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 and directed on behalf of the San Diego Unified Port District to amend BPC Policy No. 608 – Tenant Percent for Art, to provide tenants with an option to designate their percent for art contributions for use in the San Diego-Coronado Bridge Lighting Project.

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 10th day of May, 2016, by the following vote:

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

NAYS: None.

EXCUSED: Moore and Valderrama.

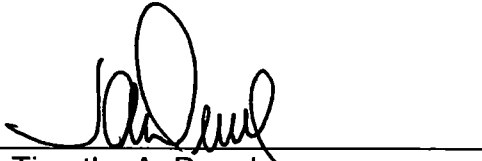
ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)