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San Diego Unified Port District

Document No. 54018

Filed SEP 26 2008
Office of the District Clerk

BPC Policy No. 736

SUBJECT: GREEN PORT POLICY

PURPOSE: To establish a policy for the integration of overarching environmental sustainability principles and initiatives to guide business decisions, development and operations within the San Diego Unified Port District's (District) jurisdiction.

POLICY STATEMENT: The Board of Port Commissioners (Board) is dedicated to protecting and improving the environmental conditions of San Diego Bay and the tidelands. Additionally, the Board is committed to conducting District operations and managing resources in an environmentally sensitive and responsible manner. To that end, the Board has created this Green Port Policy, which is focused on incorporating a balance of environmental, social and economic concerns into operations on San Diego Bay and the tidelands.

For the purposes of this Policy, environmental sustainability is defined as the ability to meet the needs of the present without compromising the ability of future generations to meet their own needs. It is commonly measured in terms of environmental stewardship, social responsibility and economic prosperity.

The following mission and objectives have been developed to guide business decisions in adherence to the Green Port Policy.

MISSION: Provide leadership by minimizing environmental impacts from operations on tidelands and ensure a thriving community where people and the environment prosper.

OBJECTIVES: To effectively administer the Green Port Policy, the District will strive to:

- Minimize, to the extent practicable, environmental impacts directly attributable to operations on San Diego Bay and the tidelands.
- Strengthen the District's financial position by maximizing the long-term benefits of energy and resource conservation.
- Prevent pollution and improve personal, community, and environmental health.
- When possible, exceed applicable environmental laws, regulations and other industry standards.
- Ensure a balance of environmental, social and economic concerns are considered during planning, development and operational decisions.
- Define and establish performance-driven environmental sustainability objectives, targets and programs.
- Monitor key environmental indicators and consistently improve performance.

- Foster socially and environmentally responsible behavior through communications with employees, tenants, stakeholders and the community.
- Collaborate with tenants to develop an integrated, measurable, Bay-wide environmental sustainability effort.

RESOLUTION NUMBER AND DATE: 2008-183, dated September 2, 2008 (Supersedes BPC Policy 736, Resolution 2007-213, dated December 11, 2007)

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Re Amendment of BPC Policy 736,]
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Green Port Policy]
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**REFERENCE
COPY
54018**

RESOLUTION 2008-183

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

That Board of Port Commissioners Policy No. 736, Green Port Policy (formerly entitled Environmental Sustainability Policy), a copy of which is on file in the office of the District Clerk, is hereby adopted.

ADOPTED this 2nd day of September, 2008.

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FISCAL IMPACT:

This Board action has no fiscal impact.

DISCUSSION:

The recommended revisions are summarized below:

BPC Policy No.	Department No.	TITLE	REVISIONS
112	154	Sale of Exchange of Real Property	Re-formatting and minor edits.
353	154	Display of Wares or Merchandise	Re-formatting and minor edits.
355	154	Real Estate Leasing Policy	Re-formatting and minor edits.
356	154	Lessees' Wage Rates	Re-formatting.
357	154	Approval of Tenant Project Plans	Re-formatting and minor edits.
360	154	Request for Proposals	Re-formatting and minor edits.
366	128	Employer-Employee Relations Resolutions	Re-formatting and minor edits.
610	161	Monuments, Memorials, and Plaques	Re-formatting, minor edits, and the section pertaining to retention and deaccessioning was added to be in line with the other updated Board policies related to Public Art.
611	161	Donated/Loaned Items Policy	Re-formatting and minor edits.
736	143	Green Port Policy	Changing the name from Environmental Sustainability Policy to Green Port policy, re-formatting, and minor edits.

Port Attorney's Comments:

Not Applicable

Environmental Review:

This proposed Board action is not subject to CEQA, as amended.

Equal Opportunity Program:

Not applicable

PREPARED BY: Mary Ann Liner, District Clerk
Laura Nicholson, Deputy District Clerk
Donna Royston, Manager, Commissioner Services



BPC Policy No. 112

SUBJECT: SALE OR EXCHANGE OF REAL PROPERTY

PURPOSE: To Establish Policy for the Sale or Exchange of District-Owned Real Property

POLICY STATEMENT:

1. Sales or exchanges of real property belonging to the San Diego Unified Port District (District) and the terms of such sale or exchange must be approved by the Board of Port Commissioners (Board).
2. Whenever it is determined by the Board, or recommended by the Executive Director that District-owned real property should be sold or exchanged, the Executive Director shall submit a report to include the following:
 - a. Description.
 - b. Value and how the value was determined.
 - c. The recommended minimum amount that should be considered.
 - d. Whether or not there should be real estate broker's participation.
 - e. Recommended broker's fee.
 - f. Recommendation as to method of sale:
 - 1) Negotiation (give reasons).
 - 2) Public auction (recommended increments of bids)
 - 3) Sealed bids.
 - 4) Combination of public auction and sealed bids.
 - 5) Request for Proposals (RFP) if the consideration for the sale or exchange includes something other than land or cash.

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3. If the sale or exchange is approved, the Board will decide:

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- a. Whether the District will pay the usual buyers' and sellers' escrow and title charges.
- b. Broker participation and broker's fee.
- c. Method of sale.
- d. Increments of bids if sale is to be by public auction.
- e. Minimum amount to be considered.

4. If the Board approves the sale or exchange, the Executive Director will sell or exchange the property, complying with the Board's conditions.

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5. The Executive Director shall submit offers of the sale or exchange to the Board for final approval or rejection.

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RESOLUTION NUMBER AND DATE: 2008-XXX, dated September 2, 2008 (Supersedes BPC Policy 112, Resolution 68-298, dated December 3, 1968)



BPC Policy No. 353

SUBJECT: DISPLAY OF WARES OR MERCHANDISE

PURPOSE: To regulate the outdoor exhibition, show or display of wares or merchandise by lessees.

POLICY STATEMENT:

1. The setting out for exhibition, show or display of any wares or merchandise upon any area between the outer edge of the sidewalk or curb and the property line of leased premises shall be prohibited on the tidelands.
2. Exhibition, show or display of any wares or merchandise between existing buildings and fences and the property line of leased premises must be compatible with the business of the leased premises and the terms of the lease.
3. Outside exhibition, show or display of any wares or merchandise shall be permitted only on the express written approval of the Executive Director for a specific period of time.

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RESOLUTION NUMBER AND DATE: 2008-XXX, dated September 2, 2008 (Supersedes BPC Policy 353, Resolution 68-298, dated December 3, 1968)



BPC Policy No. 355

SUBJECT: REAL ESTATE LEASING POLICY

PURPOSE: To Establish General Policies for Leasing the San Diego Unified Port District (District) Real Estate Assets

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INTRODUCTION: The Real Estate Leasing Policy establishes general real estate leasing policies that have been adopted by resolution of the Board of Port Commissioners (Board). A separate document, *Administrative Practices -- Real Estate Leasing*, describes the practices and procedures to be used in establishing rent, conducting rent reviews and extending existing leases; and states the conditions for the District's approval of subleases, leasehold financing, lease assignment and lease amendment. The Practices also state the District's commitment to meet and confer in good faith with the San Diego Port Tenants Association (SDPTA) regarding changes to the Practices and to conduct a public workshop on the changes when requested by the SDPTA.

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POLICY STATEMENT:

1. Leasing Authority

a. *Short-Term Leases (Five Years or Less)* – The Executive Director may, without prior Board approval, enter into leases and use permits (including Tideland Use and Occupancy Permits, rental agreements, easements, licenses and other similar types of real estate agreements) for terms not exceeding five (5) years in duration. The Executive Director shall provide the Board with a report each month that identifies each such tenant, location, use, area, rent and term.

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b. *Long-Term Leases (More than Five Years)* – All leases for terms exceeding five (5) years in duration shall be presented to the Board for approval at a public meeting.

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2. Tenant Qualifications

To become a District tenant or subtenant, the prospective tenant or subtenant and its principals shall: (i) be reputable (the absence of a reputation for dishonesty, criminal conduct, or association with criminal elements); (ii) possess sufficient experience to conduct the proposed business; and (iii) possess the financial means to perform the

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tenant's obligations under the lease.

3. Rents

The District shall seek market rent when leasing its real estate assets and the District's leases shall reflect market terms and conditions. The Board retains the right to grant rent discounts, waivers or other concessions, but only after the Board has been advised of the value of the discount, waiver or concession and the reasons supporting it.

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In considering whether to grant a rent discount, waiver or other concession, the Board should consider its duty to balance the promotion of fishing, navigation, commerce and public access with the obligation to the citizens of California to be fiscally self-supporting, to optimize revenues⁽¹⁾ and to reinvest proceeds in the tidelands.

4. Leasehold Improvements

District leases shall provide for tenants to maintain all improvements on their leaseholds, except for multi-tenant buildings where the District's rent includes specific maintenance responsibilities.

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District leases shall provide that when a lease terminates, the District shall have the option to: (i) require the tenant to remove the tenant-owned improvements at the tenant's expense; or (ii) take title to the improvements.

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5. Subleases

Short-Term Subleases (Five Years or Less) – The Executive Director may, without prior Board approval, consent to subleases for terms not exceeding five (5) years in duration. The Executive Director shall provide the Board with a report each month that identifies each such subtenant, location, use and term.

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Long-Term Subleases (More than Five Years) – All subleases for terms exceeding five (5) years in duration shall be presented to the Board for consent.

Subleases shall contain, as a minimum, provisions that: (i) meet current District lease requirements; (ii) provide that the subtenant shall be obligated to pay any master lease rent increases that are applicable to the subleased premises; and (iii) provide that in the event of a conflict between the master lease and the sublease, the master

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¹ "Optimizing revenues" refers to the District's consideration of maintaining the highest revenue stream possibly while balancing the strategic goals and objectives of the Board in managing the District's operations. Certain goals and objectives may not maximize revenues compared to other land use options; however, they may be given a higher priority due to the District's desire to maintain "balanced" operations.

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lease shall prevail.

6. Lease Amendments

Short-Term Subleases (Five Years or Less) – The Executive Director may, without prior Board approval, consent to amendments to leases with terms not exceeding five (5) years in duration. The Executive Director shall provide the Board with a report each month that identifies each such tenant, location, use, area, rent and term.

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Long-Term Subleases (More than Five Years) – All proposed amendments to leases with terms exceeding five (5) years in duration shall be presented to the Board for consent.

7. Transaction Processing Fees

With exceptions noted below, the District shall charge a transaction processing fee of not less than five hundred dollars (\$500.00). Exceptions include: (i) rent reviews, (ii) transactions that benefit the District (e.g., a new or renewal lease that will result in additional rent to the Port), or (iii) transactions that benefit the District's properties (e.g., an easement for utilities that will serve District tenants).

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RESOLUTION NUMBER AND DATE: 2008-XXX, dated September 2, 2008 (Supersedes BPC Policy 355, Resolution 2004-43, dated March 30, 2004; Resolution 2002-311 dated November 5, 2002; Resolution 98-28, dated January 27, 1998; BPC Policy 350, Resolution 95-244, dated July 25, 1995; BPC Policy 351, Resolution 95-268, dated August 22, 1995; BPC Policy No. 352, Resolution 92-47, dated February 18, 1992; and BPC Policy No. 354, Resolution 81-328, dated October 6, 1981)

SAN DIEGO UNIFIED PORT DISTRICT

SUBJECT: ADMINISTRATIVE PRACTICES – REAL ESTATE LEASING

PURPOSE: To Establish Fair and Consistent Guidelines for Leasing the Port's Real Estate Assets

Introduction

The *Administrative Practices* are practical guidelines that implement BPC Policy No. 355, *District Real Estate Leasing Policy*. The Policy consists of general statements that are intended to encourage private investment; to promote high standards of development, operation and maintenance; and to assure that public trust assets are managed responsibly. The Practices are intended to provide clear guidelines and procedures for implementation of the Policy.

In the event the Port proposes to make changes to the Practices, the Port shall notify the San Diego Port Tenants Association (SDPTA) in advance and will meet and confer in good faith with the SDPTA to discuss the proposed changes. The SDPTA may request a public workshop on the changes. However, in individual lease negotiations, the foregoing does not in any way preclude the Port from negotiating terms that vary in some respects from the Practices as long as the Port and the tenant are in agreement.

The Practices are divided into eight categories as outlined below:

- A. Establishing Rent and Conducting Rent Reviews
- B. Lease Extensions
- C. Leasehold Financing
- D. Assignment of Leasehold Interest
- E. Subleasing
- F. Lease Amendments
- G. Trust Obligations
- H. Transaction Processing Fees and Security Deposits

The Practices follow:

A. ESTABLISHING RENT AND CONDUCTING RENT REVIEWS

The Port should receive market rent for the leasing of its property, and rent should be adjusted to market periodically during the term of the lease. Market rent should be based on a current appraisal that complies with the *Uniform Standards of Professional Appraisal Practice*, published by the Appraisal Foundation. Port staff may consider other relevant information in arriving at the appropriate rent for a property. Other exceptions to the appraisal requirement are noted below.

Most Port leases are either percentage leases or flat rent leases. In a percentage lease, the Port receives the greater of a minimum rent or percentages of gross income generated by the economic activities that are conducted on the premises. In a flat rent lease, the rent is a fixed amount. Specific practices for percentage rent leases and flat rent leases follow.

Percentage Rent Leases – Market percentage rates tend to be relatively constant over time, and market validation of percentage rates for all of the Port's revenue categories by appraisal is a major undertaking. Therefore, for determining percentage rates for new leases and rent reviews for existing leases, the Port should establish benchmark appraisals by general geographic location and property type. The benchmark appraisals should be conducted on an ongoing basis, and should be utilized in determining rent at the rent review date stipulated in the lease.

Minimum rents in new percentage leases and in rent reviews should be set at no less than 75 percent of market rent as determined by appraisal or other relevant information. For substantial redevelopment and new construction, the Port may abate a portion of the minimum rent during construction when it is deemed appropriate.

Percentage rent leases should provide for market rent reviews every ten (10) years with mid-term adjustments to the minimum rent for changes in the consumer price index.

Appraisals of properties that normally rent for percentages of gross revenues (e.g., hotels, restaurants, marinas and retail stores) should consider rents and percentage rates paid on comparable properties, in addition to economic analysis and other appraisal techniques.

Flat Rent Leases – For determining market rent for new flat rent leases and for rent reviews in existing leases, individual appraisals that comply with the *Uniform Standards of Professional Appraisal Practice* should be conducted. Port staff may consider other relevant information in arriving at the appropriate rent for a property.

Flat rent leases should provide for market rent reviews every ten (10) years with mid-term adjustments for changes in the consumer price index.

Appraisal Exception – If the cost of an appraisal is not justified by the anticipated rents, other less expensive analysis methods may be employed to establish rent, as long as adequate market information is available to support a reasonable and fair conclusion.

Timely Completion of Rent Review Appraisals – The Port should be prepared to submit its rent proposal to the tenant no less than sixty (60) calendar days in advance of the commencement date of the rental period under review.

Rent Arbitration – Port leases shall provide for binding “baseball arbitration” when the Port and the tenant cannot agree on the new rent for a rental period under review. In baseball arbitration, a panel of three arbitrators must select by majority vote either the Port’s rent proposal or the tenant’s rent proposal, whichever is judged to be the closest to market rent, as the rent for the next rental period of the lease. The Port and tenant each shall select one arbitrator and the two arbitrators will mutually select the third arbitrator. All arbitrators must be qualified real estate appraisers and licensed to practice in the state of California.

Appraisal Assumptions Regarding Status of Property –The appraisal should reflect the value of the land as-if vacant and available for new development. The appraisal should assume that all regulatory approvals that allow the existing use have been obtained, and there should be no discount for costs and time delays associated with obtaining the regulatory approvals.

The appraisal should be consistent with the highest and best use of the property, as if vacant, on the date of value. Market conditions may support a highest and best use that differs from the existing use.

Notwithstanding the above, the appraisal must be consistent with the use restrictions and other contractual burdens placed on the land by the terms of the ground lease.

Appraisal of Maritime Properties - Properties that are managed by the Maritime Division, that are used for maritime purposes, should be appraised by comparison with other seaport and/or maritime industrial properties, and should consider total potential revenues including but not limited to wharfage and dockage.

B. LEASE EXTENSIONS

The Port should utilize the lease extension process to (a) promote capital investment, (b) encourage redevelopment, and (c) update out-of-date leases. This section provides a narrative explanation of the process the Port should follow in determining whether a proposed development qualifies for an extended lease term, the length of the extended term, and whether there should be compensation to the Port for extending the term. A decision tree flowchart outlining the general process to be followed when a tenant requests a lease extension is presented in this section.

Lease Extension Practice and Decision Criteria

Tenant Requests a Lease Extension – The submission package should include the following information:

- Description of the development concept and the proposed project following the guidelines stated in UPD Form 736, *Guideline for Tenant Project Plan Submittal*. Request for approval in concept as described in UPD 736 is the minimum requirement.
- A statement that the property will be in compliance with the Port Master Plan.
- Evidence that the tenant qualifies as a “tenant in good standing” (defined below).
- Any proposed changes to ownership.
- Description of the development team and its qualifications.
- Proposed lease extension terms (including if applicable minimum rent, percentage rent by use, and compensation to the Port for deferral of its reversionary improvement value as provided in this section), and justification for such terms.
- Financial feasibility of the extension including pro forma cash flows (if applicable).
- Anticipated development cost with repair and maintenance, and furniture, fixture and equipment items clearly delineated.
- Justification that the existing operator is capable of optimizing the use and return to the Port, thereby negating the need for a Request for Proposal process.
- Justification that the tenant has the expertise and financial capability to develop and operate the property, when the proposed development is different from the existing use.

Proposal Consistent with Master Plan – Initially, the Port should determine if the proposal is consistent with the Port Master Plan. Inherent in this decision is the assumption that the planning process utilized in developing the Master Plan evaluated the potential for the highest and best use for the property, the goals of the Port and the input of the local community. If the proposal is not consistent with the Master Plan, the Port should not negotiate a lease extension.

Proposal Consistent with the Port's Vision for Future Use of the Property – If the proposal is consistent with the Master Plan but is not consistent with the Port's vision for the future use of the property, the Port should not negotiate a lease extension.

Qualification as a "tenant in good standing" – To qualify for a lease extension, the tenant should be considered a "tenant in good standing." The criteria should include a review of the tenant's history with respect to the following:

- Maintenance of the leasehold in good condition, free of deferred maintenance
- Prompt payment history
- Compliance with the provisions of the current lease, including use provisions, insurance requirements and regulatory permitting processes
- Maximization of the gross revenue of the tenant's business
- Maintenance of accurate financial records that are accessible to the Port
- Compliance with Port policies on public accommodation and non-discriminatory employment and contracting

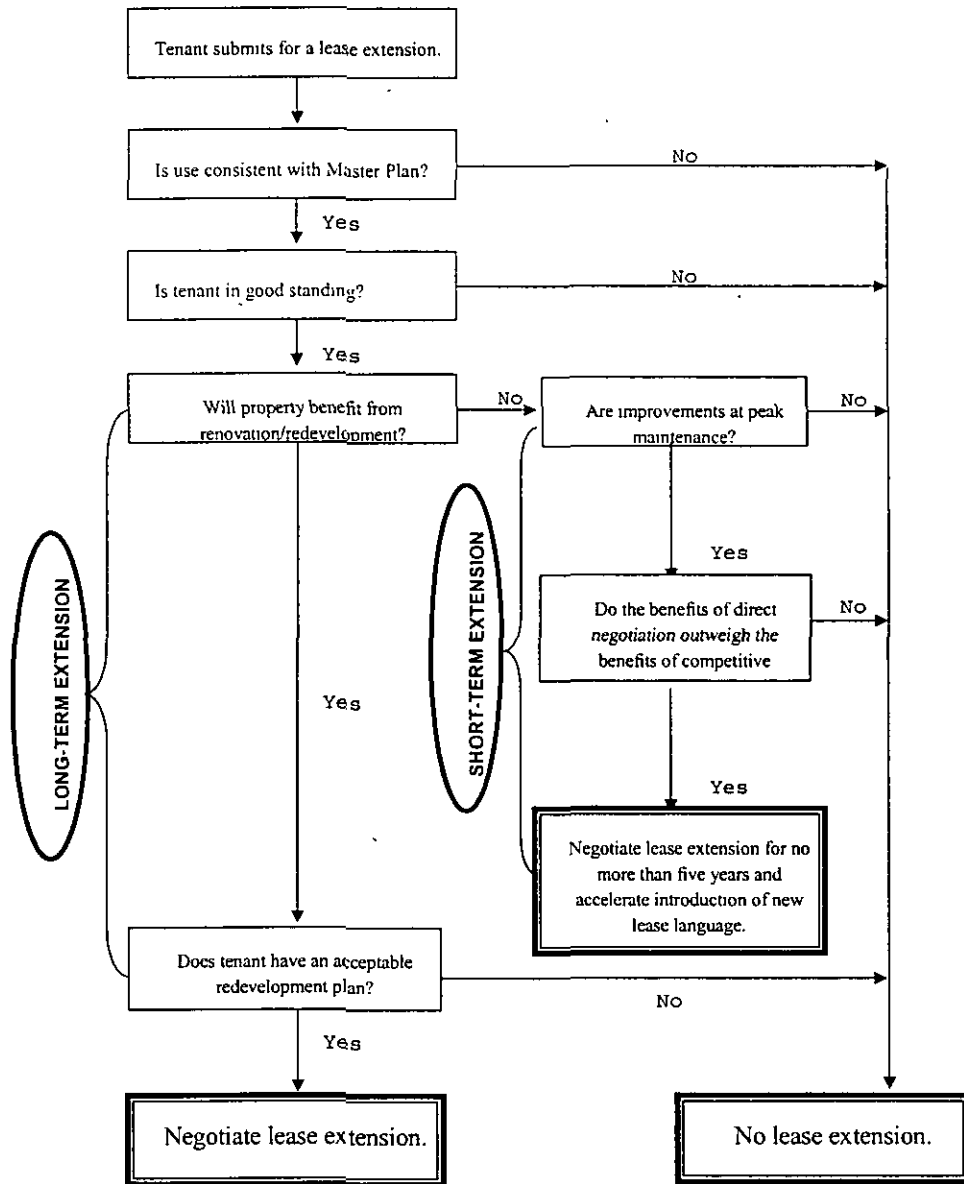
If the existing tenant does not meet the requirements for a "tenant in good standing," then no lease extension should be negotiated.

Benefit from Renovation or Redevelopment – Renovation or redevelopment contemplates making capital improvements to the property that would allow for business expansion, modernization of facilities, aesthetic enhancement; or that maintain or increase the existing revenue stream to the Port by expansion of the existing improvements or repositioning the property to a higher standard of quality.

Acceptable Development Plan Presented by the Tenant – If the property would benefit from renovation or redevelopment, the Port must decide if the existing tenant has presented an acceptable redevelopment plan. The Port and the tenant would then enter into negotiations that would result either in a plan acceptable to the Port, or a decision that the existing tenant is not capable of implementing an acceptable redevelopment plan.

Process for Extending Leases – If a proposed project is consistent with both the Port Master Plan and the Port's vision for the future use of the property, and the proposal meets the other criteria described above, the Port should negotiate a new lease based on the following flow chart and requirements:

LEASE EXTENSION PROCESS



Lease Extension Negotiation

If the Port and tenant agree to an acceptable redevelopment plan, lease extension negotiations should proceed, with the following considerations:

Calculation of Extended Term – The extended lease term should be based on the magnitude of capital improvements to be made by the tenant and the economic life expectancy of the development. The Port may wish to consider other relevant information in determining if a longer lease term is warranted, such as if the investment is expected to generate above average returns to the Port, or will reposition the property to a higher standard of quality. A method of calculating the potential lease term is outlined below:

- (a) *Determination of the estimated total replacement cost of the leasehold improvements as renovated/redeveloped.* Cost figures can be determined utilizing resources such as tables provided by Marshall Valuation Service (or other industry standard cost estimating resources), or known development costs of comparable projects.
- (b) *Determination of the economic life of the fully redeveloped project.* The maximum lease term should be consistent with economic life expectancy. Life expectancy guidelines are presented in a table at the end of this section.
- (c) *Computation of the ratio of capital improvements to total replacement cost.*
- (d) *Determination of the additional lease term by multiplying the ratio obtained in (c) by the economic life expectancy obtained in (b).* The term in an extended lease shall not exceed the economic life expectancy of the development.

Qualifying Capital Investment – “Capital Investment” for purposes of calculating the lease extension term should only include expenditures that usually increase the value (efficiency, productivity, or use utility) or the useful life of the improvements; cannot reasonably be amortized during the existing remaining term; are not recurring in nature; and are: (a) \$100,000 or more, or (b) 10% of the value of the improvements or more. It should specifically exclude deferred maintenance and expenditures for repairs to keep the existing improvements in good condition. Items that separately would not qualify for lease term extension may be considered collectively as part of an overall plan of renovation or redevelopment. In a renovation or redevelopment project, qualifying capital investment may include, at the sole discretion of the Port, the value of superior improvement condition. The intent is to recognize the efforts of a tenant who maintains improvements in like-new condition in the latter stages of the lease term. The value of superior improvement condition may be measured by documented costs, or by replacement cost and depreciation tables such as those published by Marshall Valuation Service. Public art expenditures should be included as capital investment. Non-realty property may be given consideration depending on property type. An example of this would be the purchase by industrial tenants of specialized fixtures or equipment that are necessary for its operation. If lease term is granted for an investment in non-realty property, the new lease should

include a provision requiring that the non-realty property (or an equivalent replacement as approved by the Port) remain in place for the entire lease term. Purchase of Port-owned improvements may be considered a qualifying capital investment. The cost of environmental cleanup is specifically excluded as a qualifying capital investment.

Payment for Deferral of the Port's Reversionary Interest – The standard Port lease gives the Port the right to assume ownership of the improvements at the end of the lease. During the lease, this reversionary interest in the improvements may have a value that can be estimated using accepted appraisal techniques. In exchange for granting a lease extension, the tenant should recognize that the Port may be deferring the realization of a valuable reversionary interest in the existing improvements. Subject to the "twenty-percent rule" described below, the tenant should compensate the Port by an amount equal to the value of the interest being deferred. This amount can either be paid in full at the commencement of the lease, or can be incorporated as additional rent with interest over a specified period of time.

If there is an economic benefit to the Port, such as higher rent or the prevention of deteriorating rent, as a result of an investment by the tenant and the term extension, the economic benefit should be used to offset all or part of the compensation for deferral of the reversionary interest.

In estimating the reversionary improvement value, care should be taken to avoid crediting the Port with value components that are related to superior management on the part of the tenant, including going-concern value, goodwill, and above-average maintenance; and for furniture, fixtures and equipment.

A conceptual method of calculating the value of the deferral of the reversionary interest in percentage rent leases would be as follows:

- (a) *Value of Deferred Reversionary Interest* – The reversionary improvement value can be estimated by projecting the operating income and expenses, based on the existing development, to the end of the existing lease term, using market-supported assumptions about operating income, expenses and inflation; separating the projected net operating income at the end of the existing lease term into land and improvement components; and capitalizing the net income attributable to improvements into an indication of reversionary improvement value. The present value of the reversionary improvement value at the end of the existing lease term can then be calculated. Following the same procedures, the present value of the reversionary improvement value at the end of the extended lease term can be calculated. The value of the Port's deferral of the reversionary improvement value is the difference between the present value at the end of the existing term and the present value at the end of the extended term, and represents the amount to be compensated to the Port, subject to any offsetting economic benefit described below. The reversionary values should

reflect the expected future condition of the existing improvements prior to the new investment in both calculations.

- (b) *Value of Economic Benefit to the Port* – The difference between the present value of the rent to the Port for the proposed development, projected over the remainder of the existing term, and the present value of the rent to the Port for the existing development projected over the remainder of the existing term, is a measure of the economic benefit to the Port resulting from the investment by the tenant. The economic benefit should be used to offset all or part of the value of the compensation for deferral of the Port's reversionary improvement value.

A conceptual method of calculating the value of the deferral of the reversionary interest in flat rent leases would be as follows:

- (a) *Value of Deferred Reversionary Interest* – The projected replacement cost of the improvements at the end of the existing term can be estimated by trending the current replacement cost by the anticipated rate of inflation. The projected reversionary improvement value can be estimated by subtracting depreciation from the projected replacement cost. The present value of the reversionary improvement value at the end of the existing term can then be calculated. Following the same procedures, the present value of the reversionary improvement value at the end of the extended lease term can be calculated. The value of the Port's deferral of the reversionary improvement value is the difference between the present value at the end of the existing term and the present value at the end of the extended term, and represents the amount to be compensated to the Port.
- (b) *Value of Economic Benefit to Port* – The present value of increased rent through the end of the current rental period, negotiated as part of a lease extension, shall be used to offset compensation for deferral of the reversionary improvement value in flat rent leases.

"Twenty Percent Rule" – No payment for deferral of the Port's reversionary interest will be required if a timely request for term extension is made prior to the last twenty (20) percent of the existing lease term, including any options. The criteria for a timely request are stated below.

Timely Submission by Tenant and Response by Port – The "twenty percent rule" described above makes it necessary to define a timely submission by a tenant for a lease extension.

Port staff will respond to a request for a lease extension within thirty (30) calendar days following receipt of a request for a lease extension. The initial response shall either recommend the proposal for project review and California Environmental Quality Act (CEQA) review, or request additional information that the Port believes was not included or was not adequately addressed in the initial submittal. The Tenant may re-submit within sixty (60)

calendar days of the Port's initial response. Port staff will respond to the re-submittal within thirty (30) calendar days. If the project is recommended for project review and CEQA review, the date of the initial submission will be the effective date for determining whether the request was made before the last twenty (20) percent of the lease term. The lease term includes the initial term, any previously-granted extensions, and any options whether or not exercised. If the proposed project is not recommended or subsequently is not approved by the Board, the tenant will not be assumed to have met the "twenty percent rule."

Market Rent – The rent in an extended lease should be updated to the current market rent as negotiated between the tenant and the Port.

New Lease Provisions – Upon negotiation of the extended lease term, the new rent and the amount of payment, if any, for deferral of the Port's reversionary interest in the improvements, the existing lease shall be superseded by a new lease incorporating the Port's current standard lease terms. The tenant's liability for hazardous materials in the prior lease shall continue in the new lease.

"Basket of Issues" – While it is desirable to have a "standard" negotiation process, the lease extension process involves a "basket of issues" with each tenant. The Port should be willing to negotiate each extension separately and take into account the unique circumstances of each request.

Short-Term Lease Negotiation – An existing tenant may qualify for an extended term under the criteria outlined above, but the property may not qualify as the highest and best use under the Port Master Plan, or may not be consistent with the Port's vision for the future use of the site. In other cases, all the criteria for a long-term lease extension may have been met but the property may not benefit from renovation or redevelopment (i.e., the improvements are in excellent condition and represent highest and best use). In either event, upon lease expiration, the Port may consider a new short-term lease with the existing tenant with the following four considerations:

- (i) Lease Term – The lease term should be no more than five years. This will create a term short enough to enable the Port to periodically evaluate if the current use remains the highest and best use of the property consistent with the Port's goals and objectives and the Port Master Plan.
- (ii) Payment for Port-Owned Improvements The tenant should pay market rent for improvements it occupies that are owned by the Port after expiration of the existing lease term.
- (iii) Ground Rent – The ground rent would be updated to the current market rent as negotiated between the tenant and the Port.
- (iv) New Lease – A new lease shall be executed including the Port's current standard lease language.

Recommended Life Expectancy Guidelines – The length of a new or extended lease term should be based on the reasonable life expectancy of the improvements. Life expectancies vary by use. Improvements that are subject to relatively high physical deterioration or functional obsolescence caused by market changes have relatively short life expectancies. Improvements that are physically more substantial and less affected by market changes have relatively long life expectancies. The guidelines shown below were developed based on practical experience and observations, and by reference to the life expectancy tables published by *Marshall Valuation Service*.

ECONOMIC LIFE EXPECTANCY GUIDELINES

Property Type	Life Expectancy
Hotel	40 to 66 Years
Restaurant	30 to 40 Years
Retail Sales	30 to 45 Years
Commercial Office	30 Years
Land Service Station	20 Years
Marine Service Station	20 Years
Marina	40 Years
Sportfishing Landing	20 Years
Boat Excursion Landing	15 Years
Boatyard	30 Years
Shipyards	50 Years
Lumberyard	25 Years
Airport Industrial	25 Years
Other Industrial	50 Years
Yacht Club	35 to 45 Years

C. LEASEHOLD FINANCING

Consent to Financing Subject to Specific Criteria – The required minimum documentation to be submitted by the tenant in support of a request of the Port to consent to new financing and standards for financing consent are as follows:

- Initial documentation should include the term sheet, application or commitment, cash flow projections, appraisal submitted to the lender, and the most recent annual financial statements of the tenant (if it is a percentage lease) for at least the past two years.
- When available, final loan documents should be provided.
- Maximum loan proceeds should not be in excess of the greater of 75% loan-to-value as determined by the lender's appraisal, or the amount of repayment of existing financing (provided that such financing was initially consented to by the Port).
- A loan should have an amortization term that does not exceed the remaining ground lease term.
- A lessee should acknowledge that it will not seek rent relief as a result of not being able to meet its debt service or debt repayment obligations.
- In lieu of a share of the proceeds of refinancing, the Port shall have the right to adjust the rent to market rent.
- There should not be any restrictions on how the tenant utilizes the proceeds of financing (as long as the Port is satisfied that proper underwriting guidelines are met).

If the Port staff is satisfied that the above criteria have been met, its recommendation for consent to the new financing shall not be unreasonably withheld.

Timely Response to Request for Leasehold Financing – Port Staff should have completed its recommendation on consent to the financing of a leasehold interest within forty-five (45) calendar days of receipt of all required information. Staff's recommendation for consent shall not be unreasonably withheld.

D. ASSIGNMENT OF LEASEHOLD INTEREST

Consent to Assignment Subject to Specific Criteria – The required documentation to be submitted by the tenant in support of a request of the Port to consent to an assignment of the leasehold and standards for assignment consent are as follows:

- The tenant shall complete UPD Form No. 317, *Lessee's and Sublessee's Questionnaire for All Leases (and Subleases of More than Five Years)*.
- If new financing is involved in the sale, the proposed tenant shall provide the information required above under *Leasehold Financing*.
- The Port must be satisfied that the lessee possesses the financial capacity, a good reputation and managerial ability to operate successfully on the leased premises.
- In lieu of a share of the proceeds of sale, the Port shall have the right to adjust the rent to market rent as a condition of its consent. This right does not apply to an assignment that changes the method of holding title but does not change the proportional ownership interests of the individuals, nor does it apply to transfers between spouses or immediate family members.

Timely Response to Request for Assignment of Leasehold Interest – Port Staff should have completed its recommendation on consent to the assignment of a leasehold interest within forty-five (45) calendar days of receipt of all required information. Staff's recommendation for consent shall not be unreasonably withheld.

E. SUBLEASING

A tenant may sublease all or part of its leased premises to a qualified subtenant, subject to consent by the Port. The appropriate Port-supplied Sublease Questionnaire form must be completed and submitted to the Port. Consent by the Port must be obtained prior to occupancy by the sublessee.

Sublease Consent Criteria – Staff's recommendation for consent to a sublease shall be made in accordance with the following criteria:

- The Port must be satisfied that the sublessee will use the property in a manner that is consistent with uses allowed by the lease.
- The Port must be satisfied that the sublessee possesses the financial capacity, a good reputation and managerial ability to operate successfully on the subleased premises.
- The Port reserves the right to adjust the rent the Port receives to market for the subleased portion of the property.
- The Port must be satisfied that the sublease transaction will not have a significant negative impact on the Port.

Timely Response by the Port – For a short-term sublease (five years or less), Port staff should respond with its recommendation regarding consent within thirty (30) calendar days of receipt of all necessary information, and for a long-term sublease (more than five years), Port staff should respond within sixty (60) days.

F. LEASE AMENDMENTS

A tenant may request amendments to a lease that could range from minor changes to extensive revisions. The Port's consent to a request for lease amendment may be contingent upon updating sections of the lease to incorporate current standard lease provisions, and may include an adjustment to market rent, depending upon the extent of the proposed tenant requested revisions.

Lease Amendment Consent Criteria – Staff's recommendation for consent to a lease amendment shall be made in accordance with the following minimum criteria:

- The allowed uses of the property stated in the amended lease must be in compliance with the Port Master Plan and with the Port's vision for the future use of the property.
- Amended sections of the lease must conform with the Port's standard lease language in effect when the request for a lease amendment is made.
- For a change in the method of holding title that does not change the proportional ownership of the individuals, or that represents a transfer between spouses or immediate family members, a complete lease update and rent adjustment would not be made. Standard provisions regarding hazardous materials, underground storage tanks and above-ground storage tanks should be added (unless they are already in the lease).
- In some cases (e.g., changing from a sole proprietorship to a limited liability company), it may be advisable to have the principals personally guarantee lease performance.
- A proposed lease amendment for financing or for a transfer or a partial or full interest in the leasehold would be governed by Sections C and D of these Practices.

Timely Response by the Port – For a short-term lease (five years or less), Port staff should respond with its recommendation regarding consent within thirty (30) calendar days of receipt of all necessary information, and for a long-term lease (more than five years), Port staff should respond within sixty (60) days.

G. TRUST OBLIGATIONS

Special Consideration Under the Port District Act – For tenants claiming special treatment under the Port District Act, the Port should determine market rents consistent with the property's land use. Any discount to market rent or other concession should be supported by a tenant's written proposal that would outline why the discount is warranted, if there is a public benefit, the financial rationale for the request and the proposed economic terms. The proposal should be presented to the Board of Port Commissioners, which would determine if a concession is warranted.

H. TRANSACTION PROCESSING FEES AND SECURITY DEPOSITS

Transaction Processing Fees - With exceptions noted below, the Port shall charge a transaction processing fee of five hundred dollars (\$500.00). Exceptions include (i) rent reviews, (ii) transactions that benefit the Port (e.g., a new or renewal lease that will result in additional rent to the Port), or (iii) transactions that benefit the Port's properties (e.g., an easement for utilities that will serve Port tenants).

Security Deposits - The standard security deposit for a new rental agreement is three months' rent. A security deposit may be waived for a short-term rental of property that supports a tenant's long-term lease. The security deposit may be reduced for a tenant that has been in good standing for five or more years. For a tenant making a substantial investment in improvements, the security deposit will be refunded upon completion of the improvements.

**REPORT OF
YACHT CLUB LEASING POLICY
AD HOC SUBCOMMITTEE**

**RECOMMENDATION TO THE BOARD OF PORT COMMISSIONERS
OF THE SAN DIEGO UNIFIED PORT DISTRICT**

At its December 8, 2003 meeting, the Subcommittee voted to recommend that the Board adopt a resolution directing staff to supplement the BPC Policy 355 leasing practices as follows:

1. The present yacht club leases shall be amended to delete the rent review provision for 2006 and substitute a rent adjustment equal to the change in the Consumer Price Index for the Los Angeles area for the years 2001 - 2005.

2. Upon the grant of a new lease, whether after expiration of the current lease or by reason of the satisfaction of option requirements for redevelopment of the leasehold that result in a new lease earlier than expiration of the current lease, rent shall be paid at the greater of Fair Market Rent or Minimum Rent. Fair Market Rent shall be percentage rent calculated as follows:
 - (a) From the commencement of the new lease to December 31, 2011, 8.25% of gross revenues;
 - (b) From January 1, 2012 through December 31, 2012, 8.80% of gross revenues;
 - (c) From January 1, 2013 through December 31, 2013, 9.35% of gross revenues;
 - (d) From January 1, 2014 through December 31, 2014, 9.90% of gross revenues;
 - (e) From January 1, 2015 through December 31, 2015, 10.45% of gross revenues;
 - (f) From January 1, 2016 through December 31, 2016, 11.0% of gross revenues;

- (g) From January 1, 2017 through December 31, 2026, Fair Market Rent shall be calculated by multiplying gross revenues by a blended rate adjusted by an appraisal of the concession rates on each revenue category; the new blended rate shall be adjusted by applying an adjustment as follows:

(The sum of all current concession rates plus the sum of all changes to the concession rates divided by the sum of all concession rates) multiplied by the current blended rate will equal the new blended rate. The current concession rate is comprised of the following: dues @ 5.0%; slips, dry storage and lockers @ 22.0%; member food and beverage @ 3.0% and 5.0% respectively; catered food @ 7.0%; catered beverage @ 7.0%; and ships store @ 10.0%. The sum of all concession rates equals 59.0%

Example: Currently, the blended rate is 11.0% and the sum of the concession rates is 59.0%. If, for example, the slips, dry storage and locker concession rate increases by 2.0% (from 22.0% to 24.0%), the computation of the new blended rate would be expressed arithmetically:

$$[(59+2) \div 59] \times 11.0\% = 1.0338 \times 11.0\% = 11.37\%$$

- (h) On January 1, 2027 and each succeeding tenth anniversary thereafter, the concession rates shall be reappraised and adjusted as set forth in (g) above.
- (i) Minimum Rent starting on January 1, 2022 and every ten years thereafter shall be adjusted by the corresponding increase in the Consumer Price Index for the Los Angeles area for the prior ten years from the minimum rent in effect in 2012. For purposes of determining the CPI base for calculating the Minimum Rent in 2022, the Fair Market Rent in 2012 shall be adjusted by the appropriate CPI increase over the 10-year period. The increase shall not be less than 3.0% per annum nor greater than 5.0% per annum. In any year immediately following a rent adjustment as the result of an appraisal of the concession rates, the rent for that year and each successive year shall be determined by the greater of 75.0% of the actual rent paid the prior year or the Minimum Rent or the Fair Market Rent; and

- (j) For purposes of calculating rent, gross revenues shall only include: dues, member food and beverage, catered food and beverage, slips, dry storage and lockers and ships store. Gross revenues shall not include revenues for junior sailing programs, outstation locations not on Port property, initiation fees or interest income as well as any amounts set aside by the yacht clubs for capital improvements or the debt on capital improvements, whether such amounts are collected as special assessments, dues, percentage of slip rents, or otherwise.
3. New yacht club leases shall be for a maximum term of 40 years provided all the requirements for achieving maximum lease term are met.
 4. Financial statements detailing operating revenues and sources, cash flows, capital reserves and capital expenditures, as well as sources of capital amounts, shall be provided annually no later than 120 days following the end of each club's fiscal year.



BPC Policy No. 356

SUBJECT: LESSEES' WAGE RATES

PURPOSE: To Establish Prevailing Wage Rates for Tenants

POLICY STATEMENT:

It is the policy of the San Diego Unified Port District that prevailing wage rates shall be paid all persons who are employed by lessee on the tidelands of the District.

RESOLUTION NUMBER AND DATE: 72-9, dated January 11, 1972



BPC Policy No. 357

SUBJECT: APPROVAL OF TENANT PROJECT PLANS

PURPOSE: To Establish A Policy Governing Tenant Project Plan Approvals

POLICY STATEMENT:

1. Preliminary plans for proposed new tenant development or alterations to existing facilities shall be presented to the Board of Port Commissioners (Board) for approval under any of the following circumstances:
 - a. The project is estimated to cost more than \$500,000 (exclusive of soft costs, including but not limited to, architectural costs and permit fees),
 - b. The project will make a significant change in the silhouette or appearance of the area;
 - c. If a material change of use is proposed;
 - d. Any project(s) District staff determines to be reviewed by the Board, regardless of cost, due to its high public profile, its regional impact, baywide security issues or other important matters that require the Board's consideration and/or determination.

For those projects the Board has previously approved, District staff shall then review and administratively approve the project working drawings and technical specifications, if the plans are in substantial conformance with the project approved in concept by the Board. District staff shall disapprove plans that are not in substantial conformance.

2. Plans for new development or alterations estimated to cost \$500,000 or less and that have no impact to the silhouette, appearance or material use of the leasehold area; and plans for proposed new subsurface improvements and demolition projects, regardless of cost, shall only be submitted for review and approval by staff.
3. District approval is not required, regardless of cost, for projects that fall into the following categories:
 - a. Routine maintenance and repairs;

- b. Interior redecorating with like materials, finishes, and replacement of furniture, fixtures and equipment (FF&E);
 - c. Substantially similar replacements of existing interior or exterior painted or material finishes, roofing material, equipment, landscaping, irrigation lines or low voltage wiring;
 - d. Replacement of subsurface utilities (unless it affects other tideland facilities).
4. District approval is required for projects that fall into the following categories:
- a. Extraordinary repairs;
 - b. New subsurface utility installations;
 - c. Structural modifications;
 - d. Substantial upgrades and renovations;
 - e. Replacements involving substantially different materials;
 - f. Modifications resulting in a change of use or increased occupancy or seating;
 - g. Reduction in parking space count or size;
 - h. Removal of trees;
 - i. Paving any area greater than 25 square feet.
5. Staff shall review all plan submittal to ensure compliance with BPC Policies, proposals approved by the Board, the Port Master Plan and applicable environmental mitigation requirements.
6. Plan submittals shall be in accordance with the Port's "Guidelines for Tenant Project Plan Submittals" (UPD Form 736).
7. Plans that have material variation from those previously approved by the Board shall be resubmitted for Board approval.
8. Staff shall inspect projects during construction to ensure substantial compliance with approved plans.
9. One set of all approved tenant plans shall be permanently retained by the District.

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10. Approval of plans shall be conditioned on applicant providing the District with copies of any application made to any governmental regulatory agency within 5 (five) days of making said application and a copy of any permit, license or other authorization issued by any governmental regulatory agency within 10 (ten) days of its receipt.

RESOLUTION NUMBER AND DATE: 2006-88, dated May 2, 2006
(Supersedes Resolution Number 2004-38, dated March 30, 2004;
Resolution Number 91-332, dated October 15, 1991;
Resolution Number 91-258, dated August 20, 1991; and
Resolution Number 74-93, dated May 14, 1974)



BPC Policy No. 360

SUBJECT: REQUEST FOR PROPOSALS

PURPOSE: To Establish a Policy for Development Proposals

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POLICY STATEMENT:

1. It is the policy of the Board of Port Commissioners (Board) that development proposals (solicited or otherwise) for the San Diego Unified Port District (District) tidelands that have been previously undeveloped or which have been recently razed shall be subject to a competitive process utilizing a Request for Proposals (RFP) or a Request for Qualifications (RFQ).
2. The competition and the RFP or RFQ process may be waived for a specific development proposal by a majority affirmative vote of the members of the Board, present, when in their judgment unusual circumstances so warrant.
3. Upon determination by the Board that an RFP or an RFQ process shall be used, staff shall *prepare for the Board's review a draft RFP / RFQ*, including a timetable for completion of the process.
4. Notice of the availability of an RFP/RFQ shall be published in a newspaper of general circulation not less than forty-five (45) days prior to the date the Board selects the developer.
5. A copy of this policy shall be provided to all persons with a development proposal whom contact the District.

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RESOLUTION NUMBER AND DATE: 2008-XXX, dated September 2, 2008 (Supersedes BPC Policy 360, Resolution 82-138, dated May 18, 1982)



BPC Policy No. 366

SUBJECT: EMPLOYER – EMPLOYEE RELATIONS RESOLUTION

PURPOSE: Article I - General Provisions

Sec. 1. Statement of Purpose:

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the San Diego Unified Port District (District) and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law, District ordinances, resolutions and rules which establish and regulate the merit and civil service system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the District.

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It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Exclusively Recognized Employee Organizations regarding matters that directly affect the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law. However, nothing herein shall be construed to restrict any legal or inherent exclusive District rights with respect to matters of general legislative or managerial policy, which include, among others: The exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action in accordance with federal and state law and applicable District rules and regulations; relieve its employees from duty because of lack of work or for other lawful reasons; determine the content of job classifications; subcontract and/or transfer work out of the unit; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. The rights set forth herein shall not abrogate or in any way supersede the duty to meet and confer as established by California Government Code section 3500 et seq.

POLICY STATEMENT:

Sec. 2. Definitions:

As used in this Resolution, the following terms shall have the meanings indicated:

- a. "Appropriate unit" means a unit of employee classes or positions, established pursuant to Article II hereof.
- b. "District" means the San Diego Unified Port District, and, where appropriate herein, refers to the Board of Port Commissioners or any duly authorized District representative as herein defined.
- c. "Confidential Employee" means an employee who, in the course of his or her duties, has access to confidential information relating to the District's administration of employer-employee relations.
- d. "Consult/Consultation in Good Faith" means to communicate orally or in writing with all affected employee organizations, whether exclusively recognized or not, for the purpose of presenting and obtaining views or advising of proposed actions in an effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process as established by statutory and decisional law, does not involve an exchange of proposals and counterproposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article IV hereof.
- e. "Day" means calendar day unless expressly stated otherwise.
- f. "Employee Relations Officer" means the Executive Director or his/her duly authorized representative.
- g. "Impasse" means that the representatives of the District and a *Recognized Employee Organization* have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- h. "Management Employee" means an employee having responsibility for formulating, administering or managing the implementation of District policies and programs.

- i. "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. If an authorization petition is submitted, the petition shall clearly indicate that employees desire to be represented by the employee organization for purposes of meeting and conferring on wages, hours and other terms and conditions of employment. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.
- j. "Exclusively Recognized Employee Organization" means an employee organization which has been formally acknowledged by the District as the sole employee organization representing the employees in an appropriate bargaining unit pursuant to Article II hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.
- k. "Supervisory Employee" means any employee having authority, in the interest of the District, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent and discretionary judgment.

Article II - Representation Proceedings

Sec. 3. Filing of Recognition Petition by Employee Organization:

An employee organization which seeks to be formally acknowledged as an Exclusively Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- a. Name and address of the employee organization.

- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization
- d. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the District.
- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
- f. Certified copies of the employee organization's constitution and bylaws.
- g. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- h. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
- i. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of employees therein.
- j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a minimum of thirty percent (30%) of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the District. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.

Effective January 1, 2002, if the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy and propriety

of the proof of support. If the neutral third party makes an affirmative determination, the Employee Relations Officer shall formally acknowledge the petitioning employee organization as the Exclusive Recognized Employee Organization for the designated unit.

- k. A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

Sec. 4. District Response to Recognition Petition:

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

- a. There has been compliance with the requirements of the Recognition Petition, and
- b. The proposed representation unit is an appropriate unit in accordance with Sec. 8 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the petitioning employee organization within fifteen (15) working days, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall notify within fifteen (15) working days and offer to consult within ten (10) working days with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Sec. 11 of this Resolution.

Sec. 5. Opening Filing Period for Challenging Petition:

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by

filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Sec. 3 of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Sec. 8 of this Article II. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Sec. 11 of this Article II.

Sec. 6. Election Procedure:

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this Resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article II shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the District.

Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the District in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run off election if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run off election.

There shall be no more than one valid election under this Resolution pursuant to any petition in a 12-month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service.

Costs of conducting elections shall be borne in equal shares by the District and by each employee organization appearing on the ballot.

Sec. 7. Procedure for Decertification of Exclusively Recognized Employee Organization:

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer at any time following the first full year of recognition, provided however, that if a Memorandum of Understanding is in effect for less than a three-year period of time, then a decertification petition may only be filed during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of the Memorandum of Understanding then having been in effect less than three (3) years. (If the Memorandum of Understanding is in effect for a time period greater than three (3) years, then the decertification petition may also be filed at any time following the expiration of the three-year period.) A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

- a. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- b. The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.
- c. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- d. Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this Section in the form of a Recognition

Petition that evidences proof of employee support of at least thirty (30) percent, that includes the allegation and information required under paragraph (c.) of this Section 7, and otherwise conforms to the requirements of Section 3 of this Article.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article 11. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Sec. 11 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if his negative determination is reversed on appeal, he/she shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Sec. 6 of this Article 11.

If, pursuant to this Sec. 7, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

Sec. 8. Policy and Standards for Determination of Appropriate Units:

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the District and its compatibility with the primary responsibility of the District and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

- a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- b. History of representation in the District and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on

the basis of the extent to which employees in the proposed unit have organized.

- c. Consistency with the organizational patterns of the District.
- d. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- e. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.
- f. Effect of differing legally mandated impasse resolution procedures.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Sec. 2 of this Resolution, are determining factors in establishing appropriate units hereunder, and therefore managerial, supervisory and confidential employees may only be included in a unit consisting solely of managerial, supervisory or confidential employees respectively. Managerial, supervisory and confidential employees may not represent any employee organization which represents other employees.

Peace Officers may be required to be represented in separate units composed solely of such peace officers. These units shall not be represented by an organization that, *directly or indirectly, is subordinate to any other employee organization which includes non-peace officers.*

The Employee Relations Officer shall, after notice and consultation with, affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section. The decision of the Employee Relations Officer shall be final to the extent the decision withstands any appeals pursuant to (Section 11) herein Appeals.

Sec. 9. Procedure for Modification of Established Appropriate Units:

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Sec. 7 of this Article II. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Sec. 3 of this Article, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Sec. 8 hereof. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II.

The Employee Relations Officer may, at the request of any employee or group of employees or on his/her own motion, propose during the period specified in Sec. 7 of this Article that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Sec. 8 of this Article II, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 11 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Sec. 3 hereof.

Sec. 10. Procedure for Processing Severance Requests:

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing, form and processing of such request shall be as specified in Sec. 9 for modification requests.

Sec. 11. Appeals:

An employee organization aggrieved by a determination of the Employee Relations Officer regarding a Recognition Petition (Sec. 3), Challenging Petition (Sec. 5), Decertification of Recognition Petition (Sec. 7), Policy and Standards for Determination of Appropriate Units (Sec. 8), Unit Modification Petition (Sec. 9), or Severance Petition (Sec. 10) may, within ten (10) days of notice thereof, submit the matter to mediation by requesting the intervention of the California State Mediation and Conciliation Service or may, in lieu thereof or thereafter, appeal such determination to the Board of Port

Commissioners (Board) for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of mediation, whichever is later.

If a group of employees has filed a decertification petition and they are aggrieved by a determination of the Employee Relations Officer regarding the processing of such petition, the employees may use the appeal process outlined above.

Appeals to the Board shall be filed in writing with the Executive Director, and a copy thereof served on the Employee Relations Officer. The Board shall commence to consider the matter within thirty (30) days of the filing of the appeal or such later time as is practicable. The Board of Port Commissioners may, in its discretion, refer the dispute to a third party hearing process. Any decision of the Board on the use of such procedure, and/or any decision of the Board determining the substance of the dispute shall be final and binding.

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Article III --Administration

Sec. 12. Submission of Current Information by Recognized Employee

All changes in the information filed with the District by an Exclusively Recognized Employee Organization under items (a.) through (h.) of its Recognition Petition under Sec 3 of this Resolution shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Sec. 13. Employee Organization Activities - Use of District Resources:

Access to District work locations and the use of District paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this Resolution that pertain directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of District operations.

Sec. 14. Administrative Rules and Procedures:

The Executive Director is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

Article IV - Impasse Procedures

Sec. 15. Initiation of Impasse Procedures:

If the meet and confer process has reached impasse as defined in Section 2 of this Resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

- a. To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and
- b. If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

Sec. 16. Impasse Procedures:

Impasse procedures are as follows:

- a. If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- b. If the parties fail to agree to submit the dispute to mediation or fail to agree on the selection of a mediator, or fail to resolve the dispute through mediation within fifteen (15) days after the mediator commenced meeting with the parties, the parties may agree to submit the impasse to fact-finding.

If the parties agree on fact-finding, they may agree on the appointment of one or more fact-finders. If they fail to so agree on one or more fact-finders, a fact-finding panel of three (3) shall be appointed in the following manner: One member of the panel shall be appointed by the Employee Relations Officer, one member shall be appointed by the Exclusively Recognized Employee Organization, and those two shall name a third, who shall be the chairperson. If they are unable to agree upon a third, they shall select by agreement the third member from one or more lists of seven (7) names of individuals having fact-finding experience in the municipal sector to be provided by the California State Mediation and Conciliation Service.

The following constitute the jurisdictional and procedural requirements for fact-finding:

- (1) The fact-finders shall consider and be guided by applicable federal and state laws (and Charter provisions).
- (2) Subject to the stipulations of the parties, the fact-finders shall determine and apply the following measures and criteria in arriving at their findings and recommendations:
 - a. First, as relevant to the issues in dispute, the fact-finders shall compare the total compensation, hours and conditions of employment of the employees involved in the fact-finding proceeding with the total compensation, hours and conditions of employment of other employees performing similar services in public and private employment in the same and comparable communities. "Total compensation" shall mean all wage compensation, including but not limited to premium, incentive, minimum, standby, out-of-class and deferred pay; all paid leave time; all allowances, including but not limited to educational and uniform benefits; and employer payments for all health, welfare and pension benefits.
 - b. The fact-finders shall then adjust the results of the above comparisons based on the following factors:
 - (i) The compensation necessary to recruit and retain qualified personnel.
 - (ii) Maintaining compensation relationships between job classifications and positions within the District.
 - (iii) The pattern of change that has occurred in the total Compensation of the employees in the unit at impasse as compared to the pattern of change in the average "consumer price index" for goods and services, and the pattern of change in wages and compensation of other wage earners.
 - c. The fact-finder(s) shall then determine preliminary recommendations based on the comparisons as adjusted above which, however, shall be reduced as appropriate based on the financial resources of the District to implement them. In assessing the District's financial resources, the fact-finder(s) shall be bound by the following:
 - (i) Other legislatively determined and projected demands on agency resources, i.e., budgetary priorities as established by the governing body; and

(ii) Allowance for equitable compensation increases for other employees and employee groups for the corresponding fiscal period(s); and

(iii) Revenue projections not to exceed currently authorized tax and fee rates for the relevant fiscal year(s); and

(iv) Assurance of sufficient and sound budgetary reserves; and

(v) Constitutional, statutory (and charter) limitations on the level and use of revenues and expenditures.

- (3) The fact-finders shall make written findings of fact, and advisory recommendations for the resolution of the issues in dispute, which shall be presented in terms of the criteria, adjustments, and limitations specified above. Any member of a fact-finding panel shall be accorded the right to file dissenting written findings of fact and recommendations. The fact-finder or chairperson of the fact-finding panel shall serve such findings and recommendations on the Employee Relations Officer and the designated representative of the Exclusively Recognized Employee Organization. If these parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, the fact-finder or the chairperson of the fact-finding panel shall make them public by submitting them to the Executive Director for consideration by the Board in connection with the Council's legislative consideration of the impasse.

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If the parties did not agree on mediation or the selection of a mediator and did not agree on fact-finding, or having so agreed, the impasse has not been resolved, the Board may take such action regarding the impasse as it in its discretion deems appropriate as in the public interest. Any legislative action by the Board on the impasse shall be final and binding.

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In the case of law enforcement personnel, the impasse procedures provided by applicable statutes of the Meyers Millias Brown Act shall govern.

Sec. 17. Costs of Impasse Procedures:

The cost for the services of a mediator and fact-finder or chairperson of a fact-finding panel utilized by the parties, and other mutually incurred costs of mediation and fact-finding, shall be borne equally by the District and Exclusively Recognized Employee Organization. The cost for a fact-finding panel member selected by each party, and other separately incurred costs, shall be borne by such party.

Article V - Miscellaneous Provisions

Sec. 18. Construction:

This Resolution shall be administered and construed as follows:

- a. Nothing in this Resolution shall be construed to deny to any person, employee, organization, the District, or any authorized officer, body or other representative of the District, the rights, powers and authority granted by federal or state law.
- b. This Resolution shall be interpreted so as to carry out its purpose as set forth in Article 1.
- c. This resolution shall be construed in a manner consistent with any and all existing federal or state laws relating to employee-employer relations.

Sec. 19. Severability:

If any provision of this Resolution, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder of this Resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

RESOLUTION NUMBER AND DATE: 2008-XXX, dated September 2, 2008 (Supersedes BPC Policy 366, Resolution 2001-257, dated July 21, 2008)



BPC Policy No. 610

SUBJECT: MONUMENTS, MEMORIALS AND PLAQUES

PURPOSE: From time to time requests are received from individuals and organizations for permission to place monuments, memorials or plaques to an individual, organization or event on San Diego Unified Port District (District) tidelands. When properly designed, planned and displayed, memorials may provide for simplified interpretation and furnish the general public with essential knowledge in capsule form.

The San Diego Unified Port District as the trustee of District tidelands, is committed to protecting the park and open spaces of the bay while providing opportunities for appropriately designed monuments, memorials, and plaques that honor an individual, organization or event beneficial to the greater good of the community.

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POLICY STATEMENT:

1. Donors of memorials are asked to consider the primary uses of public open space in their request for a location or suitable site. While appropriate memorials may enrich a park experience for park users, public open space is also a very precious commodity, and monuments, memorials and plaques should be carefully reviewed to balance these two public benefits to protect the greater good.
2. The quality of timelessness should be considered in the significance of the individual, community or event being memorialized. Memorial proposals should represent the values of the community and be mindful of future generations.
3. Memorials may be commemorative in nature or the marking of a life's events: the birth of a loved one, an anniversary, a graduation, memory of the deceased, the opening of a business, or a celebration of a community. Memorial proposals honoring individuals or a personal event should be represented in a form that has a broader community interest and moves the viewer to a special experience. Examples such as community parks, landscaped gardens and plazas, sculpture and art works, plaques about history or the environment, poetry, fountains, park benches, site furnishings, etc.

4. Memorials such as the Tunaman's Memorial and The Cancer Survivors Park have been an important part of the District's Public Art Program achieved through donations and gifts. Often public art is acquired through donations and gifts that are financed in memory of an individual, organization, or commemoration of an historic event. Donations to a public art memorial fund may be contributed and combined towards a larger united project, which will allow for both individual and group donations to be recognized.
5. It is recognized that a particular location may reach a saturation point and it would then be appropriate to consider limitations or a moratorium of future memorial installations at a particular location or area.
6. Maintenance concerns should be a primary consideration, with adequate provision made for continued future maintenance. In all cases, permanent memorials should be made from durable material that will stand up over time.
7. Unless otherwise agreed, the donors of the proposed memorial are required to pay for design, manufacturing, installation and maintenance endowment to ensure adequate quality of care for the memorial.
8. The District may consider contributing funds to a community monument only when the memorial is for a broad community purpose that marks an event that has broadly affected the community.
9. Improvements made on tidelands become the property of the District.
10. This policy will serve as a guide to the District for any monuments, memorials or plaques it may wish to place in parks or public areas within its jurisdiction.

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DEFINITIONS:

A distinction is made between simple plaques and more elaborate memorials. The seven basic types of memorials will be categorized as follows:

1. Simple plaques are those mounted flush with the ground. The size should be appropriately designed per the limitations and consideration of the setting.
2. Adorned plaques are those installed as part of a larger, more intrusive setting. These plaques include installations such as those that are pedestal mounted or affixed to a boulder.
3. Sculpture and other art works including but not limited to representational, non-objective, contemporary, and abstract pieces in a wide variety of artistic mediums such as metal, glass, bronze, ceramic, wood, etc. that meet the

criteria of the Public Art Policy 609 and Donated Items Policy 610. Artworks that are integrated into a placement or setting will be strongly encouraged.

4. Fountains may be fairly simple or large and complex. They will require additional consideration and review because of the infrastructure required (plumbing and electrical) and additional maintenance implied.
5. Memorial gardens and plazas may include some of the objects listed above but include a spatial experience.
6. Basic park accessories and amenities such as landscaping, site furnishings, benches, seating, picnic tables, drinking fountains, sun dials, shade structures, mosaics, unique pathways etc.
7. Other memorials is a "catch-all" category to cover proposals that may not fit into any of the categories previously described.

CRITERIA:

All the basic types vary greatly in the impact they have upon the tidelands and open spaces; the review and process for allowing them to occur within the tidelands should reflect those differences. All memorials, however, should be judged for appropriateness according to the following criteria. These criteria are intended to serve as guidelines for the reviewing body.

1. The person or event being memorialized is deemed significant enough to merit such honor. Simple plaques or the sponsorship of basic park accessories and amenities typically found in a park or public space (bench, tree or landscaping) in honor of a person need not meet the same level of significance as larger, complex and more elaborate memorials.
2. For purposes of renaming parks, roads, structures or streets, the person honored shall have been deceased for at least two years and shall have made significant contributions to the District's mission and purpose.
3. The memorial represents broad community values and has been embraced and supported by the community the memorial is intended to honor.
4. The memorial has timeless qualities and makes a statement of significance to future generations.
5. The location under consideration is an appropriate setting for the memorial; in general, there should be some specific geographic justification for the memorial being located in that spot.
6. The location of the memorial will not interfere with existing and proposed circulation and use patterns.
7. The location of the memorial will not be contrary to any public art master plan, conceptual public art overlays, visionary master plans, or adopted District master plans. Each request will be reviewed and a recommendation may still

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be made as to the appropriateness of the memorial to the location and an alternate site may be recommended.

8. The quality, scale, and character of the memorial is at a level commensurate with the particular location or setting.
9. The memorial contributes to the park setting or tidelands from a functional or design standpoint.
10. The memorial should be designed by a qualified professional in the field appropriate to the size scale and complexity of the proposal.

BASIC CONDITIONS FOR APPROVAL:

1. **All Inclusive Costs:** The cost of design, fabrication, plaques, transportation, installation, site preparation work, foundation, lighting, electrical, permits etc. must be financed by the requesting party. The memorial proposal shall include all-inclusive costs and any exclusion shall be stated clearly in the proposal. Additionally, any party hired or employed by the requesting party must provide proof of insurance approved by the District that may include and not limited to: general liability, automobile insurance, professional liability insurance, performance insurance bonds, workman's compensation coverage and others as required by the District.
2. **Site:** All proposed monuments or memorials must relate to and support their proposed site and/or community. Any party proposing to install a monument, plaque or memorial must propose 3 feasible sites for their project along with an explanation of the significance and relationship to each site.
3. **Maintenance:** In general, the District may consider maintenance of approved memorials if the memorial meets District standards for construction and materials. However, complex or large memorials that require significant and costly maintenance may require insurance, bond or an endowment fund, and a maintenance schedule by the memorial donor adequate to ensure its care conditions satisfactory to the donor and the District. The posted insurance or bond should also cover costs of installation and /or removal. If an adequate level of maintenance is not continued, the District reserves the right to remove or modify the memorial or a portion of the memorial. If the District commits to maintaining a particular memorial, and the District is not able to maintain the memorial at a level satisfactory to the donor, the donor shall have the opportunity to supplement maintenance as required.
4. **Wording on memorial plaques:** Individuals and groups may be recognized for their contributions towards a memorial project. All text and design must be approved by the Public Art Committee prior to fabrication of plaque.

APPROVAL PROCESS:

1. **Initial Feasibility Consultation:** Before proceeding with the subsequent steps

of this process, applicants desiring to place a memorial or monument should submit a letter to the District's Public Art Coordinator that outlines in sufficient detail the main purpose and concept of their proposal. Staff will then schedule a feasibility consultation, if the proposal is sufficiently complex, large or significant, with the applicant and advise him or her of the contents of this policy, the appropriateness of the proposed memorial or monument in light of the policy, and the necessary courses of action required to complete the application. In the case of proposals for significant memorials or monuments, staff reserves the right to submit applicant's preliminary proposal to the Public Art Committee for their approval of concept before embarking on further costly planning and study. Depending on the Public Art Committee's action, the concept may be submitted to the Board of Port Commissioners (Board) for its consideration.

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2. **Written Proposal:** Once the initial feasibility of applicant's proposed monument or memorial has been established, applicant will be requested to submit a written proposal with as much information as possible as to the design, size and materials, appropriateness of preferred site, map identifying the proposed site, plaque wording, sketches, artists renderings and/or models, a rendering of the monument at the proposed site, and estimated costs. A maintenance plan developed and approved by a conservator must also be submitted prior to final approval.
3. **Proposal Review:** The Public Art Committee (PAC) shall meet at its regularly scheduled monthly meeting to review any proposals and to make a recommendation to the Board regarding the quality, validity and significance of the requested memorial to be placed on tidelands. The committee shall also consider appropriateness of site location, size, shape and design as well as general aesthetics in its review. The proposal must be submitted to the District Public Art Program 30 days prior to review.
4. **Conceptual Approval, Modification or Disapproval:** Upon completion of the proposal review, PAC will recommend accepting, rejecting, or modifying the proposal. This recommendation will be forwarded in writing to the Board. If the PAC recommends rejection of the proposal, unless the Board requests a review of the proposal the PAC recommendation is final. Should conceptual approval with or without the recommended modifications be recommended by the PAC, the requesting party will then be required to complete the following steps before presentation to the Board for its approval:
 - A. Prepare any additional submission requests as required by District staff or PAC as part of the conceptual approval.
 - B. Provide evidence of financing or fund raising activities.
 - C. Submit proof of insurance requirements for review by District staff.
 - D. Notify and submit conceptual proposal, if necessary, for review to the appropriate neighboring community meetings or business associations that may be affected

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- by the location of the memorial. Provide PAC with comments and feedback from these organizations.
- E. Provide site plans, detailed design and schematic drawings as may be required.
 - F. Staff to finalize any engineering, structural or other similar review of the memorial proposal. If there are questions (utility locations and impacts, etc.) regarding the proposed site, these concerns must be addressed before the proposal can be placed on the Board's agenda for its action.
 - G. As is appropriate, provide documentation concerning the name of the foundry, the type of material, the type of coating and patina, and the artist conceptual idea for the memorial.

Once all the requirements listed above have been completed, the proposal will be placed on its regularly scheduled meeting agenda of the Board at least 60 days after PAC approval. The Board will consider all information, including the PAC recommendation, staff recommendation, the written proposal and concepts, and public testimony in its decision making process. The Board may authorize the placement of the proposed memorial; it may request modification of the proposal; it may reject the proposal, or it may request additional information on the proposal. The decision of the Board is final unless it chooses to reconsider its decision.

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The requesting party will be required to enter into a contractual agreement with the District prior to commencement of the work.

RETENTION/DEACCESSION OF ARTWORKS:

It may be necessary, from time to time, to deaccession a monument, memorial or plaque.

1. Retention

Generally, monuments, memorials and plaques will be retained so long as they continue to be relevant and useful to the purposes and activities of the District, an appropriate site for public display is available, they do not create a public safety problem, they have no adverse environmental effects, they are authentic and original, they can withstand exposure to the natural elements and they can be properly and cost-effectively stored, maintained, preserved, and/or used.

2. Deaccessioning

Deaccessioning of a monument, memorial or plaque may be considered when the conditions identified in the Retention paragraph above no longer prevail. Examples of situations where deaccessioning would be

considered include:

- a. The item has deteriorated beyond a reasonable means of conservation or in deteriorating has lost its usefulness.
- b. The authenticity, attribution, or genuineness of the item is determined to be false or fraudulent.
- c. The item is redundant or is a duplicate that has no value as part of a series.
- d. The District's possession of the object is determined to be illegitimate, i.e.; the work may have been stolen or illegally exported or imported.
- e. Where it has been determined that other entities or governments have a superior right to the item.
- f. The item is located in an area where jurisdiction will be transferred to another entity or is made inaccessible to the public.

3. Consensus

A monument, memorial or plaque that has been accepted by the District will be deaccessioned only at the direction of the Board, which shall consider the recommendations and comments of: (1) the Public Art Committee as may be appropriate, (2) the District staff, and (3) any public comment received.

4. Deaccessioning Process

The District will comply with all applicable laws pertaining to deaccessioning of items, including contacting the donor and artist (if known). If the Title Transfer Documents provide for deaccessioning, such documents will determine the method and manner of the deaccessioning. Otherwise, the District will select from one of the deaccessioning methods outlined below. Generally, preference will be given to public sale, unless the District's analysis determines that another method would yield advantages or better serve the interests of the public or the District. In appropriate instances, appraisals of the item to be deaccessioned will be sought from outside sources. Deaccessioned item may be disposed of by means of private sale; exchange for another work; gifting the item to a tax-exempt public institution; donating the item for recycling or destruction. In

each case, the applicable laws will be followed before an item is deaccessioned. Destruction of the item may be considered where the physical condition of the work is severely deteriorated or will be irreparably damaged by the deaccessioning process. Funds realized from deaccessioned Public Art will be returned to the District's Art Acquisition Fund to be used for the purchase of art.

5. Fakes and Forgeries

If an artwork is determined to be a fake or forgery, the District reserves the right to dispose of the item or to clearly mark and identify the item so as to prevent future misrepresentation.

RESOLUTION NUMBER AND DATE: 2008-XXX, dated September 2, 2008
(Supersedes BPC Policy 610, Resolution 2000-61, dated March 28, 2000; and Resolution 68-298, dated December 3, 1968)



BPC Policy No. 611

SUBJECT: DONATED/LOANED ITEMS POLICY

PURPOSE: The San Diego Unified Port District (District), as the public trustee of District tidelands, is committed to the aesthetic development of the tidelands. In developing the tidelands, the District strives to promote community involvement and provide opportunities for the community: (1) to participate in the public display of art (the "Public Art"), and (2) to donate landscaping, hardscape items, historic objects or other items or improvements (the "Other Property"), for public display in or on District buildings, parks and rights of way, as the District determines appropriate, on a case by case basis. In order to accomplish these objectives, augment the District's existing Public Art policies and provide guidelines and procedures for governing the acquisition, display, maintenance, potential deaccessioning and lending of Public Art and Other Property to others for public display, the District hereby adopts this "Donated/Loaned Items Policy".

POLICY STATEMENT:

ACQUISITION

A. Offers of Donation

All offers to donate or loan an item to the District for public display should be in writing, addressed to the San Diego Unified Port District, District Clerk, and accompanied by information adequate to evaluate the proposed donation, including but not limited to the following:

1. Drawings, photos or written descriptions of the item(s) to be donated (including size, colors, weight, materials, and any information which will establish that the item has the requisite physical integrity to withstand public display and withstand exposure to the natural elements);
2. Proposed site and method of display (including any necessary landscaping, buildings, utilities, security devices, anchoring or other information necessary to insure public safety);
3. An explanation of why the item(s) should be displayed on tidelands

3. An explanation of why the item(s) should be displayed on tidelands and how the display of such serves a purpose appropriate to the interests of the public and the District;
4. Estimates of the costs of installing the item(s) for public display, including but not limited to: physical anchoring of structures for display, retrofit of existing buildings or improvements, landscaping,
5. *Written explanation of legal issues, including but not limited to, identifying the current legal owner of the items, the existence of any copyrights, patents or other title rights in or to the item(s) - such as any interests to remain with the artist or designer of the item(s), and an explanation of any conditions or limitations on the donation of the item(s) and whether the District or donor will pay for such costs;*
6. The estimated value of each item (including appraisals of the item(s) if available);
7. The anticipated date for the donation to occur;
8. Public support for the proposed donation;
9. Anticipated life of the item(s);
10. Environmental effects of the item(s);
11. A written description of the background/historical information associated with any donated art item, including but not limited to, information about the creation of the item(s) and the artist (if applicable) who created it;
12. A warrant of originality (if applicable); and
13. Any additional Information the District's Public Art Coordinator deems necessary or appropriate to analyze the offer of donation.

A failure to provide the information outlined above may result in the District Clerk rejecting the offer of donation as insufficiently documented to warrant District staff time to evaluate the offer of donation.

B. Review of Offers of Donation

Once the District receives an adequately documented offer of donation, District staff will categorize each item as either "Public Art" or "Other Property" (in accordance with the definitions set forth in Section I above). Whether categorized as "Public Art" or as "Other Property" the offer will be submitted to the District's Public Art Committee or the Donated Items Review Committee (to be composed of a representative from each of the following District Departments: Marketing, General Services, Risk Management, Development Services, Engineering and Planning), and if recommended by the Public Art Committee or the Donated Items Review Committee, then submitted to the District's Board of Port Commissioners (Board).

C. Committee Review

Staff will: (1) provide copies of all information received from the donor to the attendees of the applicable Committee Meeting, and (2) make such arrangements as may be practical and possible to provide for display of the actual item(s) to be donated at the applicable Committee Meeting. If such display is not practical or possible, photographs and/or drawings may be substituted. Once the Public Art Committee or the Donated Items Review Committee has completed its review of the proposed donation, they will be responsible for making a written recommendation to accept or reject the offer to the Board.

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The District's Public Art Committee or Donated/Loaned Items Review Committee, as may be appropriate, will review the written offer and inspect the proposed donated item(s) and drawings or descriptions to determine:

1. If the offer of donation is adequately documented, as outlined in II.1 above for each item(s);
2. The availability of the requested site for placement of the item(s);
3. Whether the District has sufficient resources to: authenticate, document, research, display, retrofit or add buildings, improvements, lighting or landscaping, interpret, store, protect, conserve, insure and maintain the item(s);
4. Public Safety; and
5. The legal issues, including but not limited to, ability of current legal owner of the items to deliver unrestricted clear legal title together

with all applicable copyrights, patents or other title rights in or to the item(s) without any limitations or conditions on the District's ownership and the time and costs required to acquire the item(s).

D. Legal Department Review and Documentation

If the Donated/Loaned Items Review Committee or the Public Art Committee should recommend accepting an offer of donation, the matter will be forwarded to the District's Legal Department for review and/or preparation of title transfer documents acceptable to the District ("Title Transfer Documents"). A recommendation may, however, at the election of the Public Art Committee or the Donated Items Review Committee, as may be applicable, be forwarded directly to the District's Board for "conceptual approval" before being submitted to the District's Legal Department.

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E. Board of Port Commissioners Approval

Once items are reviewed and a recommendation is determined, the committee will submit the matter for consideration at the next available meeting of the Board. The Board will, if it votes to accept an offer of donation, execute a formal resolution, including any conditions to be placed on its acceptance of the offer of donation. The decision of the Board is final. If the District's Board votes to accept an offer of donation, a written Notice of Action will be sent on behalf of the District, including any conditions placed on its acceptance of the offer of donation, to the respective donor(s) of each item accepted. Only after (i) the District's Board adopts and records a formal resolution expressly accepting title to the donated item(s), (ii) the item(s) are delivered to the District, and accepted by the District (iii) the conditions to acceptance, if any, have been satisfied, and (iv) the Title Documents have been duly executed and recorded, will an offer to donate an item be deemed accepted by the District. No offer to donate an item to the District will be deemed accepted without adoption and recording of a formal resolution by the District's Board, duly executed and expressly accepting title to the donated item(s).

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F. No Obligation to Accept an Offered Item(s) for Donation

The District has no obligation to accept, display, or maintain any item(s) donated to the District. The District has the right to determine, in its sole and absolute discretion, what item(s) offered to it for public display will be accepted, displayed or maintained by the District. Once an item(s) is accepted by the District (see above) the District shall be the sole owner of the donated item(s) and will have the right, in its sole and absolute discretion, except as limited by written title documents, to deaccession any donated item(s) without notice to or obtaining

the consent of the donor.

DEACCESSIONING

In order to maintain growing collections of Public Art and Other Property it may be necessary, from time to time, to deaccession donated item(s).

A. Retention Policy

Generally, donated item(s) will be retained in the District's Public Art Collection or Other Property Collection, so long as, they continue to be relevant and useful to the purposes and activities of the District, an appropriate site for public display is available, they do not create a public safety problem, they have no adverse environmental effects, they are authentic and original, they can withstand exposure to the natural elements and they can be properly and cost-effectively stored, maintained, preserved, and/or used.

B. Deaccessioning

Deaccessioning of donated item(s) may be considered when the conditions identified in the Retention Policy no longer prevail, or in the interest of improving the quality of the Public Art Collection. Examples of situations where deaccessioning would be considered include:

1. The item(s) has deteriorated beyond a reasonable means of conservation or in deteriorating has lost its usefulness.
2. The authenticity, attribution, or genuineness of the item(s) is determined to be false or fraudulent.
3. The item(s) is redundant or is a duplicate that has no value as part of a series.
4. The District's possession of the object is determined to be illegitimate, i.e.; the work may have been stolen or illegally exported or imported.
5. Where it has been determined that other entities or governments have a superior right to the item(s).
6. The item(s) is located in an area where jurisdiction will be transferred to another entity or is made inaccessible to the public.

C. Consensus

Donated items which have been accepted into the District's Public Art Collection or Other Property Collection, will be deaccessioned only at the direction of the District's Board, which shall consider the recommendations and comments of: (1) the Public Art Committee or the Donated Items Review Committee as may be appropriate, (2) the District staff, and (3) any public comment received.

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D. Deaccessioning Donated Items

The District will comply with all applicable laws pertaining to deaccessioning of art items, including contacting the donor and artist (if known). If the Title Transfer Documents provide for deaccessioning, such documents will determine the method and manner of the deaccessioning. Otherwise, the District will select from one of the deaccessioning methods outlined below. Generally, preference will be given to public sale, unless the District's analysis determines that another method would yield advantages or better serve the interests of the public or the District. In appropriate instances, appraisals of the item(s) to be deaccessioned will be sought from outside sources. Deaccessioned item(s) may be disposed of by means of private sale; exchange for another work; gifting the item(s) to a tax-exempt public institution; donating the item for recycling or destruction. In each case, the applicable laws will be followed before an item(s) is deaccessioned. Destruction of the item(s) may be considered where the physical condition of the work is severely deteriorated or will be irreparably damaged by the deaccessioning process. Funds realized from deaccessioned Public Art or Other Property will be returned to the District's Art Acquisition Fund, to be used for the purchase of other art preferably in the general category from which the funds were realized. Where possible, the names of the original donors will be transferred to the new Public Art or Other Property acquired from the sale of the original item(s).

E. Fakes and Forgeries

If a donated item(s) is determined to be a fake or forgery, the District reserves the right to dispose of the item(s) or to clearly mark and identify the item(s) so as to prevent future misrepresentation.

LENDING AND BORROWING OF ITEMS

On occasion the District is requested to make loans from its Public Art and Other Property Collections to other institutions and organizations for public display. Likewise, on occasion, the District may determine it is appropriate to request borrowed items from

other collections for public display on District tidelands.

A. Loans of District Items

The District will consider Loans of District Public Art or Other Property Collection items(s). In considering a loan request, a review will be conducted of all aspects of the loan request to determine if the request is feasible, reasonable and has sufficient merit to be presented to the Public Art Committee or the Donated Items Review Committee. In such review, the District's Public Art Committee or Donated/Loaned Items Review Committee will consider, among other things:

1. The condition of the item(s) and possibilities for damage to the item(s) to be loaned.
2. The educational value of the project for which the request was made.
3. The facility report and the professional capabilities of the borrowing institution or organization that will handle, house, and care for the loaned item(s).
4. The ability of the borrowing entity to bear the costs of the loan (including those incurred by the District).
5. The ability of the borrowing entity to obtain adequate insurance coverage for the loaned item(s).
6. The ability of the borrowing entity to arrange transport for the loaned item(s).
7. Whether the loaned item(s) will be exhibited regularly and in public.
8. Whether the loaned item(s) will be given the same level of care and security as such would receive from the District if the loan were not made.

Only upon receipt of the District's Public Art Committee or Donated/Loaned Items Review Committee's recommendation will such a request be forwarded to the District's Legal Department for preparation of all necessary legal agreements. Once the borrowing party has agreed to the terms of the loan, staff will forward the proposal to the District's Board. The decision of the Board will be final.

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B. Borrowing Public Art or Other Property Items

Where the District determines it is appropriate to request borrowed items from other collections for public display on District tidelands, whether for temporary exhibition or other purposes, the items will be presented to the Public Art Committee or Donated/Loaned Items Review Committee, as may be appropriate, prior to contracting the lending institution or individual collector. In analyzing such a request, the Public Art Committee will consider the following:

1. Whether the item(s) to be borrowed could satisfy the same requirements placed on accepting a donated item(s), as set forth in Section II of this Donated Items Policy.
2. Whether the borrowed item(s) can be exhibited regularly.
3. The condition of the item(s) and possibilities for damage to the item(s) to be borrowed.
4. The educational value to be obtained by borrowing the item(s).
5. The ability of the District to handle, house, and care for the borrowed item(s).
6. The ability of the District to bear the costs of borrowing the item(s).
7. *The ability of the District to adequately insure the borrowed item(s).*
8. The ability of the District to arrange transport for the borrowed item(s).

If the District determines that borrowing the item(s) is feasible, reasonable and has sufficient merit, then the proposal will be presented to the Public Art Committee or Donated/Loaned Items Review Committee, as may be appropriate to the item(s). Only upon receipt of the District's Public Art Committee or Donated/Loaned Items Review Committee's recommendation, will such a request be forwarded to the District's Legal Department for preparation of all necessary legal agreements. Once the lending party has agreed to the terms of the loan to the District, staff will forward the proposal to the District's Board. The decision of the Board will be final.

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RECORDS OF PUBLIC ART AND OTHER PROPERTY

The District's Public Art Department will be responsible for maintaining a data base of all Public Art and Other Property Collection items which have been acquired by the District under this Donated Items Policy and at all times prior hereto, as well as, the District's files with regard to each proposed donated item (whether accepted or not). The database and/or files will include the following information:

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1. Copies of all correspondence and submittals from the donor(s);
2. Copies of all correspondence and submittals to the donor(s) from the District;
3. Copies of all executed title documents;
4. Copies of all other documentation associated with a particular item(s), including but not limited to: drawings, photos, written descriptions, estimates of costs associated with acquiring, maintaining, providing security and legal expenses, etc.; any agreements between the District and donor(s) regarding the item(s); all estimates of value and appraisals, any public comment on the item(s); environmental impact reports or studies, if applicable; all written descriptions of the background/historical information associated with the item, including, information about the creation of the item(s) and the artist (if applicable) who created it; any warrant of originality; and any other information acquired by the District pertaining to the item(s);
5. Copies of the Title Transfer Documents and any other written agreements
6. between the District and the donor(s);
7. Records of maintenance;
8. Records of any deaccessioning;
9. Records of any loan proposed or made of the donated item(s), including the executed written agreements of loan, a record of all loan fees, confirmations of all insurance, transportation records and the return of the loaned item(s); and
10. Records of all art or other items borrowed by the District, including

the executed written agreements to borrow the item(s), all fees or costs paid by the District, insurance policies or riders covering the item(s), transportation records and return records.

ACCESS to PUBLIC ART and OTHER PROPERTY ITEMS, this POLICY and RECORDS

The Port will strive to provide maximum public accessibility of the District's Public Art and Other Property collections. However, such access may be limited as necessary given District staff availability, security considerations and the physical condition and location of collection items. All requests for access to District Public Art and Other Property collection items that are not on public display should be made to the District Clerk that will be responsible for re-directing such request if necessary or appropriate. This Donated Items Policy will be made available to the public on request. All requests to view the District's records (as set forth in section V above) will be handled by the District Clerk's Office and are subject to certain restrictions, as necessary to protect confidential information, such as the names of anonymous donors, the addresses and phone numbers of all donors, the location of item(s) not on public view, and the value of all donated items.

TRANSFER OF TITLE

A. Condition of Title

The District prefers donated item(s) which are given with legal title which is free and clear of any restrictions or limitations as to use or future disposition of the item(s). Donated item(s) may, however, be accepted with title restrictions or limitations, if the District pre-approves the title restrictions or limitations and such are expressly stated in the title conveyance documents which must be approved or prepared by the District. The District also prefers donated item(s) be made of all interest and title to the item(s). Donated item(s) made of undivided fractional interests may, however, be accepted if accompanied by a binding pledge to donate remaining undivided fractional interest within a specific period or upon acquiring same, if such provisions have been added to the Title Transfer Documents.

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B. Legal Documents

Before donated item(s) is accepted by the District, transfer of title documents, including any limitations or restrictions on the transfer or continued ownership of the donated item(s), as well as any agreements between donor and the District regarding same, must be prepared by or approved by the District's Legal Department. For gifts of art, a Gift Agreement signed by the donor will confirm that

the donor owns the item(s) and has the right to pass title.

C. Appraisals

The District will not provide or assume responsibility for appraisals for tax-deduction or other external purposes.

D. Compliance with Laws

The District reserves the right to require a donor to comply with the applicable laws of California and the United States, including but not limited to: The Native American Graves Protection and Repatriation Act of 1990 and any applicable international agreements between the USA and other countries.

RESOLUTION NUMBER AND DATE: 2008-XXX, dated September 2, 2008
(Supersedes BPC Policy 611, Resolution 2000-27, dated January 25, 2000)



BPC Policy No. 736

SUBJECT: GREEN PORT POLICY

Deleted: ENVIRONMENTAL SUSTAINABILITY

PURPOSE: To establish a policy for the integration of overarching environmental sustainability principles and initiatives to guide business decisions, development and operations within the San Diego Unified Port District's (District) jurisdiction.

POLICY STATEMENT: The Board of Port Commissioners (Board) is dedicated to protecting and improving the environmental conditions of San Diego Bay and the tidelands. Additionally, the Board is committed to conducting District operations and managing resources in an environmentally sensitive and responsible manner. To that end, the Board has created this Green Port Policy, which is focused on incorporating a balance of environmental, social and economic concerns into operations on San Diego Bay and the tidelands.

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Deleted: Environmental Sustainability

For the purposes of this Policy, environmental sustainability is defined as the ability to meet the needs of the present without compromising the ability of future generations to meet their own needs. It is commonly measured in terms of environmental stewardship, social responsibility and economic prosperity.

The following mission and objectives have been developed to guide business decisions in adherence to the Green Port Policy.

Deleted: Environmental Sustainability

MISSION: Provide leadership by minimizing environmental impacts from operations on tidelands and ensure a thriving community where people and the environment prosper.

OBJECTIVES: To effectively administer the Green Port Policy, the District will strive to:

Deleted: Environmental Sustainability

- Minimize, to the extent practicable, environmental impacts directly attributable to operations on San Diego Bay and the tidelands.
- Strengthen the District's financial position by maximizing the long-term benefits of energy and resource conservation.
- Prevent pollution and improve personal, community, and environmental health.
- When possible, exceed applicable environmental laws, regulations and other industry standards.
- Ensure a balance of environmental, social and economic concerns are considered during planning, development and operational decisions.
- Define and establish performance-driven environmental sustainability objectives, targets and programs.
- Monitor key environmental indicators and consistently improve performance.

- Foster socially and environmentally responsible behavior through communications with employees, tenants, stakeholders and the community.
- Collaborate with tenants to develop an integrated, measurable, Bay-wide environmental sustainability effort.

RESOLUTION NUMBER AND DATE: 2008-XX, dated September 2, 2008 (Supersedes BPC Policy 736, Resolution 2007-213, dated December 11, 2007)