

SUBJECT: REAL ESTATE LEASING POLICY**PURPOSE:** To Establish General Policies for Leasing the Port's Real Estate Assets**Introduction**

The *Real Estate Leasing Policy* establishes general real estate leasing policies that have been adopted by resolution of the Board of Port Commissioners. 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 Port's approval of subleases, leasehold financing, lease assignment, and lease amendment. The Practices also state the Port'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.

The Port of San Diego leasing policy statements follow:

Leasing Authority

Short-Term Leases (Five Years or Less) – The President/CEO 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 President/CEO shall provide the Board with a report each month that identifies each such tenant, location, use, area, rent and term.

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.

Tenant Qualifications

To become a Port 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 tenant's obligations under the lease.

Rents

The Port shall seek market rent when leasing its real estate assets and the Port'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.

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.

Leasehold Improvements

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

Port leases shall provide that when a lease terminates, the Port 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.

Subleases

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

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 Port 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 lease shall prevail.

¹ "Optimizing revenues" refers to the Port's consideration of maintaining the highest revenue stream possible while balancing the strategic goals and objectives of the Board of Commissioners in managing the Port'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 Port's desire to maintain "balanced" operations.

Lease Amendments

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

Long-Term Leases (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.

Transaction Processing Fees

With exceptions noted below, the Port 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 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).

RESOLUTION NUMBER AND DATE::; Reso 2004-43 dated March 30, 2004 (Supersedes BPC Policy No. 355, Reso 2002-311 dated Nov. 5, 2002; BPC Policy No. 350, Reso. 95-244, dated July 25, 1995; BPC Policy No. 351, Reso. 95-268, dated August 22, 1995; BPC Policy No. 352, Reso. 92-47, dated February 18, 1992; and BPC Policy No. 354, Reso. 81-328, dated October 6, 1981)