

DRAFT**SAN DIEGO UNIFIED PORT DISTRICT****ORDINANCE xxxx****ORDINANCE AUTHORIZING THE DISTRICT'S
EXECUTIVE DIRECTOR AND AUTHORIZED
DESIGNEE TO GRANT FIVE (5) YEAR WAIVERS ON
TENANT RENT PAYMENTS FOR ELECTRICITY
CHARGES PASSED THROUGH TO SLIP RENTERS
AT MARINAS AND YACHT CLUBS THAT ARE
FULLY SUB-METERED**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to *Harbors and Navigation Code* Appendix I (Port Act); and

WHEREAS, Section 87(b) of the Port Act grants authority to the District to lease the tidelands or submerged lands, or parts thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which those lands are held by the State of California; and

WHEREAS, the District's real estate portfolio includes forty (40) marinas and six (6) yacht clubs, which leases are predominantly percentage rent leases whereby the District receives certain percentages of the gross income generated by the master tenant from a variety of activities conducted on the leased premises; and

WHEREAS, the gross income from marina and yacht club leases include payments made by boat slips renters for their use of electricity; and

WHEREAS, at the May 8, 2018 Board of Port Commissioner's meeting, concerns were raised by members of the Port Tenant's Association regarding the District's practice of including electricity payments in the calculation of gross income and subjecting the income to percentage rent; and

WHEREAS, though the existing Port practice is legal, staff recommends encouraging the installation and continued preservation of sub-metered slips, as there is evidence, supported by State-sponsored studies, suggesting that sub-metered marinas use significantly less energy than marinas without sub-metered slips and sub-metering slips allows a marina to pass on the full charge for each individual boater's energy use, as opposed to one charge for the entire marina, eventually being divided among the slips; and

WHEREAS, by incentivizing marinas and yacht clubs to become fully sub-metered, the District will potentially reduce the overall amount of energy consumed by marinas and yacht clubs, furthering the District's environmental goals; and

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WHEREAS, if approved, this action would authorize the District's Executive Director and authorized designee to waive the District's right to collect rent on gross income from electricity pass-throughs for all marinas and yacht clubs that have fully sub-metered slips; and

WHEREAS, the waiver will result in a reduction in revenue to the District, which is estimated to be between \$155,000 and \$220,000 annually; and

WHEREAS, staff believes the benefits gained from the waiver mitigate the estimated reduction in revenue.

NOW, THEREFORE, the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

1. The Executive Director or her designated representative is hereby authorized, acting within her discretion, to execute five (5) year waivers on tenant rent payments for electricity charges passed through to slip renters at marinas and yacht clubs that are fully sub-metered in conformance with applicable laws and regulations.
2. This Ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8th day of October 2019, by the following vote: