VENTURA
PORT DISTRICT
Established 1952

RESOLUTION NO. 3555

RESOLUTION OF THE BOARD OF PORT COMMISSIONERS OF THE VENTURA PORT DISTRICT APPROVING AND ADOPTING THE VENTURA HARBOR VILLAGE REAL ESTATE LEASING POLICY

WHEREAS, Ventura Port District ("District") is a major provider of marine- oriented public services within the City of San Buenaventura, making commercial, tourist and recreational opportunities available to the public.

WHEREAS, these commercial, tourist and recreational opportunities include leasing and licensing of real property at Ventura Harbor Village (the Village), including landside and waterside property from 1431 Spinnaker Drive to 1691 Spinnaker Drive inclusive; and

WHEREAS, the District regularly engages in negotiations with prospective and existing tenants for new leases, changes and modifications to the existing leases within the Village.

WHEREAS, the Board of Port Commissioners has determined that it is in the best interests of the District, its current and prospective tenants, and users, to promote transparency, consistency, and sound fiscal management in the leasing of District property, for the District to adopt a policy outlining the procedures for obtaining, amending and administering leases and licenses within Ventura Harbor and summarizing the principal lease terms the District considers essential to any new or updated lease arrangement.

WHEREAS, on November 24, 1992, the Board of Port Commissioners adopted Resolution 2595 Establishing a Policy Regarding Lease Negotiations and Financial Disclosure. This Policy supersedes and replaces Resolution No. 2595.

NOW THEREFORE BE IT RESOLVED, that the Board of Port Commissioners of the Ventura Port District hereby approves and adopts this Ventura Harbor Village Real Estate Leasing Policy (Policy) in the form attached hereto and incorporated herein by reference, taking effect immediately upon adoption.

BE IT FURTHER RESOLVED, that the General Manager and other members of the District staff are hereby authorized and directed to provide copies of this Policy to both existing and prospective tenants to assist those parties in the conduct of the negotiations and lease administration affairs.

BE IT FURTHER RESOLVED, that the General Manager and other members of the District staff are to be guided by this Policy in their conduct of their relations with both existing and prospective tenants; provided, however, the Policy is intended as a guideline only and shall not create legally binding obligations on the District. The District retains full discretion to deviate from the Policy where it determines such deviation to be in the best interests of the District.

BE IT FURTHER RESOLVED, that the General Manager and staff at the District are hereby authorized and directed to take such other and further actions as may be necessary and appropriate to carry out and implement the purposes of this Resolution.

PASSED, APPROVED, AND ADOPTED at a Regular Meeting of the Board of Port Commissioners of the Ventura Port District held this 6th day of May 2026, adopted by the following vote:

AYES: Commissioners Blumenberg, Howell, Rainey, Stephens
NOES:
ABSENT: Commissioner Anderson
ABSTAINED:

Michael Blumenberg, Chair

ATTEST:

Anthony Rainey, Secretary

VENTURA PORT DISTRICT
INCORPORATED
APR. 15, 1952
CALIFORNIA

VENTURA
PORT DISTRICT
Established 1952

VENTURA HARBOR VILLAGE REAL ESTATE LEASING POLICY

Adopted May 6, 2026

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VENTURA HARBOR VILLAGE REAL ESTATE LEASING POLICY

INTRODUCTION:
Ventura Harbor Village (Village) is a curated, vibrant, visitor-serving waterfront shopping center that supports public access, economic vitality, and long-term financial sustainability of the Ventura Port District (District). It represents one of the most recognizable amenities of Ventura Harbor to the public.

As the District directly manages this parcel, it is of critical importance that it leases in a manner that is consistent with the District's Long-Term Objectives.

The Ventura Harbor Village Real Estate Leasing Policy (Village Leasing Policy) establishes general real estate leasing policies adopted by resolution of the Board of Port Commissioners (Board) for the Village. This policy should be used to inform Village lease negotiations, including amendments of existing lease agreements. This Policy is intended as a general guideline only and does not create binding obligations or limit the District's discretion to deviate from these guidelines when it determines such deviation is in the best interests of the District.

Nothing in this Policy shall be interpreted to modify or impair any rights or obligations under existing leases. In the event of any conflict between this Policy and any approved lease or agreement, the lease or agreement shall control.

POLICY STATEMENT:

1. **<u>Leasing Authority</u>**

   Short-Term Duration (1 Year or less) – The General Manager may, without prior Board approval, enter into leases, license agreements, "pop-up" agreements, and other similar types of real estate agreements, for one (1) year or less in duration.

   Long-Term Duration (More than 1 Year) – All leases for terms more than one (1) year in duration (including any options) shall be presented to the Board for approval at a public meeting.

2. **<u>Lease Negotiation Process</u>**

   As the person charged with responsibility for the administration of all District's activities, the General Manager shall oversee all lease negotiations, providing directions to designated staff, with assistance by legal counsel (counsel) as needed, and for all leases of greater than one (1) year, approved by the Board.

   As the lead negotiator, the General Manager shall approve all proposals and term sheets prior to issuance to tenants. Term sheets shall include information on how to access this policy for maximum transparency.

Discussions with prospective new tenants seeking Village leases should include:

- Identifying tenant's business interests and confirming alignment with District's current leasing strategy.
- Conveying the desire for mutually beneficial private-public partnerships that improve the Village.
- Clearly communicating that retail, restaurant, and charter leases operate with a requirement for maintaining minimum operating hours.
- Communicating the leasing process steps for lease approval.

The General Manager will direct negotiations regarding all aspects of this policy.

Prospective leases with new tenants will generally require meeting the qualifications outlined in Section 3: New Tenant Qualifications below.

a. For renewing tenants, see Section 4: Provide a valid driver's license, credit check, a City of Ventura business license, and proof of insurance.
b. Provide additional information and documentation as reasonably requested by the District to evaluate the proposed tenant/subtenant and any proposed transaction, including (as applicable):
    1. All transactions, financing, and escrow documents.
    2. A statement of any litigation affecting the prospective tenant.
    3. Identification of any operator or independent contractor the prospective tenant intends to use in their business operations.
    4. Such other information and materials evidencing that the prospective tenant has sufficient experience, reputation, business background, and financial capacity to reasonably ensure performance of the obligations of the lease and contribute positively to the Village.
    5. Such other documents as may be required by the Board of Port Commissioners to determine the commercial reasonableness of the proposed transaction.

Existing Tenant Qualifications below.

Upon tenant acceptance of a term sheet for a lease over one (1) year, the General Manager shall bring the price and terms of payment to the Board in Closed Session for direction.

Once the principal business terms have been negotiated that are consistent with Board direction, District Counsel shall be authorized to prepare the lease document.

Upon tenant signature of the lease, the General Manager shall bring the terms of the lease to the Board in Open Session for approval at a public meeting.

3. <u>New Tenant Qualifications</u>

To become a District tenant or subtenant, the prospective tenant or subtenant and its principals shall complete a tenant application and:

c. Be financially reputable:
   i. Tenant individuals named on the lease shall have completed a credit check with a score of "Good" or better with ranking defined by the credit bureau.
   ii. Possess the financial means to perform the tenant's obligations under the lease through:
      1. Providing current financial information such as business financial statements, tax returns, and/or other documentation of available capital.
      2. Demonstrating available capital to fund start-up costs and the first six (6) months of operations, as applicable.
      3. The last three (3) years' income tax returns for the prospective tenant's business and/or as individual applicants, as applicable.

d. Evidence of the prospective tenant's business history.
e. For retail, restaurants, and charter: possess sufficient experience to conduct the proposed business.
f. For retail, restaurant, and charter: tenant shall provide a proposed business plan including financial projections for the base term of the lease.
g. Provide a valid driver's license, credit check, a City of Ventura business license, and proof of insurance.
h. Provide additional information and documentation as reasonably requested by the District to evaluate the proposed tenant/subtenant and any proposed transaction, including (as applicable):
   6. All transactions, financing, and escrow documents.
   7. A statement of any litigation affecting the prospective tenant.
   8. Identification of any operator or independent contractor the prospective tenant intends to use in their business operations.
   9. Such other information and materials evidencing that the prospective tenant has sufficient experience, reputation, business background, and financial capacity to reasonably ensure performance of the obligations of the lease and contribute positively to the Village.
   10. Such other documents as may be required by the Board of Port Commissioners to determine the commercial reasonableness of the proposed transaction.

4. Existing Tenant Qualifications

An existing tenant's standing and performance shall be considered when evaluating a request for renewal, amendment adding additional time, material change to the lease, option, or other discretionary approval. As such, the District will evaluate that tenant as being in good standing when they have a history of consistently:

a. Paying rent on time through District-approved portal. (If a tenant has greater than three (3) unexcused late payments in any lease calendar year, the tenant would be categorized as not paying consistently on time.)

b. Meeting the minimum operating hours of the lease (if applicable). (If a tenant receives a Non-Compliant Hours of Operation letter from the District, and the tenant does not timely correct the action, the tenant would be categorized as not meeting the minimum operating hours.)
c. Maintaining the premises in good condition.
d. Performing the tenant's obligations under the lease, including maintaining insurance policies and a City of Ventura business license.
e. Not causing noise or other disruptions to neighboring tenant business operations.
f. Not causing public complaints about business activities.
g. Maintaining cooperative working relationship with District staff.

Where a lease includes percentage rent (retail, restaurant, and charter), it is in the District's interest that the tenant's performance shall also be a factor of consideration for qualifications. In such case, the District may consider these and other factors in its sole discretion:

h. Tenant's sales per square foot (including patio where applicable).
i. Reporting sales on time (if applicable). (If a tenant has greater than three (3) untimely sales reporting in any lease calendar year, the tenant would be categorized as not reporting sales on time.)
j. Achieving performance metrics during the current lease, including options.
k. Tenant's ratings on major online reviewing platforms.

Where a tenant is not in good standing or not meeting performance metrics for any of these reasons (a through k, as applicable), District staff will require the tenant to provide a Business Improvement Plan (Plan) identifying how that business will address the outstanding issue(s). The Plan will be considered in the request for a lease renewal, amendment adding additional time, material change to the lease, or other discretionary approval. Where these factors apply, staff shall generally not negotiate to provide more than two (2) additional years of lease.

5. <u>Lease Term and Option Consideration</u>

Village leases shall be multi-year agreements whenever possible with sufficient term length to recoup District investment in leasing the space, not limited to tenant improvements, advertising, and administrative efforts to execute a new lease. Three (3) to five (5) year agreements are therefore deemed preferable (for new tenants or tenants in good standing). This can be achieved through base lease term or through the inclusion of options.

The District shall generally not provide a base lease period of greater than five (5) years. Additional term may be granted through lease options, each not greater than five (5) years. Notwithstanding the foregoing, a base term in excess of five (5) years may be approved where the District determines such term is warranted based on the nature of the tenancy, anticipated investment, revenue considerations, or other factors consistent with the District's best interests.

If lease term is to equal ten (10) or more years (including the original and all option terms), Board of Port Commissioners shall pass an ordinance in accordance with the Harbors and Navigation Code notifying the public of the proposed lease and providing the public the opportunity to speak and provide feedback at a scheduled public hearing prior to the Board taking action to approve the lease.

Leases of ten (10) or more years should include an interim modernization requirement for the tenant to improve fixtures, and maintain (premises) infrastructure.

Granting additional options or allowing options to be transferred through an assignment shall be at the discretion of the Board, generally through a lease amendment.

<u>Retail, Restaurant, and Charter Options</u>:
Each option term for retail, restaurant, and charter leases generally include a sales performance metric that the tenant business must achieve in the calendar year preceding the option period. Sales performance metrics shall be considered by the District based on business plan information provided by the tenant, industry standards, and when available existing sales history.

Granting options where the tenant did not meet the sales performance metric shall be at the discretion of the Board.

6. Permitted Uses

All leases shall specify the uses that will be permitted on the premises. Permitted uses shall be compatible with adjacent tenants, safe and accessible pedestrian circulation, and the overall visitor experience of Village.

Generally, no use shall be granted on an exclusive basis to any tenant. Additional uses or change of uses can only be allowed in the sole discretion of the District, generally through the General Manager.

7. Rents

The District shall seek market rent when leasing its real estate assets and the District's leases shall reflect market terms and conditions.

Rents should generally be subject to annual increases based on a fixed percentage or the Consumer Price Index-All Urban Consumers (Los Angeles – Long Beach – Anaheim); however, market conditions will be considered in the negotiation of the agreed upon increases.

The Board retains the right to grant rent discounts or other concessions, but only after the Board has been advised of the value of the discount, waiver, or concession. Discounts or concessions should be limited to the base term of the lease and even with the discount, the lease should fully recoup all costs borne by the District (such as tenant improvements) within the base term of the lease.

In considering whether to grant a rent discount or other concession, the Board should consider its duty to balance the promotion of the Village, visitation to Ventura Harbor, the District's mission statement including fishing, navigation, commerce and public access with the obligation to the citizens of Ventura to be fiscally self-supporting, to optimize revenues[1] and to reinvest proceeds in the District.

8. Percentage Rent: Retail, Restaurant, and Charter Leases

Retail, restaurant, and charter leases shall include percentage rent as a term of the rent structure. All leases that include retail, food/beverage, charter, or other retail activities shall list such activities under those leases' Permitted Uses. All such activities shall require the tenant to report adjusted gross sales and pay percentage rent as part of the tenant's rent.

These leases shall include provisions to allow the District to audit the sales of the business to ensure the District receives percentage rent consistent with the lease agreement. The lease shall also include a requirement that tenants annually provide a portion of their tax filings that identify the adjusted gross sales for the business.

Where the District authorizes a sub-lease that would be subject to percentage rent, the primary leaseholder shall be responsible for reporting sales and paying percentage rent generated by that sub-lease's business activity.

9. Common Area Maintenance

All leased areas within the Village shall contribute to the Common Area Maintenance (CAM) of the shopping center. Retail, restaurant, and charter leases shall include specific language regarding the proration (based on the rentable square feet of the premises) and reimbursement of CAM expenses. Offices are only charged base rent, which includes an equal share of the office CAM expenses The District shall seek to recover, on an annual basis, all CAM expenses through its Village leases.

10. Trash Fees

While CAM fees primarily offset the cost of trash services, as restaurants contribute significantly more to the cost of trash services at the Village, restaurants will be subject to a surcharge trash fee based on rentable square footage or other methodology reasonably determined by the District.

11. Restaurant Grease Trap Maintenance

Restaurants shall maintain grease traps and plumbing lines from the parking lots to the premises. The District is responsible for maintaining the plumbing lines from the parking lots to the street.

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[1] "Optimize revenues" refers to the District's consideration of maintaining the highest revenue stream possible 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.

12. Marketing and Promotion Fund

Retail, restaurant, and charter leases shall include the requirement to contribute to the Marketing and Promotion Fund to promote business activity within the Village. Other Visitor Serving Uses may optionally participate through payment towards the Marketing and Promotion Fund. This fee shall be based upon the number of square feet of the rentable space. The use and administration of the Marketing and Promotion Fund shall be determined by the District through its annual budget, as well as the VHV Visitor Attraction Plan.

13. Minimum Hours of Operation: Retail, Restaurant, and Charter Leases

Retail, restaurant, and charter leases shall include minimum hours of operation consistent with that of the Village shopping center.

14. Security Deposit

The District shall require a security deposit from all tenants in the amount of at least one (1) month's recurring rent. The District may require an increased security deposit based on use type, financial strength, or operational risk. The security deposit will increase when the tenant's recurring rent increases.

15. District Investment in Tenant Improvements

District investments in tenant improvements should be considered as public/private partnerships. Lease agreements that require investment of District funds should be negotiated to seek investment by the tenant into improvements and fixtures that complement the investment of the District into the premises. District improvements shall focus on long-term improvements to the building and/or premises. Fixtures or assets purchased by the District shall remain the property of the District.

District investment in Tenant Improvements should never exceed the projected rent received within the first one (1) year of the lease.

Per California State Law, should the District provide consideration to a tenant of any sort towards a trade under the Department of Industrial Relations (i.e. construction), all elements of that construction project shall be subject to Prevailing Wage requirements – including all costs borne by the tenant.

16. Personal Guaranty

The Village leases should include security of performance beyond the security deposit. Leases should require the personal guaranty of the lessee, be that one (1) or more officers of the company and/or the individual(s) named in the lease.

17. Security For Construction

The lease shall include a requirement for the tenant to post security to guaranty performance and/or payment for significant construction costs to protect against the

District being required to assume control of the project. This may be provided in a variety of forms that satisfy the District’s security needs such as evidence of capital reserves, bonds, and/or other mutually agreeable forms of guaranty.

18. <u>Insurance</u>

Tenants shall obtain adequate insurance to cover all operations conducted on the premises, naming the District as an additional insured. All insurance policies shall be in accordance with the requirements of the lease and the Certificate of Insurance and Additional Insured Endorsement shall be provided to the District annually. Staff may request further insurance documentation if clarification is needed. Insurance coverage requirements shall be subject to review and change to reflect current market practices at each option period.

19. <u>Indemnification</u>

Tenants shall be required to indemnify the District against any and all claims arising out of tenants' performance under the lease and all activities conducted on or related to the premises by the tenant, tenant’s guests or invitees. In the event that a subtenant is permitted by the District, such indemnification by the tenant shall also extend to its subtenants, its subtenant’s guests and invitees. Similarly, the sublease agreement shall also indemnify the District by the sublessee.

The District will not agree to make indemnity mutual.

All tenants whose leases include percentage rent as part of their rental structure shall sign an agreement not to sue the District related to percentage rent.

20. <u>Business License</u>

Tenants performing business activity within the City of Ventura are to have a valid business license issued by the City of Ventura.

21. <u>Leasehold Maintenance</u>

District leases shall provide for tenants to maintain the leased suites at their sole expense, except common areas and building structures where the District's rent includes specific maintenance responsibilities.

Suites leased by tenants shall be generally provided in “as-is” condition, particularly as it relates to lease renewals. If District provided fixtures, utilities, or similar features fail within ninety (90) days of the tenant taking possession, through no fault of the tenant, the District shall remedy at the District’s expense. Nothing herein shall be construed as a warranty beyond the limited remedy described above.

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

22. Tenant Subleases

Because of potential difficulties and risks regarding conveying the responsibilities of the leasehold to a Subtenant, Subleases shall be discouraged within the Village.

Where the District does permit a tenant to enter a sublease agreement, that agreement must conform to the requirements of the tenant's lease agreement, must convey all responsibilities of the lease to the subtenant including compliance with all restrictions regarding signage, parking, activity outside of the premises, indemnification, insurance, and permitted uses of the premises. Such a sublease should be consistent with proportional rent charged to the sub-tenant and the term cannot extend beyond the term of the lease and shall provide no option to do so. Tenant remains responsible for the entire leasehold including areas that are subleased.

Where the District authorizes a sub-lease that is subject to percentage rent, the primary leaseholder shall be responsible for reporting sales and paying the same percentage rent generated by that sub-lease's business activity.

23. Lease Amendments

A tenant may request amendments to a lease that could range from minor changes to extensive revisions. The District'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.

All lease amendments that increase the term of the lease shall be reviewed to determine if it is in the District's best interest to enter into a new lease based on any changes in the lease language between the time of the original lease and the current lease format. The District may require incorporation of current standard lease provisions as a condition of approval.

The General Manager shall take all lease amendments to the Board for approval except for the following:

a. Where the amendment adds one (1) year or less to the lease.
b. Where the amendment changes the business name and/or guarantor without triggering a lease assignment, as well as adding one (1) or more individuals to the lease, as described under the lease.

24. Assignment Processing Fees

The District shall charge a non-refundable transaction processing fee plus all third-party legal costs which shall be outlined in the lease.

25. Real Estate Broker Compensation

The District may be referred to a prospective tenant by a licensed real estate brokerage firm in connection with a new lease. Where the District enters into a new lease agreement with a new tenant[2], broker compensation may be paid as follows:

a) *Leases of Five (5) Years or Less*
For lease agreements with an initial term of up to five (5) years for which a real estate brokerage firm[3] successfully negotiates a lease on behalf of a prospective tenant[4] with the District, the broker shall earn a commission equal to six percent (6%) of the total minimum annual rent[5] for the base lease term only. Lease options, extensions, or renewals are not subject to broker compensation.

b) *Leases Exceeding Five (5) Years*
For lease agreements with an initial term exceeding five (5) years for which a real estate brokerage firm[3] successfully negotiates a lease on behalf of a prospective tenant[4] with the District, the broker shall earn a commission equal to six percent (6%) of the total minimum annual rent[5] for the first five (5) years of the base lease term, and three percent (3%) of the total minimum annual rent[5] for each additional year of the initial base lease term. Lease options, extensions, or renewals are not subject to broker compensation.

c) *Payment of Brokerage Fees*
Brokerage fees earned for the base lease term shall be payable as follows:
   i. Fifty percent (50%) upon full execution of the lease following approval by the Board of Port Commissioners[2]; and
   ii. Fifty percent (50%) upon the tenant opening for business and commencement of rent payments.

26. Appreciation Rent: Retail, Restaurant, and Charter Leases

Village leases shall include a provision for appreciation rent payable to the District upon assignment of the tenant's lease. The appreciation rent shall be based on three percent (3%) of the gross consideration paid for the sale of the business and shall be due at the time of the assignment or at the time of the close of sale.

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[2] Successful negotiation of a lease includes the approval of the lease (inc. brokerage compensation) by the Ventura Port District Board of Port Commissioners (Board) in their sole and absolute discretion.

[3] Brokerage firm must possess a valid California real estate broker's license. All agents must possess a valid California real estate salesperson license.

[4] Upon initial contact with the Ventura Port District, the brokerage firm must (a) disclose its agency relationship, and (b) provide a fully executed and current tenant representation or agency agreement. The brokerage firm does not represent the Ventura Port District, and no commission shall be paid for expired or terminated representation agreements.

[5] Minimum annual rent excludes percentage rent, common area maintenance charges, marketing and promotion fund contributions, and all other operating or expense reimbursements.

27. Month-to-Month Leases

Month-to-month leases are not preferred and should generally only occur when a lease has ended and it is in the District's interest to continue the lease while pursuing a longer lease either with the existing tenant or a new tenant. Where a lease is in month-to-month status, the premises are considered available to lease and shall immediately be made available and marketed in order to secure long-term tenancy.

Once a lease is converted to month-to-month, the General Manager shall adjust the tenant's rent to market rate via notice in writing to tenant with no less than thirty (30)-days' notice.

Tenants on a month-to-month tenancy with an overdue balance for greater than thirty (30) days shall automatically be issued a thirty (30) day notice to vacate, unless balance is paid immediately following receipt of notice.

28. Expiration of Lease

Within one hundred twenty (120) days and not less than ninety (90) days of the end of a lease, District staff shall notify a tenant that their lease is expiring. At that time, District staff shall advise the tenant if they are in good standing (per Existing Tenant Qualifications) and will inquire as to their intent to seek a new lease. District staff will negotiate per Section 2: Lease Negotiation Process. Failure to give notice of expiration does not operate as a waiver of the expiration.

29. Surplus Lands Act

Any lease for a term of more than fifteen (15) years that involves the demolition of existing buildings and/or involves the construction of new buildings may be subject to the requirements of the Surplus Land Act.