

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2814

**ORDINANCE GRANTING A LEASE TO CARNITAS
SNACK SHACK III, LLC, FOR THE NORTH
EMBARCADERO VISIONARY PLAN PHASE 1
WALK-UP CAFÉ LOCATED AT 1004 N. HARBOR
DRIVE IN SAN DIEGO FOR A TEN-YEAR TERM
WITH TWO, FIVE-YEAR OPTIONS**

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, at its July 8, 2014 meeting the Board of Port Commissioners (BPC) authorized staff to enter into exclusive negotiations with Sweet 100, LLC dba Carnitas Snack Shack III, LLC (Carnitas) for the completion of construction and the operation of the North Embarcadero Visionary Plan (NEVP) Phase 1 walk-up café as a result of a Request for Proposals (RFP) process; and

WHEREAS, staff has negotiated a ten-year lease with two, five year options to extend the term with Carnitas for a total potential term of twenty (20) years if performance thresholds are met; and

WHEREAS, Carnitas will be responsible for tenant improvements including installation and ordinary maintenance of the exterior glass package, all interior finishes including restaurant equipment, flooring, ceiling, heating and air conditioning equipment, utilities, millwork, interior walls and all building and licensing permits; and

WHEREAS, the District will reimburse Carnitas \$460,000 for the completion of the NEVP Phase 1 exterior walk-up café improvements. Carnitas' required minimum investment is \$600,000 although it is estimated that the full build out will cost approximately \$1,300,000; and

WHEREAS, the project must be constructed at prevailing wage; and

WHEREAS, the proposed lease also provides that Carnitas will have non-exclusive use of the adjacent jacaranda groves for the purpose of extending their operations but will be required to preserve public access at all times, keep the groves free from litter, and repair any damage resulting from their use; and

WHEREAS, if Carnitas sells or transfers the lease to outside interests or third parties the District will receive 2.5% of the gross sale proceeds.

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

Section 1. The lease to Carnitas Snack Shack III, LLC, for the North Embarcadero Visionary Plan Phase 1 walk-up café located at 1004 N. Harbor Drive in San Diego for a ten-year term, with two, five-year options to extend is hereby granted.

Section 2. The Assistant Executive Director or his designated representative is hereby directed to execute said lease.

Section 3. 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 12th day of May 2015, by the following vote:

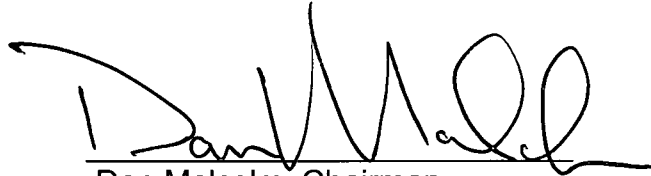
AYES: Bonelli, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

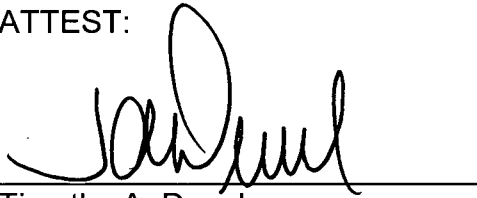
ABSENT: None.

ABSTAIN: Castellanos.



Dan Malcolm, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

