

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2881

**ORDINANCE APPROVING ADDENDUM TO
AMENDED AND RESTATED LEASE WITH SAN
DIEGO YACHT CLUB AMENDING AND
CLARIFYING CERTAIN LEASE TERMS**

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 San Diego Yacht Club (SDYC) leases certain land and water from the District pursuant to an Amended and Restated Lease expiring September 30, 2049; and

WHEREAS, the SDYC and the District disputed the interpretation of certain terms in the Lease relating to rent, and, after the parties were unable to resolve the dispute, the SDYC filed a lawsuit in August 2015; and

WHEREAS, as a result of continued settlement discussions, the parties have reached agreeable settlement terms which include an Addendum to Amended and Restated Lease which clarifies and limits certain deductions from gross income upon which percentage rent is based, sets the percentage rent rate by which gross income is multiplied for the remaining rental periods of the Lease, and states the calculation of Minimum Annual Rent; and

WHEREAS, the dispute, the unique SDYC lease language, the factual circumstances, and the proposed settlement are specific to the SDYC.

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

Section 1. An Addendum to Amended and Restated Lease which clarifies and limits certain deductions from gross income upon which percentage rent is based, sets the percentage rent rate by which gross income is multiplied for the remaining rental periods of the Lease, and states the calculation of Minimum Annual Rent is hereby approved.

Section 2. The Executive Director or her designated representative is hereby directed to execute said Addendum to Amended and Restated 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 13th day of December, 2016, by the following vote:

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

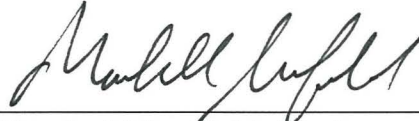
NAYS: None.

EXCUSED: None.

ABSENT: None.

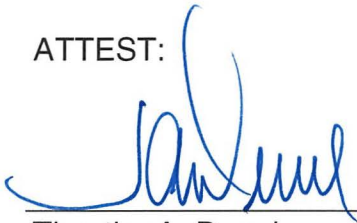
ABSTAIN: None.

RECUSED: Malcolm.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)

