

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2884

ORDINANCE GRANTING AMENDED AND RESTATED LEASE WITH UNITED SPORTFISHERS OF SAN DIEGO, INC., DBA H&M LANDING, LOCATED AT 2803 EMERSON STREET, SAN DIEGO, CA UPDATING CERTAIN LEASE PROVISIONS, LEASE GUARANTY, AND RENT

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, United Sportfishers of San Diego, Inc. dba H&M Landing (H&M Landing) operates a recreational sportfishing operation at 2803 Emerson Street, in Americas Cup Harbor, San Diego; and

WHEREAS, H&M Landing has a 20-year lease with the District covering its sportfishing operations, which expires in December 2029; and

WHEREAS, since H&M Landing is requesting consent to a loan refinance, pursuant to BPC 355 and the lease, it is the District's practice to update out-of-date leases to the then current standard and update rent to market when consenting to an encumbrance; and

WHEREAS, H&M Landing lease was drafted in 2010, the District has since updated the following paragraphs: Use, Rent, Rent Review, Improvements, Title to Improvements, Construction of Improvements, Lease Encumbrance, Lessor's Participation in Refinance Proceeds, Assignment - Sublease, Assignment Participation Fee, Maintenance and Repair, Conformance with Laws and Regulations, Hold Harmless, Insurance, Compliance with Prevailing Wage Laws, Compliance with Employment and Labor Requirements, "As-Is" Lease and Waivers, and USA Patriot Act; and

WHEREAS, H&M Landing has agreed to an amended and restated lease which would update the entire lease to the current standard and remove Phil LoBred, William Ishibashi, Karen Kirk, Frank Kadota, and Linda Palm-Halpain from the lease guaranty and replace them with, Steve Kadota, Linda Palm-Halpain, and Frank Ursitti; and

WHEREAS, a review of H&M Landing's current rent resulted in no changes to the percentage rental rates and an increase of the MAR from \$469,365.00 to \$587,673.00 which represents 78% of the average percentage rental paid during the last three accounting years of the previous rental period.

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

1. That the District grant the Amended and Restated Lease with United Sportfishers of San Diego, Inc., dba H&M Landing, located at 2803 Emerson Street, San Diego, CA, updating certain lease provisions, lease guaranty, and rent.
2. The Executive Director or her designated representative is hereby directed to execute said Amended and Restated Lease on behalf of the District.
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: Deputy

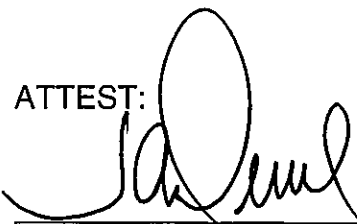
PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 10th day of January, 2017, by the following vote:

AYES: Bonelli, Nelson, Castellanos, Malcolm, Merrifield, Moore, and Valderrama
NAYS: None.
EXCUSED: None.
ABSENT: None.
ABSTAIN: None.



Robert Valderrama, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)

