

**RESOLUTION 2013-69**

**RESOLUTION CONSENTING TO SUBLEASE BETWEEN SEAPORT VILLAGE OPERATING COMPANY, LLC DBA THE HEADQUARTERS (FORMERLY THE OLD POLICE HEADQUARTERS) WITH THE CHEESECAKE FACTORY RESTAURANTS, INC. DBA THE CHEESECAKE FACTORY FOR 20 YEARS WITH ONE 5-YEAR OPTION TO EXTEND AND AUTHORIZING THE EXECUTION OF SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND THE CHEESECAKE FACTORY RESTAURANTS, INC. DBA THE CHEESECAKE FACTORY**

**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**, pursuant to Ordinance No. 2331 adopted by the Board of Port Commissioners (BPC) on January 11, 2005 the District entered to an Option to Lease Agreement with Seaport Village Operating Company, LLC a Delaware limited liability company (SPV), on file in the Office of the District Clerk as Document No. 48201; and

**WHEREAS**, pursuant to Ordinance No. 2663 adopted by the BPC on January 10, 2012 the District entered into a Lease Agreement with SPV covering 273,887 square feet of tidelands located on West Harbor Drive at the foot of Pacific Highway, in the City of San Diego, California, the Old Police Headquarters (OPH), for an entertainment oriented specialty retail development, on file in the Office of the District Clerk as Document No. 58599 (Master Lease); and

**WHEREAS**, SPV requests District consent to the sublease for the following subtenant for the Project:

- **The Cheesecake Factory:** 20-year sublease with one 5-year option to extend with The Cheesecake Factory Restaurants, Inc. dba The Cheesecake Factory (Cheesecake), an upscale, casual, full service restaurant and bar business including a bakery counter that will serve lunch and dinner; and

**WHEREAS**, the proposed sublease is consistent with the terms of the Master Lease and the District's real estate practices; and

**WHEREAS**, BPC approval is required because the total term of the proposed sublease would exceed five (5) years; and

**WHEREAS**, Cheesecake is also requesting the District enter into a Subordination, Non-disturbance and Attornment (SNDA) Agreement; and

**WHEREAS**, the sublease is subordinate to the terms of the Master Lease between the District and SPV, including any revisions, modifications, and/or renewals, etc.

**NOW THEREFORE, BE IT RESOLVED** by the Board of Port Commissioners of the San Diego Unified Port District as follows:

1. That the San Diego Unified Port District hereby consents to the sublease between Seaport Village Operating Company, LLC, a Delaware limited liability company and The Cheesecake Factory Restaurants, Inc. dba The Cheesecake Factory for approximately 9,779 square feet of its leased premises located at 789 West Harbor Drive (Suite C-1) in the City of San Diego for a 20-year term with one 5-year option to extend subject to the terms and conditions of the Master Lease.

2. That the Executive Director or his designated representative is hereby authorized and directed on behalf of the San Diego Unified Port District to enter into the Subordination, Non-Disturbance, and Attornment Agreement with The Cheesecake Factory Restaurants, Inc. dba The Cheesecake Factory.

2013-69

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 7th day of May, 2013, by the following vote:

AYES: Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

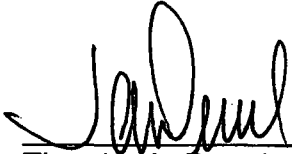
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk

(Seal)