

**DRAFT****SAN DIEGO UNIFIED PORT DISTRICT****ORDINANCE xxxx****ORDINANCE GRANTING LEASE AMENDMENT NO. 19 PROVIDING FOR A 9-YEAR LEASE EXTENSION TO THE CHULA VISTA MARINA, LP, DBA CHULA VISTA MARINA FOR THE CHULA VISTA MARINA LOCATED AT THE NORTHERN MARINA IN THE CHULA VISTA MARINA BASIN WITHIN THE CHULA VISTA BAYFRONT**

**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**, Section 21 of the Port Act requires that all grants, franchises, leases, permits or privileges for more than five (5) years shall be made by ordinance; and

**WHEREAS**, Chula Vista Marina is located at 550 Marina Parkway at the intersection of Marina Parkway and Sandpiper Way in the Harbor District of the Chula Vista Bayfront (Leased Premises), which Leased Premises is further described in the corresponding agenda sheet to which this ordinance relates; and

**WHEREAS**, in 1981, Chula Vista Marina, LP, a California limited partnership (Tenant), entered into a 40-year ground lease (Ground Lease) with the District for a 507-slip marina, restaurant and marina services buildings at the Leased Premises, which Ground Lease is further described in the corresponding agenda sheet to which this ordinance relates; and

**WHEREAS**, the Ground Lease has been amended eighteen (18) times and paragraph 44 of the Ground Lease, which was added pursuant to Amendment 18, contains a procedure setting forth an agreement regarding a conditional lease extension to be documented in a new lease for the Leased Premises; and

**WHEREAS**, over the course of negotiations and discussions with Tenant on a potential new lease pursuant with the terms of Paragraph 44 and Amendment 18, a disagreement arose over the parties' respective rights and obligations under such amendment; and

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**WHEREAS**, in order to fully resolve any claims related to the terms of Paragraph 44 and Amendment 18, the parties agreed, subject to Board of Port Commissioners (Board) approval, to enter into an Amendment 19 in the form attached as Attachment B to the corresponding Agenda Sheet to which this ordinance relates; and

**WHEREAS**, Amendment 19 would extend the term of the Ground Lease through November 30, 2030 and also (i) delete Paragraph 44 that was added pursuant to Amendment 18, (ii) contains a waiver and release (including a waiver of California Civil Code Section 1542) whereby District and Tenant each release one another from any and all present and future claims, whether known or unknown, related to Amendment 18 and Paragraph 44, and (iii) includes a Tenant acknowledgement that any future decision to extend the term of the Ground Lease or enter into a new lease for the Leased Premises is within the sole and absolute discretion of the Board, and may be granted or denied for any or no reason; and

**WHEREAS**, staff believes that Amendment 19 is in the District's best interests as it would allow for the continued operation of the Leased Premises and associated payment of rent as well resolve any and all outstanding claims related to Amendment 18 and Paragraph 44 of the Ground Lease.

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

1. Amendment 19 between San Diego Unified Port District and Chula Vista Marina LP for the Chula Vista Marina located at the northern marina in the Chula Vista Marina basin within the Chula Vista Bayfront, is hereby approved in the form and substance of Attachment B to the corresponding Agenda Sheet to which this ordinance relates.
2. The Executive Director or his designated representative is hereby directed to execute said Amendment 19 between San Diego Unified Port District and Chula Vista Marina LP, dba Chula Vista Marina.
3. This Ordinance shall take effect on the 31<sup>st</sup> day from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:  
GENERAL COUNSEL

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By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11<sup>th</sup> day of January 2022, by the following vote: