

DRAFT

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE xxxx

ORDINANCE APPROVING AN APPROXIMATELY THIRTY-EIGHT (38) YEAR EASEMENT FOR UTILITY PURPOSES TO SAN DIEGO GAS & ELECTRIC COMPANY FOR ELECTRICAL AND NATURAL GAS FACILITIES TO BE LOCATED NEAR HARBOR DRIVE AND ASH STREEET IN THE CITY OF SAN DIEGO, CALIFORNIA COMMENCING JANUARY 11, 2020 AND ENDING ON APRIL 30, 2058

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, on April 27, 2018, the District entered into a 40-year lease with The Brigantine Inc., a California corporation, dba Portside Pier (Brigantine), for property located at 1360 North Harbor Drive in the City of San Diego; and

WHEREAS, on May 1, 2018, Brigantine began construction on its pilings and platform substructure and two-story overwater restaurant structure which will include four dining concepts, a public viewing deck, and an expanded dock and dine facility (Portside Pier); and

WHEREAS, as part of constructing Portside Pier, adequate electrical and natural gas utilities are necessary to operate the kitchen equipment, lighting, and elevators; and

WHEREAS, consistent with the parties' intentions when executing the lease, in order to supply the necessary electrical and natural gas utilities to the project, San Diego Gas and Electric (SDG&E) will require a utility easement enabling access for the installation, service, and maintenance of its facilities throughout the term of the Brigantine's lease; and

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WHEREAS, the District and the Brigantine are contemplating entering into an amendment to their lease (Amendment), which if approved by the Board of Port Commissioners (Board) would make Brigantine responsible for the costs associated with any future relocation or removal of any utility improvements associated with this easement; and

WHEREAS, the easement covers approximately 470 square feet of tideland area located adjacent to 1360 Harbor Drive in San Diego, California and would be located outside of the leasehold; and

WHEREAS, the term of the easement is for approximately 38 years, commencing January 11, 2020 and terminating April 30, 2058 to be coterminous with the lease with Brigantine; and

WHEREAS, staff recommends that the Board approve this easement only if the Board approves the Amendment.

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

1. The approximately thirty-eight (38) year easement for utility purposes to San Diego Gas & Electric Company for electrical and natural gas facilities to be located near Harbor Drive and Ash Street in the City of San Diego, California, commencing January 11, 2020 and ending on April 30, 2058 (Easement), is hereby approved.
2. The Executive Director or her designated representative is hereby directed to execute said Easement.
3. This Ordinance shall take effect on the 31st day from its passage by the Board.

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 10th day of December 2019, by the following vote: