

**DRAFT****SAN DIEGO UNIFIED PORT DISTRICT****ORDINANCE xxxx****ORDINANCE GRANTING AMENDMENT NO. 1 TO  
LEASE WITH SAN DIEGO REFRIGERATED  
SERVICES, INC., RESOLVING A LEASE  
INTERPRETATION DISPUTE BY REMOVING  
CERTAIN REVENUE SHARING OBLIGATIONS OF  
THE DISTRICT AND, IN EXCHANGE, EXTENDING  
THE FINAL OPTION TERM BY THREE YEARS**

**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**, San Diego Refrigerated Services, Inc. (SDRS), leases warehouse space from the District on its Tenth Avenue Marine Terminal pursuant to a Lease which commenced in 2015 and expires in 2036, inclusive of options (Clerk Doc. No. 64269) (Lease); and

**WHEREAS**, the District and SDRS dispute the interpretation of certain Lease provisions covering District crediting SDRS related to cargo which SDRS handles for another District-tenant, Dole Fresh Fruit Company (Dole Revenue Sharing); and

**WHEREAS**, to resolve this Lease interpretation dispute, staff recommends the Board approve Amendment No. 1 (Attachment A to the agenda sheet to which this Ordinance relates) to the Lease which removes District's Dole Revenue Sharing obligation and, in exchange, extends the final Lease term option by three years; and

**WHEREAS**, if approved by the Board, execution of Lease Amendment No. 1 will be contingent on the parties also executing a settlement agreement waiving and releasing any claims related to Dole Revenue Sharing for prior years.

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

1. Conditioned upon execution of a settlement agreement waiving and releasing any claims related to Dole Revenue Sharing for prior years, the Executive Director or their designated representative is hereby authorized to enter into Amendment No. 1 to the Lease with San Diego Refrigerated Services, Inc., resolving a Lease interpretation dispute by removing certain revenue sharing obligations of the District and, in exchange, extending the final option term by three years.

2. 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 General Counsel

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 14th day of November 2023, by the following vote: