

DRAFT

RESOLUTION 20xx-xxx

RESOLUTION CONSENTING TO A SUBLEASE BETWEEN LFS DEVELOPMENT, LLC, A DELAWARE LIMITED LIABILITY COMPANY, DBA INTERCONTINENTAL HOTEL AND GELATO & CO., A CALIFORNIA CORPORATION, DBA GELATO & FRIENDS, FOR A TEN (10) YEAR TERM WITH ONE (1), FIVE (5) YEAR OPTION, WITH CONDITIONS

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 21 of the Port Act authorizes the Board of Port Commissioners (BPC) to pass all necessary ordinances and resolutions for the regulation of the District; 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, for long term subleases of more than five years, BPC Policy No. 355 requires the following conditions as a requirement to consent of the sublease: sublease must meet current District lease requirements; the subtenant shall be obligated to pay any master lease rent increases that are applicable to the subleased premises; and provide that in the event of a conflict between the master lease and the sublease, the master lease shall prevail; and

WHEREAS, the District entered into a 66-year Lease (Lease) with LFS Development, LLC, (Lane Field South) on June 1, 2016 to operate a 400-room single-branded InterContinental Hotel located between Pacific Highway and North Harbor Drive, north of Broadway, in the City of San Diego; and

WHEREAS, Lane Field South is requesting approval of a sublease with Gelato & Co. dba Gelato & Friends (Gelato & Friends) to operate a gelato shop within the hotel building; and

WHEREAS, the proposed sublease with Gelato & Friends is a ten (10) year term with one (1), five (5) year option to extend, conditioned upon consent of the sublease by the BPC; and

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WHEREAS, the proposed sublease is consistent with the terms of the Lease and BPC Policy No. 355, and staff recommends the Board grant its consent; and

WHEREAS, Gelato & Friends expects to generate approximately \$600,000 in gross sales in their first year of operations; and

WHEREAS, since the sublease is consistent with BPC Policy No. 355, staff recommends that the BPC adopt a resolution consenting to the sublease between Lane Field South and Gelato & Friends.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby consents to sublease from LFS Development, LLC, a Delaware limited liability company, to Gelato & Co., a California corporation, dba Gelato & Friends, for a ten (10) year term with one (1), five (5) year option to extend the term, with conditions.

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 12th day of September 2018, by the following vote: