SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE <u>xxxx</u>

ORDINANCE GRANTING AMENDMENT NO. 2 TO LEASE WITH CAHUENGA ASSOCIATES II, DBA KONA KAI MARINA LOCATED AT 1551 SHELTER ISLAND DRIVE, SAN DIEGO, CA, TO UPDATE CERTAIN LEASE PROVISIONS AND UPDATING RENT

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, Cahuenga Associates II, dba Kona Kai Marina. (Kona Kai Marina) has a 40-year lease (Marina Lease) with the District at 1551 and 1901 Shelter Island Drive for a 518-slip marina which expires in 2044; and

WHEREAS, the Marina Lease is non-standard as it relates to the District's consent to an encumbrance because it does not include language that allows the District to update the lease and rent as a condition of District's consent to the encumbrance; and

WHEREAS, however, Kona Kai has agreed to an amendment to the Marina Lease to update certain lease provisions to bring it to the current standard; and

WHEREAS, the next rent review for the Marina Lease is on July 1, 2017, and Kona Kai has agreed to update rent for the rent review early which will result in an increase of the MAR from $978,300 to $1,076,684 and no changes to the percentage rental rates.

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

Adopt ordinance granting Amendment No. 2 to Lease with Cahuenga Associates II, to update certain lease provisions and updating rent.

APPROVED AS TO FORM AND LEGALITY:

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PORT ATTORNEY

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of October, 2016, by the following vote: