

DRAFT**SAN DIEGO UNIFIED PORT DISTRICT****ORDINANCE xxxx****ORDINANCE GRANTING AMENDMENT NO. 1 TO
LEASE WITH SOUTHWESTERN YACHT CLUB,
LOCATED AT 2702 QUALTROUGH STREET, IN
THE CITY OF SAN DIEGO TO SET FIXED
SCHEDULED RENT INCREASES FOR THE
REMAINDER OF THE TERM IN PLACE OF
FUTURE RENT REVIEWS, AND UPDATE CERTAIN
LEASE PROVISIONS**

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, Southwestern Yacht Club (SWYC) leases certain land and water from the District at 2702 Qualtrough Street in the City of San Diego; and

WHEREAS, SWYC consists of approximately 384 boat slips, 45 dry storage spaces for boats, full service dining room, bar, and banquet area; and

WHEREAS, the current lease commenced on January 1, 2009 with a 40-year term through December 31, 2048; and

WHEREAS, the Lease requires that rent for the 10-year period of January 1, 2017 through December 31, 2026 be established by mutual agreement; and

WHEREAS, in place of future rent reviews, District staff and SWYC have agreed to set the percentage rent rate by which gross income is multiplied for the remaining rental periods of the Lease as follows:

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|---|--------|
| • January 1, 2017 through December 31, 2026 | 11.0% |
| • January 1, 2027 through December 31, 2036 | 11.25% |
| • January 1, 2037 through December 31, 2046 | 11.35% |
| • January 1, 2047 through December 31, 2048 | 11.45% |

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WHEREAS, setting the percentage rent rates and removing rent reviews through the full lease term provides certainty to both parties and reduces the administrative burden of the rent review process; and

WHEREAS, pursuant to the Addendum to BPC Policy No. 355 – Administrative Practices Real Estate Leasing Report of Yacht Club Leasing Policy Ad Hoc Subcommittee, yacht club rents are set as a percentage of the total gross revenue with certain deductions allowed for capital investment and junior sailing programs; and

WHEREAS, the language included in the SWYC lease regarding these deductions has been interpreted differently by the District and SWYC; and

WHEREAS, the Amendment clarifies and limits certain deductions from gross income upon which the percentage rent rates are based and states the calculation of Minimum Annual Rent; and

WHEREAS, in addition, as part of the Amendment, SWYC's responsibility for maintenance of the premises, including dredging, will be clarified; and

WHEREAS, the current lease and proposed Lease Amendment No. 1 are summarized in the Existing and Proposed Lease Information Summary, which is on file in the Office of the District Clerk.

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

Section 1. Amendment No. 1 to the District Lease with Southwestern Yacht Club (SWYC) is hereby approved.

Section 2. The Executive Director or her designated representative is hereby directed to execute said lease amendment.

Section 3. This Ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

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 8th day of August, 2017, by the following vote: