

DRAFT**SAN DIEGO UNIFIED PORT DISTRICT****ORDINANCE xxxx****ORDINANCE GRANTING A LEASE TO SEAPORT ENTERTAINMENT, LLC FOR A FULL-SERVICE RESTAURANT LOCATED AT 849 W. HARBOR DRIVE, SUITE E3 IN SAN DIEGO FOR A 10-YEAR TERM PLUS ONE 5-YEAR OPTION (FOR A TOTAL POTENTIAL TERM OF 15 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, Seaport Village is a tourist-oriented retail shopping center consisting of approximately 90,000 square feet of specialty retailers, restaurants, outdoor entertainment, and parking on an approximately 14-acre bayfront site located at 849 West Harbor Drive in San Diego, California; and

WHEREAS, on October 1, 2018, the District assumed ownership of the Seaport Village assets, which consist of 32 buildings, including one over-water structure; and

WHEREAS, the District has made strategic operational and financial investments to improve the overall experience and success of the shopping center for both locals and visitors alike; and

WHEREAS, an essential component to this success is the District's ability to secure tenancies quickly to increase occupancy, attract additional foot traffic, and generate higher revenue to the District; and

WHEREAS, one of staff's primary objectives has been to fill the existing vacancies at Seaport Village with new high-caliber tenants with Public Trust compliant uses; and

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WHEREAS, staff seeks the Board of Port Commissioners' (BPC) approval of an ordinance granting a lease to Seaport Entertainment, LLC, to fill a current vacancy at Seaport Village; and

WHEREAS, operating as Seaport Entertainment, LLC, San Diego hospitality group Grain & Grit Collective brings a wealth of experience with proven success as the owners and operators of Carnitas Snack Shack, LLC, The Broken Yolk Café, and the Little Italy Food Hall; and

WHEREAS, Seaport Entertainment, LLC will have a full-service restaurant and bar with a "Sam the Cooking Guy" branded concept from television personality, author and restaurateur, Sam Zien, in the two-story Suite E3; and

WHEREAS, Seaport Entertainment, LLC will also have a right for the non-exclusive use of the Lighthouse District Common Area Courtyard and surrounding walkway; and

WHEREAS, leveraging their expertise in programming and activation of common area space, Seaport Entertainment, LLC will curate 4,690 square feet of space in the Lighthouse District Common Area Courtyard with family-friendly gaming, entertainment and special events such as live music, art nights, food and wine tastings, movie nights, cooking demos and other special events for the enjoyment and use of customers and the general public; and

WHEREAS, Seaport Entertainment, LLC would have the right to host private events that are closed to the public (such as corporate events) in the Lighthouse District Common Area Courtyard a maximum of 3 times per week during the months of September through May and 2 times per week during the months of June through August (each event occurring a maximum of one day); and

WHEREAS, Seaport Entertainment, LLC would have the exclusive right to sell food and beverages that can be consumed in the non-exclusive use area of the Lighthouse District Common Area Courtyard and would be required to maintain and keep the area in good condition and repair; and

WHEREAS, pursuant to the negotiated lease, the District would retain the right to temporarily suspend or revoke Seaport Entertainment, LLC's non-exclusive use of the Lighthouse District Common Area Courtyard; and

WHEREAS, staff has negotiated a 10-year lease with one 5-year option to extend for a total potential term of 15 years; the option to extend will be exercisable at the tenant's discretion (provided the tenant is not in default under the terms of the lease); and

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WHEREAS, the District will maintain the right to terminate the lease, with 90 days' notice to Seaport Entertainment, LLC, any time after the end of Lease Year 5 in the event that (1) demolition and/or construction related to a redevelopment of the shopping center has commenced or will imminently commence, as approved by the Board and (2) is significantly impactful to the shopping center and the tenant's leasehold as determined in the District's discretion; and

WHEREAS, In the event the District terminates the lease during Lease Year 6 or Lease Year 7, the District will be responsible for paying the tenant a termination fee of \$328,571.43; and

WHEREAS, Seaport Entertainment, LLC, will also maintain the right to terminate the lease, with 90 days' notice to the District, any time after the end of Lease Year 5, in the event that (1) demolition and/or construction related to any future redevelopment of the shopping center has commenced or will imminently commence, as approved by the Board and (2) is significantly impactful to the shopping center and tenant's leasehold; and

WHEREAS, Seaport Entertainment, LLC would also be able to terminate if, in anticipation of future demolition and/or construction related to redevelopment of the shopping center, as approved by the Board, more than fifty percent (50%) of the rentable square footage of the shopping center is vacant; and

WHEREAS, Seaport Entertainment, LLC would also be able to terminate if (1) demolition and/or construction related to the shopping center (but not related to a redevelopment of the shopping center), as approved by the Board, has commenced or will imminently commence and (2) is significantly impactful to the tenant's leasehold and 3) more than fifty percent (50%) of the rentable square footage of the shopping center is vacant; and

WHEREAS, at the July 24, 2019 BPC meeting, the BPC approved a budget amendment that allocated \$3M towards the establishment of a tenant improvement (TI) allowance fund for Seaport Village tenants, providing staff with the ability to achieve the District's goal of executing new market rate leases involving TI allowances to bring existing vacancies up to a reasonable condition within the time parameters expected of retail landlords in the market; and

WHEREAS, the proposed lease contemplates a TI allowance of \$495,000, which may be used by Seaport Entertainment, LLC to spend on tenant improvements or purchase and install limited tenant fixtures which, if reimbursement is paid, become the property of District; and

WHEREAS, staff estimates a 10-year initial rate of return of 34% and a net present value of \$958,733 (using an 8% discount rate); and

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WHEREAS, as a pre-condition to Seaport Entertainment, LLC's occupancy and use of the premises, the District will exercise its termination right to the current tenant, Aloha Partners, L.P. dba Busters Beach House, which requires them to vacate Suite E3 within ninety (90) days after notice; and

WHEREAS, once Busters Beach House has vacated, the District would deliver possession of Suite E3 to Seaport Entertainment, LLC; and

WHEREAS, staff recommends the BPC adopt an ordinance granting a lease to Seaport Entertainment, LLC.

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

1. That a 10-year lease, plus one five (5) year option (for a total potential term of 15 years) with Seaport Entertainment, LLC, for a full-service restaurant located at 849 W. Harbor Drive, Suite E3 in San Diego, California, is hereby approved.
2. The Executive Director or her designated representative is hereby authorized to execute said lease attached as Attachment D in the corresponding agenda sheet.
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 9th day of January 2020, by the following vote: