

**DRAFT**

**SAN DIEGO UNIFIED PORT DISTRICT**

**ORDINANCE xxxx**

**ORDINANCE GRANTING AN OPTION TO LEASE AGREEMENT TO FERRY LANDING ASSOCIATES, LLC, WHICH OPTION INCLUDES AN AMENDED AND RESTATED LEASE, A FIFTH AMENDMENT TO LEASE, A MEMORANDUM AND QUITCLAIM DEED, AND A PARKING AND ACCESS EASEMENT AGREEMENT, AND ALSO CONDITIONALLY APPROVING A 20-YEAR LONG-TERM SUBLEASE WITH ISLAND TIMES, LLC**

**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**, in 1997, the District and Ferry Landing Associates, LLC, a California limited liability company (FLA), entered into a 40-year Lease for approximately four acres of land and three acres of water area on the bayfront in Coronado, south of the Ferry Landing Marketplace (Current Lease)<sup>1</sup>; and

**WHEREAS**, the leasehold, which is located at 1311 First Street in the City of Coronado (Property) as shown on Attachment A to the corresponding agenda sheet to which this Ordinance relates, includes a restaurant, a small office building, and a vacant restaurant pad; and

**WHEREAS**, the Current Lease, which is scheduled to expire on August 31, 2037, requires the development of two restaurant buildings and a small office building; and

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<sup>1</sup> Lease recorded in the Office of the District Clerk on March 26, 1998 as Document No. 36616, as amended by Amendment No. 1 recorded on April 2, 2002 as Document No. 42938, Amendment No. 2 recorded on August 11, 2005 as Document No. 49282, Amendment No. 3 recorded on July 2, 2008 as Document No. 53657, and Amendment 4 recorded on September 1, 2016 as Document 65563.

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**WHEREAS**, pursuant to the Current Lease, the two restaurants were to be constructed by December 31, 2008; and

**WHEREAS**, the small office building and one restaurant building, which is currently occupied by Il Fornaio, were completed in 1999; however; the second restaurant was never built; and

**WHEREAS**, in 2018, FLA received Concept Approval from the Board of Port Commissioners (Board) for the development of a new proposed 7,500 square foot restaurant building on the vacant pad adjacent to Il Fornaio restaurant; and

**WHEREAS**, after extensive negotiations, District staff and FLA have agreed on an approach that if approved by the Board, would enable FLA to: (1) develop the vacant restaurant pad with the previously approved 7,500 square foot restaurant; (2) upon completion of the new restaurant, obtain an additional 12 years of lease term; and (3) provide for the vacant restaurant parcel to be turned over to the District if FLA is unsuccessful in developing the parcel; and

**WHEREAS**, the recommended approach includes the following transaction components:

- Enter into an Option to Lease Agreement (Option) in the form of Attachment B to the corresponding agenda sheet to which this Ordinance relates for the entire current leasehold, that contains four exhibits: (i) an Amended and Restated Lease as Exhibit A (A&R Lease); (ii) a Fifth Amendment to the Current Lease as Exhibit B (Fifth Amendment); (iii) a Memorandum and Quitclaim Deed as Exhibit C (Memorandum and Quitclaim); and (iv) a Parking Easement Agreement as Exhibit D (Parking Easement);
- Concurrently with the execution of the Option, FLA to deliver to the District executed counterparts of the Fifth Amendment, the Memorandum and Quitclaim, and the Parking Easement;
- If FLA timely completes the pre-development conditions set forth in the Option, FLA would be entitled to enter into the A&R Lease with District;
- If FLA timely develops the new restaurant pursuant to the terms of the A&R Lease, and provided the other conditions in the A&R Lease are met, FLA would be entitled to extend the term of the A&R Lease by 12 years through August 31, 2049 upon payment of \$1,000,000 to be paid over 10 years commencing in 2039; and
- If FLA fails to timely satisfy the preconditions in the Option, the Current Lease would remain in effect, the Fifth Amendment and Memorandum and Quitclaim would become effective and remove the vacant restaurant pad and adjacent waterside parcel from the premises under the Current Lease, and the Parking Easement would become effective to provide for the shared use between FLA and the District (or future tenant of the vacant restaurant parcel) of the parking lot and drive aisles located on the Property; and

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**WHEREAS**, the A&R Lease, the execution of which is conditioned on FLA successfully satisfying the preconditions in the Option, also contains numerous deadlines and penalties in order to incentivize FLA to successfully construct and open the new restaurant; and

**WHEREAS**, in the event the new restaurant is not timely completed within 2.5 years of the A&R Lease's effective date, then the District has the option to exercise a streamlined remedy of removing the vacant restaurant parcel and adjacent waterside parcel from the leasehold; and

**WHEREAS**, construction and operation of the proposed approximately 7,500 square foot single story restaurant located on the vacant restaurant pad adjacent to the Il Fornaio was analyzed in a Second Addendum to the Final Environmental Impact Report for the Coronado Boatyard Plan Amendment - The Wharf Development Project adopted by the Board on July 17, 2018 pursuant to Resolution No. 2018-131; and

**WHEREAS**, construction of the new restaurant will require the issuance of Amendment No. 2 of Appealable Coastal Development Permit 97-3; and

**WHEREAS**, the potential 12-year lease term extension under the A&R Lease will facilitate a 20-year sublease with Island Times, LLC dba Social Syndicate, a local restaurant group which operates several community focused concepts such as Rosie O'Grady's and The Rabbit Hole in Normal Heights, La Doña and OB Surf Lodge in Ocean Beach, The Local Pacific Beach, and the Monarch Ocean Pub in Del Mar, the latter of which will be the proposed concept for the Property; and

**WHEREAS**, as part of the proposed Board action, staff recommends the Board approve of FLA's sublease with Island Times, LLC (Sublease) in the form of Attachment C to the corresponding Agenda Sheet to which this Ordinance relates, provided that such approval is conditioned upon FLA and Island Times executing a Second Amendment to Sublease substantially in the form of Attachment D to the corresponding agenda sheet to which this Ordinance relates, which Second Amendment contains the District's standard terms and conditions included in consents to subleases; and

**WHEREAS**, FLA has demonstrated a strong desire to develop the vacant parcel into an exciting new restaurant concept, and the Option and associated documents would incentivize FLA to successfully complete construction, while a failure to timely do so would permit the District to remove the vacant pad and accompanying waterside parcel from the leasehold under a streamlined procedure to allow the District to select a new developer for the parcel; and

**WHEREAS**, staff believes that FLA successfully developing the restaurant and having it operated by Social Syndicate would likely benefit the District by

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introducing an exciting new concept to the District's restaurant portfolio, increasing rent, and resulting in improvements with an extensive useful life beyond the extended term of the A&R Lease; and

**WHEREAS**, for the reasons set forth in this Ordinance and in the accompanying agenda sheet, staff recommends the Board approve of the Option to Lease as well as approve of the Sublease conditioned upon FLA and Island Times executing the Second Amendment to Sublease.

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

1. The Option to Lease Agreement to Ferry Landing Associates, LLC is hereby approved in substantially the same form attached as Attachment B to the corresponding agenda sheet to which this Ordinance relates.

2. The Sublease between Ferry Landing Associates, LLC and Island Times, LLC, is hereby approved in substantially the same form attached as Attachment C to the corresponding agenda sheet to which this Ordinance relates; provided such approval is conditioned on the full execution by Ferry Landing Associates, LLC and Island Times, LLC and effectiveness of the Second Amendment to Sublease in substantially the same form attached as Attachment D to the corresponding agenda sheet to which this Ordinance relates.

2. The Executive Director or their designated representative is hereby authorized to administratively approve and execute said Option to Lease Agreement to Ferry Landing Associates, LLC.

3. 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 10th day of September 2024, by the following vote: