

DRAFT

RESOLUTION 20xx-xxx

**RESOLUTION CONSENTING TO THE
ASSIGNMENT AND ASSUMPTION OF THE
LEASEHOLD INTEREST IN THE PROPERTY
LOCATED AT 750 NORTH HARBOR DRIVE FROM
FISH MARKET RESTAURANTS, INC. TO THE
BRIGANTINE, INC., DBA THE FISH MARKET**

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, Fish Market Restaurants, Inc., a California corporation (as successor-in-interest to Fish Market Restaurants – San Diego) ("Fish Market") operates a restaurant at 750 North Harbor Drive under a lease with the District that expires February 29, 2028 (the "Existing Lease"); and

WHEREAS, the Fish Market leasehold is comprised of approximately 24,113 square feet of tideland area located at 750 North Harbor Drive in the City of San Diego ("Premises") on which Fish Market has been operating a restaurant since 1989 consisting of a two-story building with indoor and outdoor dining; and

WHEREAS, the Fish Market entered into an Agreement for Purchase and Sale of Assets with The Brigantine, Inc. ("Brigantine") on November 4, 2024, and has requested District consent to the proposed assignment of its leasehold interest in the Premises to Brigantine under the Assignment and Assumption Agreement attached to the agenda sheet to which this Resolution relates ("Proposed Assignment"); and

WHEREAS, Brigantine is a family-owned business that has been developing and operating restaurants since 1969 in San Diego County. They currently operate 20 restaurants across 6 concepts, which include The Brigantine Seafood and Oyster Bar, Miguel's Cocina, Ketch Brewing, Ketch Grill and Taps, Topsail, and Portside Coffee & Gelato, and have a proven track record as a strong operator that has successfully increased revenue to the District through their leases; and

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WHEREAS, Brigantine intends to continue operating the restaurant as The Fish Market; and

WHEREAS, under the Existing Lease, as a condition of consent to the Proposed Assignment, the District has the right to update the lease to include current standard language and to adjust rental rates to market; and

WHEREAS, in connection with the Proposed Assignment, the District and Brigantine have negotiated an Amended and Restated Lease in the form attached to the Agenda Sheet to which this Resolution relates; and

WHEREAS, in comparison to the Existing Lease, the Amended and Restated Lease includes numerous beneficial provisions to the District, as further described in the agenda sheet to which this Resolution relates, and the Amended and Restated Lease has the same expiration date as the Existing Lease of February 29, 2028; and

WHEREAS, the effectiveness of the Amended and Restated Lease is to take place concurrently with, and is conditioned upon, the consummation of the Proposed Assignment ("Closing"), and the District's consent to the Proposed Assignment hereunder is conditioned upon the full execution and effectiveness of the Amended and Restated Lease; and

WHEREAS, if the Closing fails to take place, thereby preventing the effectiveness of the Amended and Restated Lease, for any reason by May 14, 2025 ("Outside Closing Date"), then the consent to the Proposed Assignment granted by this Resolution is to automatically be deemed null and void and the Amended and Restated Lease is not to become effective without further action by the Board of Port Commissioners; and

WHEREAS, subject to the conditions in this Resolution, District staff recommends that the Board of Port Commissioners consent to the Proposed Assignment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District hereby consents to the assignment and assumption of the Existing Lease from Fish Market Restaurants, Inc. to The Brigantine, Inc., conditioned upon the full execution and effectiveness of the Amended and Restated Lease in substantially the form attached to the agenda sheet to which this Resolution relates, provided that the consent granted hereunder shall be automatically null and void and the Amended and Restated Lease shall not become effective without further action by the Board of Port Commissioners if both the Closing and the full execution and effectiveness of the Amended and Restated Lease have not occurred by the Outside Closing Date.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy General Counsel

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11th day of March 2025, by the following vote: