

1 [Approval to award a fifteen and one-half years (plus five-year extension option) restaurant  
2 lease between the Port of San Francisco and D & G Company, LLC, doing business as Lou's  
3 Pier 47 (Lease No. L-14630), for premise at 300 Jefferson Street located in Fisherman's  
4 Wharf.]

4 **Resolution approving Port Commission Lease No. L-14630 with D & G Company, LLC,**  
5 **doing business as Lou's Pier 47, for certain real property at 300 Jefferson Street**  
6 **located in Fisherman's Wharf in the City and County of San Francisco for a term of 15**  
7 **1/2 years (plus a 5 year extension option)**

8 WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San  
9 Francisco Charter Section 4.114 and B3.581 empower the San Francisco Port Commission  
10 with the power and duty to use, conduct, operate, maintain, manage, regulate and control the  
11 lands within Port Commission jurisdiction; and

12 WHEREAS, Under Port Resolution No. 93-52 the Port's Retail Leasing Policy, it is the  
13 policy of the Port Commission to competitively bid retail opportunities by the issuance of a  
14 Request for Proposal ("RFP"), and

15 WHEREAS, the Retail Leasing Policy does allow for direct negotiations of retail leases  
16 with existing tenants if: (I) the Tenant is a tenant in good standing, (II) ) the Tenant's existing  
17 lease term does not support its business plan and strategy for significant capital investment  
18 into Port property, (III) the direct and indirect benefits exceed the benefits of a public offering,  
19 (IV) the investment will benefit the Port, and if the benefits of direct negotiation outweigh the  
20 benefits of competitive bidding, (V) if the Tenant has a good record of non-discrimination in its  
21 hiring and retail practices and its committed to adhering to a program of non-discrimination  
22 during the term of the proposed lease; and

23 WHEREAS, The Port Commission determined that Lou's Pier 47 met the criteria for  
24 direct negotiations: (I) D & G Company is a tenant in good standing, (II) D & G Company's  
25 current lease term does not support its business plan and strategy for significant capital

1 investment into Port property in the amount of Seven Hundred Fifty Thousand Dollars  
2 (\$750,000.00), (III) D & G Company's investment will benefit the Port, and these benefits  
3 outweigh the benefits of competitive bidding, (IV) D & G Company is the highest and best use  
4 for the property located a 300 Jefferson Street since they have a proven track of success and  
5 successful restaurant formula in the competitive restaurant-rich Fisherman's Wharf area,  
6 (V) D & G Company affirmatively states its commitment to non-discrimination in its hiring and  
7 retail practices and its committed to adhering to a program of non-discrimination during the  
8 term of the proposed lease; and

9 WHEREAS, The Port Commission pursuant to Resolution No. 10-13, approved a 15  
10 and one half year lease with one five-year (5) extension option for certain real property  
11 located at 300 Jefferson Street in the City and County of San Francisco for rent based on the  
12 greater amount of either the minimum monthly rent of \$11,954.62 or 6.75% of gross sales  
13 which represents a 80% increase over the existing minimum rent. The minimum rent shall be  
14 increased by 2% per year and the percentage rent shall be increased to 7% in the tenth year  
15 of the lease term. The lease provides a fair market rent adjustment to the minimum base rent  
16 upon the exercise of the option. These terms meet or exceed the fair market value for like  
17 situated restaurants of similar size and location; and

18  
19 WHEREAS, A copy of the form of lease is on file with the Clerk of the Board of  
20 Supervisors in File No. 100386 and is hereby declared to be part of this Resolution  
21 as if fully at forth herein (the "Lease"); and

22 WHEREAS, San Francisco Charter Section 9.118 requires Board of Supervisors  
23 approval of leases having a term of ten (10) or more years or having anticipated revenue to  
24 the City of One Million Dollars (\$1,000,000.00) or more; and  
25

1           WHEREAS, This Lease has a lease term that exceeds ten (10) years or more and the  
2 revenue likely to meet or exceed One Million Dollar (\$1,000,000.00) threshold; now, therefore,  
3 be it

4           RESOLVED, That the Board of Supervisors approves the Lease; and, be it

5           FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive  
6 Director of the Port (the "Executive Director") to execute the Lease in a form approved by the  
7 City Attorney and in substantially the form of the lease on file; and, be it

8           FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive  
9 Director to enter into any additions, amendments or other modifications to the Lease  
10 (including, without limitation, preparation and attachment of, or changes to, any or all of the  
11 exhibits and ancillary agreements) that the Executive Director, in consultation with the City  
12 Attorney, determines is in the best interest of the Port, do not alter the rent or the Port's  
13 projected income from the Lease, do not materially increase the obligations or liabilities of the  
14 Port or City or materially decrease the public benefits accruing to the Port, and are necessary  
15 or advisable to complete the transactions contemplate and effectuate the purpose and intent  
16 of this Resolution, such determination to be conclusively evidenced by the execution and  
17 delivery by the Executive Director of any such documents; and, be it

18           FURTHER RESOLVED, That the Board of Supervisors approves, and ratifies all prior  
19 actions taken by the officials, employees and agents of the Port Commission, or the City with  
20 respect to the Lease; and, be it

21           FURTHER RESOLVED, That the Port, at the end of the proposed lease, shall report  
22 back to the Board of Supervisors, no later than 30 days after the termination of the lease term,  
23 as to the Port's plan for the future status of this lease including (a) how long the Port  
24

1 anticipates the lease will continue on a month-to-month basis with the existing lessee, and (b)  
2 and when the lease will be subject to a future competitive process.

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City and County of San Francisco  
Tails  
Resolution

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 100386

Date Passed: May 04, 2010


Resolution approving Port Commission Restaurant Lease No. L-14630 with D & G Company, LLC, doing business as Lou's Pier 47, for certain real property at 300 Jefferson Street located in Fisherman's Wharf in the City and County of San Francisco for a term of fifteen and one half (15 1/2) years, plus a five (5) year extension option.

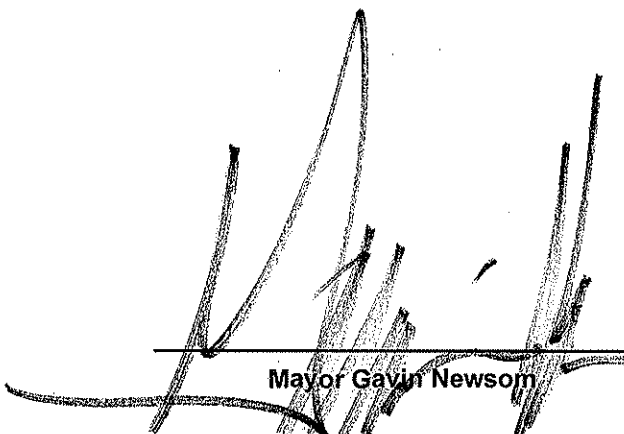
May 04, 2010 Board of Supervisors - ADOPTED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 100386

I hereby certify that the foregoing Resolution was ADOPTED on 5/4/2010 by the Board of Supervisors of the City and County of San Francisco.

  
Angela Calvillo  
Clerk of the Board

  
Mayor Gavin Newsom

5/13/2010  
Date Approved