

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2758

**ORDINANCE GRANTING A DECLARATION OF
RECIPROCAL EASEMENTS AND COVENANTS
AGREEMENT FOR LANE FIELD NORTH AND
LANE FIELD SOUTH AND GRANTING INDEMNITY**

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, LPP Lane Field, LLC (Developer) has an option to lease agreement (Option to Lease) with the District which provides for development of a 400-room hotel on the Lane Field North site, and provides the Developer with options to develop the adjacent Lane Field South site upon exercising the Option to Lease, on file in the Office of the District Clerk, as Document No. 58634, as amended; and

WHEREAS, the Lane Field North and the future development of Lane Field South will share a common motor court and pedestrian access through the "C" Street parcel; and

WHEREAS, the proposed "C" Street view corridor and motor court will lie almost entirely within the leasehold of Lane Field North, the District is requiring LFN Developers, LLC (LFN) to enter into a Declaration of Reciprocal Easements and Covenants Agreement (REA) on Parcel 2 of its leasehold, which will permit the ground lessee on the Lane Field South project access to and use of the driveway; and

WHEREAS, the future Lane Field South project will reimburse the Lane Field North lessee for its proportionate share of the costs of maintaining, operating, landscaping and repairing the driveway; and

WHEREAS, the REA contemplates a scenario wherein the District could assume control of one or both of the hotels through default or other event resulting in the early termination of one of the leases; and

WHEREAS, if this scenario were to occur, the District would then become a party to the REA and pursuant to its provisions would be required to indemnify the other parties only if the District takes possession of a completed hotel or hotels and only for the period of time that the District directly controls the hotel or hotels.


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

Section 1. The Ordinance granting a Declaration of Reciprocal Easements and Covenants Agreement for Lane Field North and Lane Field South is hereby granted and approved.

Section 2. The Executive Director or his designated representative is hereby directed to execute the Declaration of Reciprocal Easements and Covenants for Lane Field North and Lane Field South and granting indemnity as provided in Section 2 of the Declaration of Reciprocal Easements only if the San Diego Unified Port District takes possession of a completed hotel or hotels and only for the period of time that the San Diego Unified Port District directly controls the hotel or hotels.

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:
PORT ATTORNEY


By: ~~Assistant~~ Deputy

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PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 4th day of March, 2014, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama

NAYS: None.

EXCUSED: None.

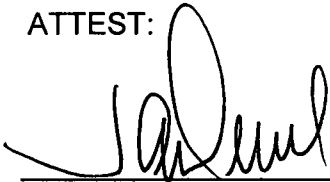
ABSENT: None.

ABSTAIN: None.



Robert E. Nelson, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)