

**SAN DIEGO UNIFIED PORT DISTRICT**

**ORDINANCE 2843**

**ORDINANCE GRANTING AN AMENDED AND RESTATED LEASE WITH SUNROAD MARINA PARTNERS, L.P., A CALIFORNIA LIMITED PARTNERSHIP, DBA SUNROAD RESORT MARINA TO UPDATE TO CURRENT LEASE TERMS AND REVISE OTHER LEASE TERMS**

**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**, Sunroad Marina Partners, L.P., a California Limited Partnership dba Sunroad Resort Marina (Sunroad), operates a 600-slip marina located at 955 Harbor Island Drive under a 50-year lease with the District which expires on January 31, 2037; and

**WHEREAS**, on June 11, 2013, the Board of Port Commissioners (BPC) consented to a \$20,000,000 encumbrance of Sunroad's leasehold estate in favor of Compass Bank (BBVA Compass), with conditions; and

**WHEREAS**, BBVA Compass has agreed to increase the current loan amount of \$20,000,000 by \$1,750,000 for a total loan amount of \$21,750,000; and

**WHEREAS**, pursuant to the terms of Sunroad's current lease, the District's consent to an encumbrance may be conditioned on the District adjusting the rent to market and revising the lease terms to include new or revised lease provisions; and

**WHEREAS**, it is the District's practice that minimum annual rent (MAR) be set at not less than 75% of the average rent paid by the tenant in the prior three years; and

**WHEREAS**, over the last three years, Sunroad paid an average of \$1,137,628 per year in percentage rent; and

**WHEREAS**, Sunroad's MAR of \$900,000 is equal to 79% of the average rent paid in the last three years and does not require an increase; and

**WHEREAS**, the percentage rental rates were updated in the amended and restated lease to make them consistent with BPC adopted standard percentage rental rates; and

**WHEREAS**, the majority of the lease clauses were out of date as the Sunroad lease was entered into in 1987 and has nine lease amendments entered into in (1)1994, (2)1995, (3)1998, (4)1998, (5)2001, (6)2001, (7)2005, (8)2009, and (9)2013, respectively; and

**WHEREAS**, the lease was amended and restated to revise outdated terms and update them to the District's current standard, including such key clauses as: rent, rent review, lease encumbrance, marina audit, sustainable leasing policy, labor law, indemnity, insurance, prevailing wage, and security deposit.

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

Section 1. That the District grant the Amended and Restated Lease between the San Diego Unified Port District and Sunroad Marina Partners, L.P., a California Limited Partnership, dba Sunroad Resort Marina to update to current lease terms and revise other lease terms.

Section 2. The Executive Director or her designated representative is hereby directed to execute said Amended and Restated Lease on behalf of the District.

Section 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



By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8<sup>th</sup> day of December, 2015, by the following vote:

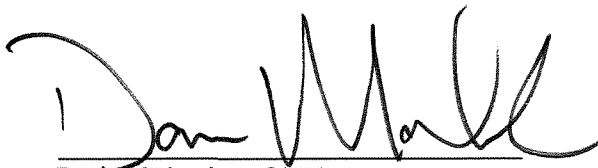
AYES: Bonelli, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

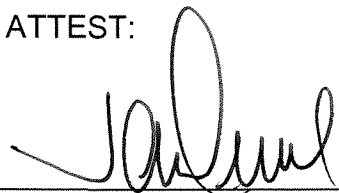
ABSENT: None.

ABSTAIN: Castellanos.



Dan Malcolm, Chairman  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk

(Seal)