

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2897

**ORDINANCE GRANTING TERMINATION OF A 5,235
SQUARE-FOOT EASEMENT WITH M4 DEV, LLC
LOCATED ADJACENT TO 2137 PACIFIC HIGHWAY IN
THE CITY OF SAN DIEGO**

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(e) requires that all grants franchises, leases, permits, rights, or privileges for more than five years shall be made by ordinance; and

WHEREAS, the District granted a 66-year easement (District Document 59321) (Easement) to FC Acquisition Company, LLC (FC) for driveway ingress and egress to its uplands property located at 2137 Pacific Highway in the City of San Diego; and

WHEREAS, FC then transferred the Easement to M4 DEV, LLC (M4) via an Assignment and Assumption of Easement Agreement (District Document No. 59556); and

WHEREAS, the Easement term commenced on September 14, 2012 and terminates on September 13, 2078; and

WHEREAS, the Easement comprises of approximately 5,235 square-feet of tideland area; and

WHEREAS, the Easement initially ran along Pacific Highway and was necessary for ingress and egress to M4's property; and

WHEREAS, M4 constructed a 364-room hotel on the property and as a condition of construction, the City of San Diego required M4 to widen Pacific Highway; and

WHEREAS, M4 also installed curbs and gutters pursuant to its San Diego Center City Development Permit and Coastal Development Permit; and

WHEREAS, as a result of the widening of Pacific Highway, the easement area is no longer being used for commercial purposes, but for street purposes and the District will terminate M4's Easement with the District.

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

Section 1. The termination of the 5,235 square-foot Easement with M4 DEV, LLC located adjacent to 2137 Pacific Highway in the City of San Diego is hereby accepted.

Section 2. The Executive Director or her designated representative is hereby authorized to execute the termination of the 5,235 square-foot Easement with M4 DEV, LLC located adjacent to 2137 Pacific Highway in the City of San Diego on behalf of the San Diego Unified Port District.

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:
GENERAL COUNSEL




By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11th day of July 2017, by the following vote:

- AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Valderrama, and Zucchet
- NAYS: None.
- EXCUSED: None.
- ABSENT: None.
- ABSTAIN: None.



Robert Valderrama, Chair
Board of Port Commissioners

ATTEST:


Timothy A. Deuel
District Clerk

