

**SAN DIEGO UNIFIED PORT DISTRICT**

**ORDINANCE 2899**

**ORDINANCE GRANTING AND DEDICATING A 66-YEAR 5,235 SQUARE-FOOT EASEMENT AND RIGHT-OF-WAY FOR PUBLIC STREET TO THE CITY OF SAN DIEGO 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

**WHEREAS**, the use of the Easement area is neither consistent nor compatible with the rights and privileges granted by the Easement; and

**WHEREAS**, the District will terminate M4's Easement with the District and M4 will execute a quitclaim deed to transfer all of its right, title, and interest back to the District; and

**WHEREAS**, the District will then dedicate the Easement to the City of San Diego as an Easement and Right-of-Way for Public Street.

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

Section 1. The 5,235 square-foot Easement located adjacent to 2137 Pacific Highway in the City of San Diego is hereby dedicated to the City of San Diego as an Easement and Right-of-Way for Public Street.

Section 2. The Executive Director or her designated representative is hereby authorized to execute an Easement for the 5,235 square-foot Easement located adjacent to 2137 Pacific Highway in the City of San Diego on behalf of the San Diego Unified Port District and dedicated it to the City of San Diego as an Easement and Right-of-Way for Public Street.

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 11<sup>th</sup> day of July 2017, by the following vote:

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

NAYS: None.

EXCUSED: None.

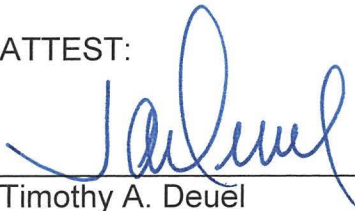
ABSENT: None.

ABSTAIN: None.



Robert Valderrama, Chair  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk



(Seal)