

**RESOLUTION 2013-216**

**RESOLUTION GRANTING CONSENT TO  
\$3,300,000 LOAN BETWEEN AMERICAN WEST  
BANK AND SHELTER ISLAND YACHTWAYS, LTD.  
WITH CONDITIONS**

**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**, Shelter Island Yachtways, Ltd. dba Shelter Island Boatyard (SIBY) operates a boatyard on two adjoining leaseholds on Shelter Island located at 2330 and 2390 Shelter Island Drive in San Diego; and

**WHEREAS**, SIBY's existing leases have a term of 30 years and are coterminous on February 28, 2015, on file in the Office of the District Clerk as Document Nos. 17951 and 17953; and

**WHEREAS**, in accordance with BPC (Board of Port Commissioners) Policy No. 355, SIBY has submitted a redevelopment proposal to invest approximately \$3.25 million to modernize the boatyard facility; and

**WHEREAS**, the improvements are designed to allow SIBY to service more modern, heavier, and wider vessels that it cannot accommodate with the current facility; and

**WHEREAS**, this includes acquisition of new boat gantry cranes with increased lift capacities, a pier addition, removal of docks, and boatyard maintenance and repair components collectively referred to as the Shelter Island Boatyard Crane Replacement and Pier Addition Project (Project); and

**WHEREAS**, in accordance with the administrative practices of BPC Policy No. 355, the project investment of \$3.25 million qualifies SIBY for a new 30 year lease.

**WHEREAS**, financing for the construction of the project and purchase of the boat gantry cranes will be provided by American West Bank (American West) in an amount not to exceed \$3.3 million; and

**WHEREAS**, staff has reviewed the terms of the loan in accordance with BPC Policy No. 355 and recommends the BPC consent to the lease encumbrance, with the following conditions:

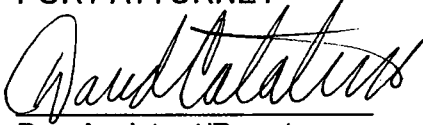
1. The loan amount will not exceed \$3,300,000;
2. All other terms, conditions, provisions and covenants of the lease shall remain and continue in full force and effect and no further encumbrance of the lease or any part thereof shall be made without the prior written consent of the District in each instance, as provided in the lease;
3. It is understood that the District has not reviewed or approved the terms and conditions of the proposed encumbrance documents, such as the leasehold deed of trust or note secured thereby and is not agreeing to be a party to the leasehold deed of trust, note or other documents;
4. Nothing contained in the conditions of approval shall be construed to modify, amend or waive any of the provisions of the lease;
5. The District's consent to the encumbrance shall be null and void and of no further force and effect if Lessee does not obtain financing from American West, as confirmed by receipt of final loan documents signed by SIBY and American West, within 90 days of District's consent;
6. SIBY acknowledges that it will not seek further rent relief as a result of not being able to meet its debt service or debt repayment obligations; and
7. The loan term will not extend beyond the proposed new lease expiration date.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Executive Director or his designated representative is hereby authorized on behalf of the San Diego Unified Port District to consent to a \$3,300,000 loan between American West Bank and Shelter Island Yachtways, Ltd. with conditions.

2013-216

APPROVED AS TO FORM AND LEGALITY:  
PORT ATTORNEY



By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 10<sup>th</sup> day of December, 2013, by the following vote:

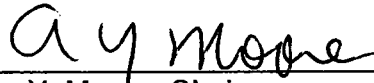
AYES: Castellanos, Malcolm, Merrifield, Moore, Nelson, Smith and Valderrama

NAYS: None.

EXCUSED: None.

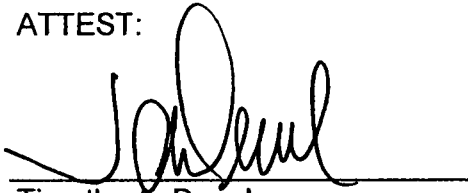
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk

(Seal)