

RESOLUTION 2013-98

RESOLUTION CONSENTING TO \$20,000,000 LOAN BETWEEN COMPASS BANK AND SUNROAD MARINA PARTNERS, LP DBA SUNROAD RESORT MARINA, 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, Sunroad Marina Partners, LP dba Sunroad Resort Marina (Sunroad) has a 50-year lease with the District to operate a 600-slip marina located at 955 Harbor Island Drive in San Diego that will expire in 2037, a copy of which is on file in the Office of the District Clerk as Document No. 20323 including Amendment Nos. 1 through 8, also on file in the Office of the District Clerk as Document Nos. 31941, 32710, 36837, 38082, 42710, 43118, 49394 and 54614 accordingly; and

WHEREAS, Compass Bank (BBVA) has agreed to loan Sunroad \$20,000,000 to refinance its current loan at a lower rate; and

WHEREAS, since this proposed financing replaces an \$18,500,000 loan, it is more than \$250,000 of the existing loan amount, and requires Board of Port Commissioners (BPC) consent; and

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

1. The loan amount will not exceed \$20,000,000.
2. The loan term will not extend beyond the lease expiration date of January 31, 2037.
3. 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.

4. 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.
5. Nothing contained in the conditions of approval shall be construed to modify, amend or waive any provisions of the lease.
6. 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 BBVA Compass, as confirmed by receipt of final loan documents signed by both Sunroad and BBVA Compass, within 90 days of District's consent.
7. Sunroad acknowledges that it will not seek rent relief as a result of not being able to meet its debt service or debt repayment obligations.
8. The District's consent to this encumbrance is conditioned upon the leasehold having no other loans in effect, as confirmed by receipt of a full reconveyance recorded in the Office of the Recorder of San Diego County within 90 days of District's consent.

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 \$20,000,000 loan between Compass Bank (BBVA) and Sunroad Marina Partners, LP dba Sunroad Resort Marina, with conditions as follows:

1. The loan amount will not exceed \$20,000,000.
2. The loan term will not extend beyond the lease expiration date of January 31, 2037.
3. 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.
4. 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.

5. Nothing contained in the conditions of approval shall be construed to modify, amend or waive any provisions of the lease.
6. 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 BBVA Compass, as confirmed by receipt of final loan documents signed by both Sunroad and BBVA Compass, within 90 days of District's consent.
7. Sunroad acknowledges that it will not seek rent relief as a result of not being able to meet its debt service or debt repayment obligations.
8. The District's consent to this encumbrance is conditioned upon the leasehold having no other loans in effect, as confirmed by receipt of a full reconveyance recorded in the Office of the Recorder of San Diego County within 90 days of District's consent.

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11th day of June, 2013, by the following vote:

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

NAYS: None.

EXCUSED: None.

ABSENT: None.

ABSTAIN: Castellanos.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



for Timothy A. Deuel
District Clerk

(Seal)