

RESOLUTION 2014-38

**RESOLUTION AUTHORIZING THE EXECUTIVE
DIRECTOR TO ENTER INTO A RECOGNITION AND
COMFORT LETTER WITH MICC (CALIFORNIA),
LLC**

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, LPP Lane Field, LLC (Developer) has an option to lease agreement (Option to Lease) with the District which provides for development of a 400-room hotel on the Lane Field North site, and provides the Developer with options to develop the adjacent Lane Field South site upon exercising the Option to Lease, on file in the Office of the District Clerk, as Document No. 58634, as amended; and

WHEREAS, pursuant to Resolution No. 2014-35 adopted by the Board of Port Commissioners (BPC) on March 4, 2014, the District consented to the assignment and assumption of the Option to Lease from the Developer to LFN Developers, LLC (LFN); and

WHEREAS, the development of Lane Field North is projected to cost approximately \$130 million; and

WHEREAS, LFN is requesting the District's consent to an \$83 million construction loan provided by US Bank and secured by the Lane Field North leasehold interest; and

WHEREAS, MICC (California), LLC (MICC) is the financing arm of Marriott International, Inc.; and

WHEREAS, to incentivize US Bank to provide financing, MICC is providing credit to underwrite the US Bank loan, and, as such, have requested that they be extended similar cure, default and assignment rights, that the District would normally only grant to a consented-to-lender; and

WHEREAS, the BPC granted these rights in the Option to Lease at its February 11, 2014 meeting; and

WHEREAS, LFN requested BPC consent to the Assignment of Equity and Security Interests Agreement between MICC and LFN to memorialize the details of their agreement (see Attachment E: Assignment of Equity and Security Interests Agreement to the corresponding Staff Report); and

WHEREAS, this type of arrangement provides the District with an additional level of protection, should a default occur on the leasehold or within the Lessee's joint venture agreement; and

WHEREAS, in addition to the BPC's consent to the Assignment of Equity and Security Interests Agreement, MICC has requested the District provide a separate comfort letter acknowledging their rights provided in the Lease (see Attachment F: Recognition and Comfort Letter, to the corresponding Staff Report); and

WHEREAS, staff has reviewed all of the relevant information required by BPC Policy No. 355 and the Option to Lease and recommends that the BPC consent to the Recognition and Comfort Letter, conditioned on the following:

1. The District's consent to the Recognition and Comfort Letter shall be null and void and of no further force and effect if Lessee does not obtain a credit enhancement from MICC, as confirmed by receipt of final documents signed by both LFN and MICC, within 90 days of District's consent.
2. It is understood that the District has not reviewed or approved the terms and conditions of the associated Recognition and Comfort Letter documents, such as the credit enhancement agreement and is not agreeing to be a party to the credit enhancement agreement or other documents.

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 enter into a Recognition and Comfort Letter with MICC (California), LLC, with the above conditions.

2014-38

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 4th day of March, 2014, by the following vote:

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

NAYS: None.

EXCUSED: None.

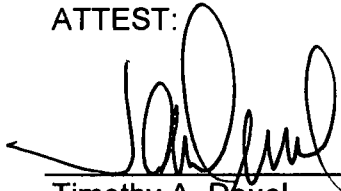
ABSENT: None.

ABSTAIN: None.



Robert E. Nelson, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)