

RESOLUTION 2015-86

RESOLUTION CONSENTING TO ENCUMBRANCE OF SUNROAD HARBOR ISLAND, INC.'S LEASEHOLD ESTATE BY \$17.5 MILLION IN FAVOR OF AMERICANWEST BANK, 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 1, (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 Harbor Island, Inc. (Sunroad) has a lease with the District at 880 Harbor Island Drive, which expires in 2042 and has a ten-year option to extend; and

WHEREAS, the leasehold includes the existing Island Prime/C-Level restaurant as well as a second restaurant, Coasterra, which is currently under construction and will be completed in the next few months; and

WHEREAS, in conjunction with the construction of the second restaurant, Sunroad is proposing to replace its original equity financing with a permanent commercial real estate loan from AmericanWest Bank encumbering both the Island Prime/C-Level and Coasterra restaurant; and

WHEREAS, Sunroad's lease is non-standard and in the first five years of the lease, the District may not require a lease amendment or adjustment to market rent as a condition of consent to an encumbrance; and

WHEREAS, the terms of the loan are in accordance with Board Policy No. 355; and

WHEREAS, the consent to the lease encumbrance includes the following conditions:

1. The loan amount will not exceed \$17,500,000.
2. The loan term will not extend beyond the current lease expiration date of July 31, 2042.

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 Sunroad does not obtain financing from AmericanWest Bank, as confirmed by receipt of final loan documents signed by both Sunroad and AmericanWest Bank, within 180 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 180 days of District's consent, or other satisfactory document to confirm there is no existing finance to reconvey.

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

That the San Diego Unified Port District hereby consents to encumbrance of Sunroad Harbor Island, Inc.'s leasehold estate by \$17,500,000 in favor of AmericanWest Bank, with stated conditions.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL



By: Assistant/Deputy

2015-86

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 14th day of July, 2015, by the following vote:

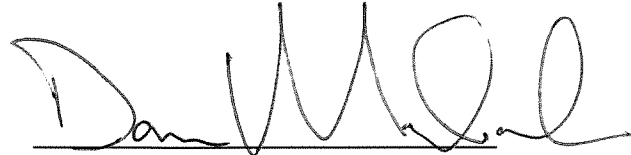
AYES: Bonelli, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

ABSENT: None.

ABSTAIN: Castellanos.



Dan Malcolm, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)

