

RESOLUTION 2016-12

RESOLUTION CONSENTING TO SUBLEASE FROM FELCOR HOTEL ASSET COMPANY, LLC, A DELAWARE LIMITED LIABILITY COMPANY DBA WYNDHAM SAN DIEGO BAYSIDE TO CLAIM JUMPER ACQUISITION COMPANY, LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR A TEN YEAR TERM WITH ONE OPTION TO EXTEND THE TERM TO OCTOBER 14, 2029, 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, FelCor Hotel Asset Company, LLC, a Delaware limited liability company (FelCor) owns the 600-room Wyndham San Diego Bayside (Wyndham) located at 1355 North Harbor Drive under a long-term ground lease with the District expiring October 14, 2029; and

WHEREAS, FelCor operates the Wyndham through a long-term sublease with BHR Operations, LLC, which contracts for management of the hotel under the Wyndham brand; and

WHEREAS, on June 30, 2014, Elephant & Castle restaurant in the Wyndham closed its operations and terminated its sublease with FelCor; and

WHEREAS, FelCor conducted a national search for a replacement three-meal restaurant operator and ultimately resulted in the selection of Claim Jumper Acquisition Company, LLC, a Nevada limited liability company (Claim Jumper); and

WHEREAS, FelCor is proposing to enter into a long-term sublease with Claim Jumper, for an initial 10-year term, with an option to extend through the end of the Wyndham lease (October 1, 2029) for a total potential term of approximately 14 years; and

WHEREAS, the proposed sublease is consistent with the terms of the

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master lease and BPC Policy No. 355; and

WHEREAS, pursuant to FelCor's lease, the District may adjust rent to market and update outdated lease provisions upon request for consent to sublease; and

WHEREAS, FelCor is willing to update to standard lease language and has agreed to adjust rent to market rent; and

WHEREAS, the District, San Diego Navy Broadway Complex Coalition and Lane Field San Diego Developer entered into a Memorandum of Understanding (MOU) dated November 9, 2015 (District Clerk Document No. 57019), which requires that the District to study, at a minimum, one alternative for an average 205-foot setback adjacent to North Harbor Drive running from Hawthorn to the prolongation of "B" Street and one alternative for the realignment of North Harbor Drive to the east with the 205-foot-average setback to the immediate west of the realigned North Harbor Drive to the immediate east of the promenade planned under the North Embarcadero Visionary Plan adjacent to the San Diego Bay, and again running from Hawthorn to the prolongation of "B" Street, and these two alternatives need to be studied on equal footing as the study of the North Embarcadero Port Master Plan Amendment or project in a California Environmental Quality Act document (Study Requirements); and

WHEREAS, Condition 8 of Coastal Development Permit No. A-6-PSD-11-006 (District Clerk Document No. 58230) also requires the Study Requirements; and

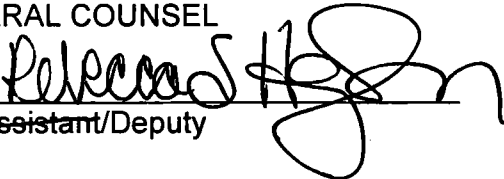
WHEREAS, after the Study Requirements are finished, the Board of Port Commissioners, may, in its sole and absolute discretion, amend the Port Master Plan to include a 205-foot-average setback or a setback of another width.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby consents to sublease from FelCor Hotel Asset Company, LLC, a Delaware limited liability company, DBA Wyndham San Diego Bayside to Claim Jumper Acquisition Company, LLC, a Nevada limited liability company, for a 10-year term with one option to extend the term to October 14, 2029, with conditions; provided, however, as a condition of approval, Claim Jumper Acquisition Company, LLC, a Nevada limited liability company, must submit a letter of acknowledgement to the District acknowledging the Study Requirements.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the consent hereby granted by the Board of Port Commissioners of the San Diego Unified Port District shall not foreclose the ability of the Board of Port Commissioners, in its sole and absolute discretion, to adopt the study described in the Recitals herein and approve entitlements or permits to construct either or both of the 205-foot-average setbacks, also described herein.

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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 9th day of February, 2016, by the following vote:

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

NAYS: None.

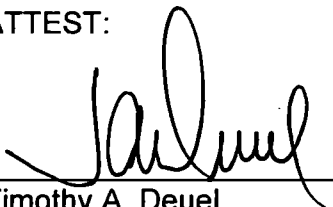
EXCUSED: None.

ABSENT: None.

ABSTAIN: None.


Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:


Timothy A. Deuel
District Clerk

(Seal)