

Clerk's Note:
Resolution No. 2016-16 was rescinded
by Resolution No. 2016-58 on 05/10/16

RESOLUTION 2016-16

RESOLUTION CONSENTING TO ENCUMBRANCE OF PIER 32 MARINA GROUP, LLC'S LEASEHOLD ESTATE BY \$6,200,000 DEED OF TRUST IN FAVOR OF CALIFORNIA BANK & TRUST, 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, Pier 32 Marina Group, LLC, a California limited liability company (Pier 32) operates a marina located at 3201 Marina Way, in the City of National City, under an existing 40-year lease with the District (Lease) which expires on January 31, 2047; and

WHEREAS, the Pier 32 leasehold is comprised of approximately 250 boat slips, an approximately 223-space parking lot, a building area which includes a restaurant and office space, and common area amenities for slip tenants; and

WHEREAS, Pier 32 is requesting consent to an encumbrance of the leasehold in the amount of \$6,200,000 (Loan) secured by a leasehold deed of trust to be used to fund the construction of three new locations of Jimmy's Famous American Tavern Restaurants in Topanga, Brea, and Santa Monica, California; and

WHEREAS, the lender, California Bank & Trust (CB&T), is a California-based commercial bank headquartered in San Diego, California with nearly 100 branches located throughout the state; and


WHEREAS, the Loan is equal to 50% of the appraised leasehold value of \$12,350,000, which complies with the maximum 75% loan-to-value ratio permitted under the Administrative Practices of Board of Port Commissioners (BPC) Policy No. 355; 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 secured by a deed of trust, note(s) or other encumbrance documents on Pier 32's leasehold estate shall not exceed \$6,200,000; and
2. The District's consent to encumbrance strictly prohibits the leasehold estate from being cross-collateralized with other properties for purposes of a loan; and
3. The loan term will not extend beyond the current Lease expiration date of January 31, 2047; and
4. 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; and
5. 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; and
6. Nothing contained in the conditions of approval shall be construed to modify, amend or waive any provisions of the Lease; and
7. The District's consent to the encumbrance shall be null and void and of no further force and effect if Pier 32 does not obtain financing from CB&T, as confirmed by receipt of final loan documents signed by Pier 32 and CB&T, within one hundred and twenty (120) days of District's consent; and
8. Pier 32 acknowledges that it will not seek rent relief as a result of not being able to meet its debt service or debt repayment obligations; and
9. The District's consent to this encumbrance is conditioned upon the leasehold not being subject to any other encumbrance, as confirmed by receipt of a full reconveyance of any existing encumbrances recorded in the Office of the Recorder of San Diego County within one hundred and twenty (120) days of District's consent.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District hereby consents to the encumbrance of Pier 32 Marina Group, LLC's leasehold estate by a \$6,200,000 deed of trust in favor of California Bank & Trust, with the conditions set forth above.

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 8th day of March, 2016, by the following vote:

AYES: Bonelli, Malcolm, Merrifield, and Valderrama.

NAYS: None.

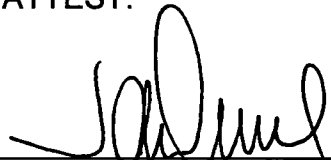
EXCUSED: Castellanos, Moore, and Nelson.

ABSENT: None.

ABSTAIN: None.


Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:


Timothy A. Deuel
District Clerk

(Seal)

