

## **RESOLUTION 2016-58**

### **RESOLUTION RESCINDING RESOLUTION NO. 2016-16 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 I (Port Act); and

**WHEREAS**, Section 21 of the Port Act authorizes the Board of Port Commissioners (BPC) to pass all necessary ordinances and resolutions for the regulation of the District; 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**, on or about December 2015, Pier 32 requested consent to an encumbrance of the leasehold in the amount of \$6,200,000 (Original 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**, on March 8, 2016, the BPC consented to the encumbrance of Pier 32's leasehold estate by a \$6,200,000 deed of trust in favor of California Bank & Trust (CB&T), with conditions pursuant to Resolution 2016-16;

**WHEREAS**, subsequent to the March 8, 2016 Board meeting, Pier 32 submitted documentation to the District requesting an amendment to the Original

Loan with CB&T to increase the Original Loan amount from \$6,200,000 to \$8,000,000 (New Loan);

**WHEREAS**, Pier 32 wishes to move forward with the New Loan instead of the Original Loan;

**WHEREAS**, the BPC must rescind Resolution No. 2016-16 consenting to the encumbrance of Pier 32's leasehold estate by a \$6,200,000 deed of trust in favor of CB&T, with conditions before it can consider the New Loan.

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

That Resolution No. 2016-16 consenting 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 conditions is hereby rescinded.

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 10<sup>th</sup> day of May 2016, by the following vote:

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

NAYS: None.

EXCUSED: Moore and Valderrama.

ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk

*for*

(Seal)

