

RESOLUTION 2019-125

RESOLUTION CONSENTING TO A SUBLEASE BETWEEN HYATT CORPORATION, AS AGENT OF HST SAN DIEGO HH LP, A DELAWARE LIMITED PARTNERSHIP (DBA MANCHESTER GRAND HYATT SAN DIEGO), AND MOBILITIE MANAGEMENT, LLC, A DELAWARE LIMITED LIABILITY COMPANY, TO INSTALL, OPERATE, AND MAINTAIN A MULTI-CARRIER, NEUTRAL HOST DISTRIBUTED ANTENNA SYSTEM AND/OR SIMILAR SYSTEM, FOR A TEN-YEAR TERM WITH ONE TEN-YEAR OPTION TO EXTEND (SUBLEASE) AND POTENTIAL FUTURE SUBLEASE OR SUBLICENSE OF THE NETWORK TO SPECIFIC CARRIERS (AT&T, VERIZON, T-MOBILE, OR SPRINT)

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; 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, the BPC adopted BPC Policy No. 355 to establish general policies for leasing District real estate assets; and

WHEREAS, the District entered into a sixty-six (66) year amended and restated lease (Lease) with Manchester Grand Resorts, L.P. (dba Manchester Grand Hyatt), on June 5, 2001 for the operation of two hotel towers providing over 1,600 guest rooms, meeting and banquet space, 909 restaurant seats, and 1,150 parking spaces, located at the southeast corner of Harbor Drive and Kettner Boulevard, in the City of San Diego; and

WHEREAS, Manchester Grand Hyatt leases the hotel and subleases the leased premises to HST San Diego HH LP (dba Manchester Grand Hyatt San Diego); and

WHEREAS, Hyatt Corporation (Hyatt) manages and operates the hotel on behalf of Manchester Grand Hyatt San Diego pursuant to a hotel management agreement consented to by the District, Hyatt is serving as agent for Manchester Grant Hyatt San Diego; and

WHEREAS, Hyatt requests the District's consent to a Sublease Agreement (Sublease) for (1) approximately four hundred twenty-four (424) square feet of the hotel as equipment space, and (2) additional areas located within and around the hotel for the placement of antennas, conduit, and other associated facilities to Mobilitie Management, LLC (Mobilitie), for the installation, construction, use, and maintenance of a multi-carrier, neutral host distributed antenna system and/or similar system, such as a small cell antenna system (System); and

WHEREAS, the System and associated equipment (e.g., antennas) will be dictated by the needs of the individual carriers that will potentially use the System; and

WHEREAS, the specific System details, aside from the location of the equipment space, are not currently known; however, the Sublease specifies that, once details of the System are known, additional approvals from the District and any and all other applicable governmental approvals, may be required for physical improvements; and

WHEREAS, the Sublease mandates that any System installations not materially interfere with the operation of the hotel as a first-class accommodation; and

WHEREAS, once the System is installed, guests of the hotel will have improved cellular coverage within and around the hotel; and

WHEREAS, the Sublease would specifically consent to Mobilitie's sublease or sublicense of the System to specific cellular carriers (AT&T, Verizon, T-Mobile or Sprint) through a Form Carrier Agreement; and

WHEREAS, any Carrier Agreement executed by Mobilitie and an approved carrier must be (1) in substantial conformance with the Form Carrier Agreement, attached to the Sublease as Exhibit 3: Form Carrier Agreement, and (2) submitted to the District within ninety (90) days of execution; and

WHEREAS, if the District determines that any executed Carrier Agreement is not in substantial conformance with the Form Carrier Agreement, the Carrier Agreement shall be void and District's prior written consent is required; and

WHEREAS, the proposed Sublease with Mobilitie would be for a term of ten (10) years and include one ten (10) year option to extend the term; and

WHEREAS, for long term subleases (more than five (5) years), BPC 355 states they must meet the following conditions as a requirement to consent of the sublease:

- Sublease must meet current District lease requirements
- Provide that the subtenant shall be obligated to pay any master lease rent increases that are applicable to the subleased premises
- Provide that in the event of a conflict between the master lease and the sublease, the master lease shall prevail

WHEREAS, Mobilitie's assignment of its interest in the Sublease requires the District's consent, unless the assignment is to one of two specified affiliate entities: (1) Mobilitie Investments III, LLC or (2) Mobilitie Investments IV, LLC; and

WHEREAS, Mobilitie provided District staff with information about Mobilitie Investments III, LLC and Mobilitie Investments IV, LLC, and staff has determined that those affiliated entities satisfy the District's tenant qualification requirements, as outlined in BPC 355; and

WHEREAS, District staff has determined that the proposed sublease is consistent with BPC 355, and recommends that the BPC adopt a resolution consenting to the sublease between Hyatt Corporation, as agent of HST San Diego HH LP, dba Manchester Grant Hyatt San Diego, and Mobilitie Management, LLC.

NOW THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby consents to a sublease between Hyatt Corporation, as agent of HST San Diego HH LP, a Delaware Limited Partnership, dba Manchester Grant Hyatt San Diego, and Mobilitie Management, LLC, a Delaware Limited Liability Company, to install, operate, and maintain a multi-carrier, neutral host distributed antenna system and/or similar system, for a ten-year term with one ten-year option to extend and potential future sublease or sublicense of the network to specific carriers (AT&T, Verizon, T-Mobile, or Sprint).

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 5th day of November 2019, by the following vote:


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

NAYS: None.

EXCUSED: None.


ABSENT: None.

ABSTAIN: None.



Garry J. Bonelli, Chairman
Board of Port Commissioners

ATTEST:



Donna Morales
District Clerk

(Seal)