

#200
11/26

RESOLUTION NUMBER R- 307842

DATE OF FINAL PASSAGE NOV 27 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING A NEW LEASE AGREEMENT
WITH BH PARTNERSHIP FOR THE BAHIA RESORT
PROPERTY LOCATED AT 998 WEST MISSION BAY DRIVE,
SAN DIEGO, CALIFORNIA.

WHEREAS, the City owns that certain real property located at 998 West Mission Bay Drive (Property), comprised of approximately 13.053 acres of land and 2.444 acres of water, which are improved with a resort hotel, marina facilities, and related improvements, situated in the Ventura Cove area of Mission Bay Park; and

WHEREAS, the Property is leased by BH Partnership, a California limited partnership, doing business as Bahia Resort Hotel (Lessee), and presently has a term that extends until March 2031; and

WHEREAS, Lessee has proposed a new lease agreement with the City, which would terminate the present lease and create a new lease with a new forty (40) year term (New Lease), which would extend Lessee's leasehold to approximately November 2052. Lessee has represented that the New Lease would facilitate Lessee obtaining financing for, among other things, a potential future redevelopment of the Property; and

WHEREAS, potential future redevelopment would conceivably entail capital investment and expansion and improvement of the Property facilities, which would: increase the value of the Property; increase percentage rents to City; increase Transient Occupancy Taxes to the City; and

contribute to the overall improvement, use, and increased attraction of Mission Bay Park to the benefit of residents, tourists, and the City, consistent with the Mission Bay Park Master Plan; and

WHEREAS, City staff have assessed and considered the present value of the Property, the benefits and revenues to the City under the current lease, and potential future benefits and revenues to the City of the proposed terms of the New Lease as part of their due diligence during negotiations of the New Lease. The New Lease is expected to benefit the City by way of increasing percentage rents, minimum annual base rent, and supplemental rental rates; by compensating for City's deferred interest in existing improvements; and by facilitating a potential significant redevelopment of the Property which would include substantial capital investment in the Property; and

WHEREAS, under the New Lease, any redevelopment by Lessee of the Property is not mandatory; however, if Lessee elects to redevelop the Property, any redevelopment will be proposed and described in comprehensive plans submitted through a future application by Lessee for all necessary use and development permits, subject to full review and approval by the City Council in its sole discretion at that time; and

WHEREAS, under the New Lease, in order to assist with Lessee financing, City has committed to agree in the future to a new term of fifty (50) years for a new lease agreement to be otherwise fully renegotiated at that future time. This agreement to a potential new term of fifty (50) years is on the strict condition and will only arise in the event that Lessee obtains approval by the City Council of a redevelopment of the Property, and that said City Council approval reviews and determines whether the then-proposed redevelopment justifies a new fifty (50) year lease agreement. In the event the City Council does not approve a redevelopment of the Property within ten (10) years of the effective date of the New Lease, then the agreement to a new term of

fifty (50) years for a new lease agreement shall expire, and all terms and conditions of the New Lease shall otherwise remain in full force and effect; and

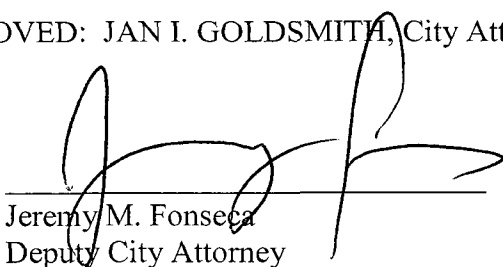
WHEREAS, by this New Lease and its contemplation of future redevelopment, the City has not made nor does presently make any determinations regarding any aspect, sufficiency, or legality of any potential redevelopment or aspect thereof; and

WHEREAS, by this New Lease and its contemplation of future redevelopment, the City has not represented, warranted, or guaranteed any future approval by the City Council of a potential redevelopment and the related, conditional new fifty (50) year lease term, nor presently does so; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Mayor is authorized to execute, for and on behalf of the City, the New Lease agreement with BH Partnership, a California limited partnership, for the 13.053 acres of land and 2.444 acres of water of City-owned property, along with all related structures, improvements, and facilities thereon, in the Ventura Cove area of Mission Bay Park, under the terms and conditions set forth in the New Lease agreement.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

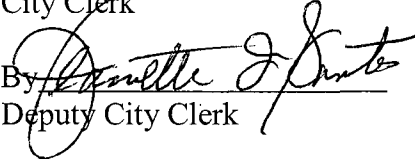


Jeremy M. Fonseca
Deputy City Attorney

JMF:mm
November 6, 2012
Or.Dept:READ
Doc. No.: 466760_2

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 26 2012

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 11-27-12
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor