

RESOLUTION NUMBER R-308013

DATE OF FINAL PASSAGE **MAR 13 2013**

A RESOLUTION OF THE COUNCIL OF THE CITY
OF SAN DIEGO DIRECTING THE MAYOR TO EXECUTE
A NEW 40-YEAR LEASE AGREEMENT WITH BH
PARTNERSHIP FOR THE BAHIA RESORT PROPERTY
LOCATED AT 998 WEST MISSION BAY DRIVE,
SAN DIEGO, CALIFORNIA.

WHEREAS, the City of San Diego (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 currently leased by BH Partnership, a California limited partnership, doing business as Bahia Resort Hotel (Lessee), under a lease agreement that has a term that extends until March 2031; and

WHEREAS, Lessee has proposed entering into a new lease agreement with the City which would terminate the current lease and create a new lease with a new forty (40) year term (New Lease), extending 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, a lease with the same terms and provisions of the New Lease was previously considered by the City Council on November 26, 2012, and was approved by Resolution

R-307842 (Prior Resolution). Due to the omission of a statement of market value of the subject real estate in the Prior Resolution, the City Council rescinded the Prior Resolution on February 26, 2013, pursuant to Resolution R- 308013 ; and

WHEREAS, as previously presented to the City Council, 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, the market value of the subject real estate is \$17.8 million; and

WHEREAS, City staff assessed and considered the present value of the Property, the benefits and revenues to the City under the current lease for the Property, and the potential future benefits and revenues to the City under the terms and provisions of the lease presented to the City Council on November 26, 2012, which terms and provisions are identical to the terms and provisions contained in 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 some future time. This agreement for a potential new term of fifty (50) years is on the strict condition that, 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 for 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

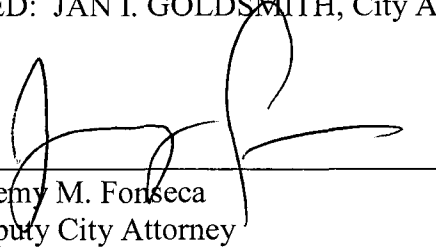
WHEREAS, by this New Lease and its contemplation of future redevelopment, the City has not made nor does presently make any determinations regarding any aspect, sufficiency, or legality of any potential redevelopment or aspect thereof; and

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 directed to execute, for and on behalf of the City, a new 40-year lease 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, located at 998 West Mission Bay Park, San Diego, CA 92019, on the terms and conditions of the lease agreement which is on file with the City Clerk as Document Number RR-308013

APPROVED: JAN I. GOLDSMITH, City Attorney

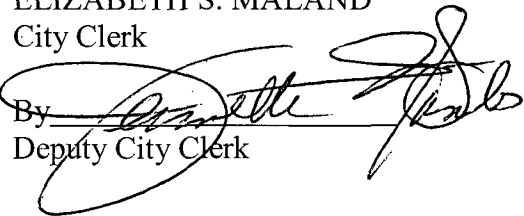
By 

Jeremy M. Fonseca
Deputy City Attorney

JMF:mm
February 19, 2013
February 27, 2013 Rev. Copy
Or.Dept:Council President Office
Doc. No.: 515499_5

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of ~~FEB 26 2013~~

Note: This resolution was returned unsigned by the Mayor's Office to the Office of the City Clerk on March 14, 2013, at 1:22 p.m. Pursuant to San Diego Charter Section 295 (a) (2), this resolution is deemed approved on March 13, 2013.

ELIZABETH S. MALAND
City Clerk
By 

Deputy City Clerk

Approved: _____
(date)

BOB FILNER, Mayor

Vetoed: _____
(date)

BOB FILNER, Mayor