

RESOLUTION NUMBER R- 310779

DATE OF FINAL PASSAGE DEC 01 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE EXECUTION OF THE CITY OF SAN DIEGO PERCENTAGE LEASE AND LICENSE AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND BRAEMAR PARTNESHIP, FOR THE LEASE OF THAT CERTAIN PORTION AND THE USE OF THOSE PORTIONS OF THE CITY-OWNED PROPERTY LOCATED IN MISSION BAY PARK, ALL OF WHICH ARE LOCATED ADJACENT TO THE CATAMARAN RESORT HOTEL AND SPA WHICH IS LOCATED AT 3999 MISSION BOULEVARD, SAN DIEGO, CALIFORNIA.

WHEREAS, the City of San Diego (City) owns approximately 0.64 acres of land and 0.85 acres of water commonly known as the Catamaran Pier (Lease Premises), located adjacent to the Catamaran Resort Hotel and Spa, which is located at 3999 Mission Boulevard, San Diego, CA 92109 (Catamaran Hotel), in Mission Bay Park; and

WHEREAS, City further owns the following areas which are located adjacent to the Catamaran Hotel, in Mission Bay Park: (1) approximately 0.133 acres of land (License Area A); (2) approximately 0.266 acres of land (License Area B); (3) approximately 0.595 acres of land (License Area C); and (4) approximately 0.405 acres of land (License Area D); and

WHEREAS, in 1977, City entered into a lease agreement (Original Lease) with William D. Evans, predecessor in interest to Braemar Partnership, a California limited partnership (Braemar), for the construction, operation and maintenance of the Lease Premises; and

WHEREAS, in 2004, City and Braemar entered into a license agreement (License Agreement) for the operation of beach chair, umbrella, boat rentals, and food and beverage service for Catamaran Hotel guests and the general public on License Area A; and

WHEREAS, the Original Lease and the License Agreement expired in November 2014; since that time Braemar has continued to have use and occupancy rights to the Lease Premises and License Area A by means of legal holdover status under the Original Lease and License Agreement; and

WHEREAS, in 2013, City and Braemar entered into a permit (Permit) for operation of beach chair, umbrella, complimentary movie screening, and food and beverage service for Catamaran Hotel guests and the general public on License Area B; and

WHEREAS, the Permit expired in August 2016; since that time Braemar has continued to have use and occupancy rights to License Area B by means of legal holdover status under the Permit; and

WHEREAS, Braemar has requested a new ten-year lease and license agreement (Agreement), with an option to extend the Agreement for an additional five years, for the same uses as authorized in the Original Lease, License Agreement and Permit; the Agreement will consolidate into one document all of the terms and conditions concerning the Lease Premises and License Areas A and B, and will also include the use of new license areas License Area C and License Area D (collectively the "Premises"); and

WHEREAS, the current annual rent under the Original Lease is the greater of \$30,272 annually or 10% of gross revenue of all operations on the Lease Premises; the current annual rent under the License Agreement is the greater of \$500 annually or 10% of gross revenue of all operations on License Area A; and the current annual rent under the Permit is the greater of \$250 annually or 10% gross revenue of all operations on License Area B; and

WHEREAS, the initial rent under the proposed Agreement will be the greater of \$41,000 annually or 10% of gross revenue of all operations conducted on the Premises; beginning on the

commencement of the fifth lease year, the rent will increase to 80% of the annual average of all rents paid during the preceding three years; and

WHEREAS, staff recommends entering into the Agreement because the Agreement will provide for improved services and products to the general public on the Premises, as well as to Catamaran Hotel guests; and

WHEREAS, the market value of the real estate subject to the Agreement, as appraised by City staff, is \$620,000; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Mayor, or his designee, is authorized and directed to execute the City of San Diego Percentage Lease and License Agreement between the City of San Diego and Braemar Partnership, the terms of which are more fully set forth therein, and which is on file in the Office of the City Clerk as Document No. RR- 310779.

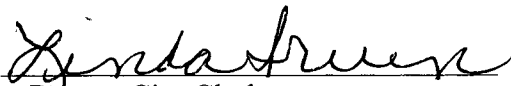
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Hilda R. Mendoza
Deputy City Attorney

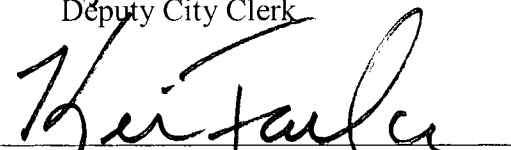
HRM:als
11/01/2016
Or.Dept: Real Estate Assets
Doc. No.: 1377118

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 15 2016.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 11/28/16
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

NOV 15 2016

Passed by the Council of The City of San Diego on _____, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage **DEC 01 2016**

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Lynnda Brown*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- <u>310779</u>