

DRAFT

RESOLUTION 20xx-xxx

**RESOLUTION AMENDING SECTION 4 OF
RESOLUTION NO. 2016-139 TO MODIFY THE
SCOPE OF SUNROAD ENTERPRISES'
PROPOSED DEVELOPMENT ON THE ELBOW
SITE FROM A 325-ROOM HOTEL THAT DOES NOT
REQUIRE A PORT MASTER PLAN AMENDMENT
TO AN APPROXIMATELY 500-ROOM HOTEL OR
UP TO TWO ADDITIONAL HOTELS WITH 325
ROOMS, 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 1, (Port Act); 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, on July 14, 2015, the Board of Port Commissioners (BPC) directed staff to issue a request for Statements of Interest, Qualifications and Vision (SOIQV) for the redevelopment of approximately 48 acres within the East Basin Industrial Subarea of Planning District 2 (East Basin Industrial Subarea Site); and

WHEREAS, on October 6, 2015, the BPC directed staff to also include a parcel adjacent to the East Basin Industrial Subarea Site, commonly known as the "elbow parcel" (Elbow Site); and

WHEREAS, the Elbow Site and East Basin Industrial Subarea Site are collectively referred to as, the "Site"; and

WHEREAS, at the September 8, 2016 meeting, the BPC bifurcated the Site and selected Sunroad Enterprises (Sunroad) to develop the Elbow Site and OliverMcMillan, Inc. (OM) to develop the East Basin Industrial Subarea Site and directed staff to enter into an Exclusive Negotiating Agreement (ENA) with each developer for their respective sites; and

WHEREAS, for the Elbow Site, the BPC directed staff to enter into an ENA with Sunroad for a 325-room hotel that does not require a Port Master Plan Amendment (PMPA); and

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WHEREAS, following the parameters of Resolution 2016-139, staff successfully negotiated an ENA with Sunroad HIE Hotel Partners, L.P., a California limited partnership (Sunroad Partnership), the entity designated by Sunroad for development of the Elbow Site, for a proposed development with a 325-room hotel that doesn't require a PMPA (Sunroad ENA); and

WHEREAS, the District has been in ongoing litigation with the California Coastal Commission (CCC) regarding Port Master Plan Amendment No. PMP-6-PSD-14-003-2 (East Harbor Island Subarea) that would allow the development of three hotels on the Elbow Site and adjacent site totaling 500 rooms consisting of a 175-room hotel and up to two additional hotels with 325 rooms (Litigated PMPA); and

WHEREAS, since the CCC has not reconsidered the Litigated PMPA, Sunroad has requested an amendment to Resolution 2016-139 that would permit Sunroad to proceed under the current Port Master Plan (PMP), which allows for the development of a high quality hotel of approximately 500 rooms that includes restaurant, cocktail lounge, meeting and conference space, recreational facilities, including piers, and ancillary uses (Existing Entitlement), but gives it the flexibility to change to up to two additional hotels with 325 rooms as set forth in the final Port Master Plan Amendment No. PMP-6-PSD-14-003-2 (East Harbor Island Subarea) pursuant to 14 California Code of Regulations Section 13632(e) (Modified Entitlement); and

WHEREAS, if the BPC approves the amendment to Resolution 2016-139, staff would administratively enter into an amendment to the Sunroad ENA with the Sunroad Partnership to revise the requirements of the proposed development to allow the Sunroad Partnership to proceed with the Existing Entitlement unless the Modified Entitlement succeeds the Existing Entitlement by a date certain to be administratively negotiated by Sunroad Partnership and District staff; and

WHEREAS, the proposed BPC actions to amend section 4 of Resolution No. 2016-139 to modify the scope of Sunroad Enterprises' proposed development does not constitute an "approval" of a project under the California Environmental Quality Act (CEQA) because the BPC's authorization does not constitute a binding commitment to approve the amended proposed development or any other associated discretionary approvals; and

WHEREAS, the proposed BPC action allows the District to administrate its obligations under the Port Act which is consistent with the Public Trust Doctrine; and

WHEREAS, the proposed BPC action does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit (CDP) Regulations; and

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WHEREAS, staff recommends the BPC adopt the resolution amending Section 4 of Resolution 2016-139 to modify the scope of the proposed development on the Elbow Site from a 325-room hotel that does not require a PMPA, to an approximately 500-room hotel under the Existing Entitlement or up to two additional hotels with 325 rooms under the Modified Entitlement, subject to the timelines to be administratively negotiated by Sunroad Partnership and District staff.

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

That Section 4 of Resolution No. 2016-139 is hereby amended to read as follows:

“4. That staff is hereby directed to enter into an Exclusive Negotiating Agreement with Sunroad HIE Hotel Partners, L.P., a California limited partnership (Sunroad Partnership), the entity designated by Sunroad Enterprises for development of the Elbow Site, for (i) a high quality hotel of approximately 500 rooms that includes restaurant, cocktail lounge, meeting and conference space, recreational facilities, including piers, and ancillary uses on the Elbow Site; or (ii) up to two additional hotels with 325 rooms on the Elbow Site as set forth in the final Port Master Plan Amendment No. PMP-6-PSD-14-003-2 (East Harbor Island Subarea) pursuant to 14 California Code of Regulations Section 13632(e), subject to timelines to be administratively negotiated by Sunroad Partnership and District staff in the Exclusive Negotiating Agreement; and”.

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 10th day of October 2017, by the following vote: