



## RIGHT OF ENTRY AGREEMENT

This RIGHT OF ENTRY AGREEMENT (the “Agreement”) is made by and between Ferry Landing Associates, LLC, a California limited liability company (hereinafter the “Ground Lease Tenant”), with a mailing address of 1311 First Street, Coronado, California 92118, and holding a leasehold interest in the real estate commonly known as 1201, 1333 & 1395 1st Street, Coronado, California 92118 (hereinafter the “Property”), and the City of Coronado, a California municipal corporation and public agency (the “City”), with a mailing address of 1825 Strand Way, Coronado, California 92118. This Agreement commences on the later of the execution dates set forth below the signatures (hereinafter the “Effective Date”). City and Ground Lease Tenant may individually be referred to as a “Party” or collectively as the “Parties.” Ground Lease Tenant represents and warrants that Ground Lease Tenant is the ground tenant and holder of the leasehold interest in and to the Property under that certain Lease Agreement dated October 21, 1997 together with all subsequent amendments thereto (collectively, “Lease”) by and between San Diego Unified Port District (“Lessor”) and Ground Lease Tenant, and, pursuant to the Lease, has full power and authority to grant to City the rights of entry set forth in this Agreement.

### THE PARTIES AGREE AS FOLLOWS:

1. Right of Entry. In consideration of the mutual benefits and obligations set forth herein, Ground Lease Tenant hereby authorizes City, its officers, agents, employees and contractors, to enter upon the Property in the area depicted on the map attached hereto as Exhibit A and incorporated fully herein by this reference (the “Work Area”), in connection with the following work (collectively, the “Work”):

The City’s Work will primarily include, but is not limited to, the following: demolish existing attendant booth, portions of pavement, curb and sidewalk, remove 3 palm trees and grass landscaping. City will install three hundred and seventy (370) linear feet of ten-inch diameter (10) storm drain force main, install a new six-foot diameter (6) storm water wet well and a storm water valve vault, install PVC pipeline in existing wetwell, a new check valve at the existing gravity storm drain outfall, and electrical components for a new meter pedestal. City will backfill excavations and restore surface improvements including hardscape and landscape areas.

All Work will be completed as shown on project plans, drawing number S-304, as are on file with the City of Coronado at 1825 Strand Way Coronado, CA 92118, and City shall take all reasonable steps to perform the Work in and upon the Work Area in reasonable consultation with Ground Lease Tenant to achieve the following: (a) to schedule and perform the Work exclusively during the Term (defined below) of this Agreement, save and except minor punch list Work incidental thereto, it being understood by the Parties that the Work shall occur and be completed during the offseason calendar months of October through March notwithstanding the actual commencement of the Term of this Agreement, and (b) to produce a minimum

amount of interference to the operations and business of Ground Lease Tenant and any of its subtenants with respect to the Property in accordance with Section 23 of the Lease. In the event that the Work cannot be completed by the City within the Term in accordance with the foregoing, Ground Lease Tenant shall have the right to delay the City's commencement of the Work until October 1, 2026, with such notice to be delivered in writing no later than three (3) business days following the date of City's advisement to Ground Lease Tenant of its final Work schedule (the "Right to Delay Work"), and in such case, the Work shall be completed by the City no later than March 1, 2027. City covenants to Ground Lease Tenant that it shall, at its sole expense, repair any and all damage to the Property or any part thereof resulting or arising from the Work performed by or on behalf of City pursuant to this Agreement.

2. Ground Lease Tenant's Representations. Ground Lease Tenant represents and warrants that it is the ground lessee interest holder of the Property upon which the Work Area is located, and that no other person or entity has any rights in the forgoing that conflict with City's rights under this Agreement.

3. Responsibility to Mark Private Underground Lines. If Ground Lease Tenant or Lessor has private underground lines at the Work Area, including, but not limited to, sprinklers, sprinkler heads, drains, cables, conduit, pipes or wires (collectively "Impacted Private Lines") then both Parties shall, work together, to the best of their abilities, to research the existence of all Impacted Private Lines (hereinafter "Joint Effort"). In order to facilitate the Joint Effort, Ground Lease Tenant provides below its authorized representative (with contact information) regarding the Joint Effort:

Name: Christian Herrera, General Manager  
 Address: 1311 First Street, Coronado, CA 92118  
 Email: [cherrera@coronadoferrylanding.com](mailto:cherrera@coronadoferrylanding.com)  
 Phone: 619.522.6187

4. Insurance. City shall maintain, at City's sole cost and expense, (i) commercial general liability insurance, including Property Damage, Bodily Injury and contractual liability insurance subject to standard insurance carrier exclusions, in the amount of \$2,000,000 each occurrence, \$4,000,000 aggregate covering damages to the Work Area and/or to the Property to the extent caused by acts or omissions of City, (ii) Auto Liability, including Bodily Injury and property damage in the amount of \$1,000,000 each accident, and (iii) worker's compensation insurance in compliance with California laws. Ground Lease Tenant and Ground Lease Tenant's Property Manager shall be listed as additional insured under blanket endorsement.

5. Term. The term of this Agreement ("Term") shall commence on the Effective Date hereof and shall remain in full force and effect until March 1, 2026; provided, however, the Term shall be subject to adjustment pursuant to Ground Lease Tenant's Right to Delay Work pursuant to the terms and conditions of Section 1.

6. Accessibility of the Property. Construction activity by the City during the Term is expected to occur during normal business hours, 7am – 5pm, Monday – Friday, excepting City-observed holidays. Traffic control will be required to facilitate construction

activity. Unless otherwise approved by both Ground Lease Tenant and City, at least one lane of traffic will be maintained through the work zone at all times to accommodate traffic in and out of the Ferry Landing area, including but not limited to the Property.

7. Indemnification. City agrees to indemnify, defend and hold Ground Lease Tenant and its officers, directors, managers, members, employees, contractors, agents, subtenants and licensees harmless from and against any and all damages, liabilities, penalties, fines, costs and expenses (including reasonable attorneys' fees) arising from third party suits and claims for bodily injury, including death, to persons or damage to property caused by or resulting from City's acts or omissions in the performance of the Work, except to the extent caused by the negligence or willful misconduct of Ground Lease Tenant.

8. Reimbursement. Upon receipt of sufficient documentation, City agrees to reimburse Ground Lease Tenant for its actual and reasonable attorney fees, which shall in no event exceed \$2,000, incurred in connection with reviewing this Agreement before its execution.

9. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the Parties with respect to, and supersedes all prior agreements, promises and understandings, whether oral or written, with respect to, the subject matter contained herein. This Agreement shall not be modified, amended, supplemented or revised, except by a written document signed by both Parties.

10. Governing Law and Venue. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of San Diego. Ground Lease Tenant hereby waives the right to remove any action from San Diego County as is otherwise permitted by California Code of Civil Procedure Section 394.

11. Drafting Ambiguities. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision that is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

12. Severability. In the event that any part of this Agreement is found to be illegal or unenforceable under the law as it is now or hereafter in effect, either Party will be excused from performance of such portion, or portions of this Agreement as shall be found to be illegal or unenforceable without affecting the remaining provisions of this Agreement.

13. Counterparts and Electronic Signatures. This Agreement may be signed in several counterparts, each of which will be fully effective as an original and all of which together will constitute one and the same instrument. This Agreement may be signed electronically by DocuSign® or similar method and signatures may be transmitted by facsimile or email, any of which will be deemed the equivalent of an original signature.

14. Signatories. Each signatory and Party hereto hereby warrants and represents to the other Party that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all resolutions or other actions have been taken so as to enable it to enter into this Agreement.

IN WITNESS WHEREOF, the Parties have executed this this on the dates set forth below their respective signatures, with this Agreement effective upon execution by both Parties as of the date first indicated above.

**City of Coronado**

**Ferry Landing Associates, LLC, a California limited liability company**

By: \_\_\_\_\_  
Tina Friend  
City Manager

By: \_\_\_\_\_  
Christian Herrera, General  
Manager and Authorized  
Signatory

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Leon Firsh Director of Public Services and Engineering      Date

**APPROVAL AS TO FORM:**

\_\_\_\_\_  
Johanna N. Canlas, City Attorney      Date

**ATTEST:**

\_\_\_\_\_  
Kelsea Holian, MMC, CPM      Date  
City Clerk

# EXHIBIT A

## MAP OF WORK AREA



Work Zone Area