

Attachment C to Agenda File No. 2025-175

FIRST AMENDMENT TO OPTION TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO OPTION TO LEASE AGREEMENT ("**Amendment**") is entered into as of _____, 2025, by and between the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation ("**District**"), and HIW ASSOCIATES, L.P., a California limited partnership, dba Harbor Island West Marina ("**Optionee**").

RECITALS

WHEREAS, on January 8, 2024, District and Optionee entered into an Option to Lease Agreement ("**Option**") of certain tidelands in the city of San Diego, California, which Option is on file in the Office of the District Clerk bearing Document No. 76277; and

WHEREAS, terms capitalized but not otherwise defined in this Amendment shall have the definitions ascribed to them in the Option; and

WHEREAS, District and Optionee are mutually desirous of amending said Option; and

NOW THEREFORE, for valuable consideration, said Option is hereby amended as set forth in this Amendment and no others, and except as expressly amended, all terms, covenants, and conditions of said Option shall remain in full force and effect.

AGREEMENT

1. Option Term. The Termination Date set forth in the Option is hereby extended by amending the Termination Date to 5:00 p.m. on September 15, 2025.

2. Payment and Performance Bond. Section 5(e) of the Option is hereby amended and replaced in its entirety as follows:

- e. Payment and Performance Bonds: No later than one month prior to the Termination Date, Optionee shall provide to District: (i) evidence, reasonably acceptable to the District, that a Performance Bond (as defined in the Amended and Restated Lease) guaranteeing that construction will be timely completed in accordance with the requirements of Section 6 of the Amended and Restate Lease will be issued concurrently with the effectiveness of the Amended and Restated Lease; (ii) evidence that a Payment Bond (as defined in the Amended and Restated Lease) guaranteeing payment for all materials, provisions, supplies and equipment used in, upon, for or about the performance of the construction of the Project or for labor done in connection therewith and protecting District from any and all liability, loss or damages arising out of or in connection with any failure to make any such payments will be issued concurrently with the effectiveness of the Amended and Restated Lease. Both the Performance Bond and the Payment Bond shall be in form and substance as required forth in the Amended and Restated Lease and in each case satisfactory to District's Executive Director (or their designee) in their reasonable discretion.

3. Miscellaneous.

a. If Optionee is a corporation, partnership, or limited liability company, each individual executing this Amendment on behalf of Optionee hereby represents and warrants that Optionee is a duly formed and existing entity qualified to do business in California and that Optionee has full right and authority to execute and deliver this Amendment and that each person signing on behalf of Optionee is authorized to do so.

b. Except as modified by this Amendment, the Option is hereby ratified and confirmed.

c. Each of the provisions of this Amendment shall extend to and shall, as the case may require, bind or inure to the benefit not only of District and of Optionee, but also of their respective heirs, successors or assigns.

d. The Recitals first set forth above are hereby incorporated into the terms of this Amendment.

e. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement. Any facsimile or copies of original signatures or signatures delivered electronically (such as .pdf, .tif, or other electronic files or via DocuSign or SignNow) shall be considered and treated as if they were original signatures.

(SIGNATURE ON FOLLOWING PAGE)

IN WITNESS WHEREOF, District and Optionee have executed this First Amendment to Option to Lease Agreement as of the day and the year first above written.

APPROVED AS TO FORM AND LEGALITY
GENERAL COUNSEL

By: _____
Assistant/Deputy

SAN DIEGO UNIFIED PORT DISTRICT

By: _____
Adam J. Meyer
Acting Director, Real Estate

HIW ASSOCIATES, L.P.,
a California limited partnership

By: _____

Name: _____

Title: _____