

**DRAFT****SAN DIEGO UNIFIED PORT DISTRICT****ORDINANCE xxxx****ORDINANCE GRANTING AMENDMENT NO. 1 TO  
AN OPTION TO LEASE AGREEMENT WITH HIW  
ASSOCIATES, LP, FOR A 40-YEAR AMENDED AND  
RESTATED LEASE WITH ONE 10-YEAR OPTION  
TO EXTEND FOR THE OPERATION OF HARBOR  
ISLAND WEST MARINA, EXTENDING THE TERM  
OF THE OPTION TO LEASE AGREEMENT**

**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 I (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**, Harbor Island West Marina (Marina), operated by HIW Associates, L.P., a California limited partnership (HIW), is an existing landside and waterside marina facility located at 2040 Harbor Island Drive on Harbor Island in San Diego that provides services and amenities to the boating community along with waterfront access opportunities to the public; and

**WHEREAS**, HIW's Current Lease<sup>1</sup> commenced August 31, 1981 and expired March 30, 2023; since expiration HIW has continued to occupy the leased premises under the Current Lease's holdover provisions; and

**WHEREAS**, on January 8, 2024, HIW entered into an Option to Lease Agreement<sup>2</sup> (Option) with the San Diego Unified Port District (District) for redevelopment of the Marina; and

**WHEREAS**, HIW's planned redevelopment of the Marina (Project) would completely redevelop the landside and waterside marina facilities at an estimated total cost of \$67.6 million; and

**WHEREAS**, the landside improvements include demolishing and replacing existing buildings, parking, and landscaping; and

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<sup>1</sup> Lease dated August 10, 1981 on file in the Office of the District Clerk as Document No. 14085, as amended by that certain First Amendment to Lease dated September 8, 1994 on filed in the Office of the District Clerk as Document No. 31805 (the "Current Lease").

<sup>2</sup> Option to Lease Agreement dated January 10, 2024, on file in the Office of the District Clerk as Document No. 76277 (the "Option").

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**WHEREAS**, the waterside improvements include replacing existing aged dock structures and reconfiguring slips to accommodate a wider range of recreational vessel sizes and to create more slip opportunities for a greater diversity of boaters; and

**WHEREAS**, the Project is expected to significantly modernize the Marina and ensure its long-term viability; and

**WHEREAS**, the Option includes an attachment of a 40-year Amended and Restated Lease with one 10-year option to extend (A&R Lease), which HIW may execute following (1) HIW's timely satisfaction of all conditions precedent specified in the Option and (2) HIW's exercise of the Option; and

**WHEREAS**, the Option had a term of eighteen months, which expired on June 14, 2025, and the conditions precedent are to ensure HIW is ready to commence Project construction once the A&R Lease is executed; and

**WHEREAS**, HIW satisfied all but two of the conditions precedent prior to the June 14, 2025 expiration— issuance of final landside building permits from the City of San Diego and procurement of payment and performance bonds related to Project construction; and

**WHEREAS**, HIW has diligently pursued completion of the conditions precedent to obtain all required approvals and permits necessary to construct the Project<sup>3</sup>, and the final building permits for the landside improvements were issued by the City of San Diego on July 3, 2025; and

**WHEREAS**, HIW's surety companies set to issue the requisite payment and performance bonds require project financing to close prior to bond issuance, and financing is to close concurrently with execution of the A&R Lease; and

**WHEREAS**, the proposed First Amendment to Option to Lease Agreement (see Attachment C to the agenda to which this Ordinance relates) (Amendment) will extend the deadline by which the City building permits are required to be issued to satisfy the Option's conditions precedent by extending the Option term through September 15, 2025 as well as allow HIW to provide evidence to District's reasonable satisfaction that payment and performance bonds will be issued upon the exercise of the Option and execution of the A&R Lease; and

**WHEREAS**, the time extension will also allow HIW to finalize construction financing for the Project; and

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<sup>3</sup> On November 14, 2023, by Resolution Nos. 2023-104, 2023-105, and 2023-106, the Board adopted a Mitigated Negative Declaration, granted concept approval, and authorized an appealable Coastal Development Permit for the Project.

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**WHEREAS**, since January 2024, HIW has diligently pursued the timely satisfaction of all Option conditions precedent and is nearly ready to close construction financing and break ground on this exciting Project that will benefit Port tidelands; and

**WHEREAS**, the proposed Board action, including without limitation, the approval of the Amendment was adequately analyzed in the Mitigated Negative Declaration (MND) for the Harbor Island West Marina Redevelopment Project (UPD# MND-2013-80; SCH# 2019129019, Clerk Document No. 76101) prepared and adopted by the District on November 14, 2023 (Resolution No. 2023-104); and

**WHEREAS**, the proposed project is not a separate project for CEQA purposes but is a subsequent discretionary approval related to a previously approved project (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036); and

**WHEREAS**, additionally, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the MND, the District finds and recommends that the proposed Board action does not require further environmental review; and

**WHEREAS**, the proposed Board action complies with Section 87 of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation; and

**WHEREAS**, the Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine; consequently, the proposed Board action is consistent with the Public Trust Doctrine; and

**WHEREAS**, the proposed Board action was covered in the Coastal Development Permit (CDP) for Harbor Island West Marina Redevelopment (CDP-2023-04; Clerk Document No. 76232) approved for issuance by the District on November 14, 2023 (Resolution No. 2023-106), and the proposed Board action is consistent with the CDP; as a result, no additional action under the California Coastal Act is required at this time; and

**WHEREAS**, the terms set forth in the proposed Amendment will aid in the delivery of a successful project that will benefit District tidelands; and

**WHEREAS**, in light of the foregoing, staff recommends that the Board approve the First Amendment to Option to Lease Agreement in substantial form

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and substance as Attachment C to the Agenda Sheet to which this Ordinance relates.

**NOW, THEREFORE,** the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

1. The First Amendment to Option to Lease Agreement with HIW Associates, L.P. in substantial form of Attachment C to the corresponding Agenda Sheet to which this Ordinance relates is hereby approved.

2. The Executive Director or his designated representative is hereby authorized to execute said First Amendment to Option to Lease in substantial form of Attachment C to the corresponding Agenda Sheet to which this Ordinance relates.

3. This Ordinance shall take effect on the 31<sup>st</sup> day from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:  
GENERAL COUNSEL

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By: Assistant/Deputy General Counsel

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 15<sup>th</sup> day of July, 2025, by the following vote: