

Recording requested by  
and when recorded return to:

San Diego Unified Port District  
Post Office Box 120488  
San Diego, CA 92112-0488  
Attention: Director, Real Estate Department

---

(Space Above for Recorder's Use Only)

### DECLARATION OF RECIPROCAL EASEMENTS

THIS DECLARATION OF RECIPROCAL EASEMENTS (this “**Declaration**”) is made and entered into as of the [ ● ] day of [ ● ], 2022 (“**Effective Date**”) by the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (“**Declarant**”), RIDA Chula Vista, LLC, a Delaware limited liability company (“**RIDA**”), the City of Chula Vista, a charter city of the State of California duly organized and existing under and by virtue of the Constitution and laws of the State of California (the “**City**”), and the Chula Vista Bayfront Facilities Financing Authority, a California joint exercise of powers authority (the “**JEPA**”).

### RECITALS:

A. All capitalized terms used in these Recitals, if not otherwise defined in the Recitals, shall have the meanings set forth in Article I hereof.

B. Declarant is the owner in trust of the Property pursuant to the San Diego Unified Port District Act, California Harbors and Navigation Code, Appendix 1. The Property is comprised of the Hotel Parcel and the CC Parcel.

C. Immediately after the execution of this Declaration:

(i) Declarant and RIDA are entering into the Hotel Ground Lease, pursuant to which, among other things, Declarant leases to RIDA the Hotel Parcel and any Improvements that are located thereon as of the date hereof;

(ii) pursuant to the Hotel Ground Lease, RIDA will construct the Hotel Improvements;

(iii) Declarant and the JEPA are entering into the CC Site Lease, pursuant to which, among other things, Declarant leases to the JEPA the CC Parcel and any Improvements that are located thereon as of the date hereof;

(iv) the JEPA and the City are entering into the CC Facility Lease, pursuant to which, among other things, the JEPA subleases to the City the CC Parcel and any Improvements (except the CC Improvements) that are located thereon as of the date hereof and the JEPA leases to the City the CC Improvements;

(v) the City and RIDA are entering into the CC Sublease, pursuant to which, among other things, the City sub-subleases to RIDA the CC Parcel and any Improvements (except the CC Improvements) that are located thereon as of the date hereof and the City subleases to RIDA the CC Improvements; and

(vi) in connection with, among other things, the construction of the CC Improvements by RIDA, each of Declarant, the JEPA, the City and RIDA are entering into the Project Implementation Agreement.

D. It is the purpose and intent of this Declaration to subject the Property to the reciprocal easements hereinafter described for the mutual benefit of Declarant, the Owners, and each of their Permittees (as defined below).

NOW, THEREFORE, Declarant does hereby impose the following easements and encumbrances upon the Property, which shall be binding upon and inure to the benefit of Declarant, the Owners and their respective Permittees, and which shall attach to and run with the Property, and shall be a limitation upon any future Owner or Owners of any part of the Property, and the Owners hereby accept such easements and encumbrances.

## ARTICLE I

### DEFINITIONS

**1.1 “Applicable Laws”** means any statute, law, ordinance, regulation, rule, code, order, injunction, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any federal, state or local government or political subdivision thereof, or any legislative, judicial, administrative or regulatory agency or other non-governmental regulatory authority or quasi-governmental authority (in each case, to the extent that the rules, regulations or orders of such organization or authority have the force of law), or any arbitrator, court or tribunal of competent jurisdiction, as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under such statute) and references to any section of any applicable law or other law include any successor to such section. Said “Applicable Laws” shall include, but are not limited to those prescribed by the Declarant; any applicable ordinances of the City, including the Building Code thereof; any ordinances and general rules of the Declarant, including tariffs and policies; and any applicable laws of the state of California and federal government, as any of the same now exist or may hereafter be adopted or amended. In particular and without limitation, Permittees shall have the sole and exclusive responsibility to comply with the requirements of: (i) Article 10 of District Code entitled "Stormwater Management and Discharge Control", and (ii) the Americans With Disabilities Act of 1990, including but not limited to regulations promulgated thereunder.

**1.2 “Authorized Parties”** means the tenants, subtenants, licensees, sublicensees, occupants, contractors, subcontractors, consultants, invitees, guests and customers of a Permittee and any and all subtenants, licensees, sublicensees, occupants, contractors, subcontractors, consultants, invitees, guests and customers of a Permittee’s tenants, subtenants, sub-subtenants, licensees, sublicensees and occupants.

**1.3 “Buildings”** means all buildings and structures now or hereafter located in, on, under, within or upon the Property.

**1.4 “Central Plant”** means a central plant to be located on the CC Parcel.

**1.5 “CC Improvements”** means an approximately 275,000 net usable square foot convention center, together with ancillary improvements related thereto, in each case to be constructed on the CC Parcel in accordance with the Project Implementation Agreement.

**1.6 “CC Facility Lease”** means that certain Facility Lease, dated as of the date hereof, by and between the JEPA and the City, as the same may be amended, restated, extended, supplemented or modified from time to time, and as the same may be replaced by a substitute sublease with the CC Facility Lease Tenant of all or substantially all of the CC Parcel as permitted under the CC Facility Lease.

**1.7 “CC Facility Lease Tenant”** means the City and its permitted successors and assigns that are the subtenant under the CC Facility Lease, from time to time in effect.

**1.8 “CC Parcel”** means the land described on Exhibit A-1 and all Improvements located thereon, as the same may be modified from time to time due to condemnation.

**1.9 “CC Parcel Owner”** means the Owner of the CC Parcel.

**1.10 “CC Site Lease”** means that certain Site Lease, dated as of the date hereof, by and between Declarant and the JEPA, as the same may be amended, restated, extended, supplemented or modified from time to time, and as the same may be replaced by a substitute lease with the CC Site Lease Tenant of all or substantially all of the CC Parcel as permitted under the CC Site Lease.

**1.11 “CC Site Lease Tenant”** means the JEPA and its permitted successors and assigns that are the tenant under the CC Facility Lease, from time to time in effect.

**1.12 “CC Sublease”** means that certain Sublease Agreement (Chula Vista Bayfront Convention Center), dated as of the date hereof, by and between the City and RIDA, as the same may be amended, restated, extended, supplemented or modified from time to time, and as the same may be replaced by a substitute sub-sublease with the CC Sublease Tenant of all or substantially all of the CC Parcel as permitted under the CC Sublease (including, without limitation, any New Sublease under and as defined in the CC Sublease).

**1.13 “CC Sublease Tenant”** means the sub-subtenant under the CC Sublease, from time to time in effect, and any sub-subtenant under a New Sublease under and as defined in the CC Sublease. As of the date hereof, the CC Sublease Tenant is RIDA.

**1.14** “**City**” has the meaning set forth in the preamble hereto.

**1.15** “**Common Areas**” means those portions of the CC Parcel and Hotel Parcel which are designed, improved, used or intended to be used for common use by or for the benefit of all Owners and their respective Permittees including the following: (a) lobbies; (b) truck loading docks and receiving area and platforms; (c) exterior walks and sidewalks; (d) the common utility shafts, ducts and mechanical rooms including chiller rooms and fuel farm areas; (e) the common utility Facilities; (f) the common freight elevators; (g) emergency egress stairwells; (h) the shared areas on the Building roof; and (i) the escalators and escalator connections.

**1.16** “**Declarant**” has the meaning set forth in the preamble hereto.

**1.17** “**Declaration**” means this Declaration of Reciprocal Easements, including all Exhibits, appendices, amendments and supplements hereto.

**1.18** “**Easements**” means all easements granted, provided for, declared or created pursuant to or in accordance with the terms and provisions of this Declaration.

**1.19** “**Emergency Situation**” means (a) a situation impairing or imminently likely to impair structural support for the Improvements; (b) a situation causing or imminently likely to cause bodily injury to persons or substantial physical damage to all or any material portion of the Improvements or any property within or about the Improvements; (c) a situation causing or imminently likely to cause substantial economic loss to an Owner or one or more Permittees; or (d) a situation which materially interferes with use by an Owner or one or more Permittees of the Improvements or the Easements granted hereunder. The duration of an Emergency Situation shall be deemed to include the time reasonably necessary to remedy the Emergency Situation.

**1.20** “**Facilities**” means and includes all improvements and fixtures located on the Property, including, all annunciators, antennae, boxes, brackets, cabinets, cables, coils, computers, conduits, controls, control centers, coolers, cooling towers, couplers, devices, ducts equipment (including heating, ventilating, air conditioning and plumbing equipment), fans, fixtures, generators, hangers, heat traces, indicators, junctions, lines, machines, meters, motors, outlets, panels, pipes, pumps, radiators, risers, shafts, signage (including branding and directional), starters, switches, switchboards, systems including building automation systems and back-up building automation systems and Utility Systems, tanks, transformers, valves, wiring and the like used in providing services from time to time in any part of the Improvements, including alarm, antenna, circulation, cleaning, communication, cooling, elevator, exhaust, fire alarm systems, fire suppression, heating, life safety, plumbing, radio, recording, sanitary sewer, security (including, but not limited to, security cameras and surveillance equipment), sensing, telephone, television, transportation, ventilation, window washing equipment and platforms (if any), and electric, natural gas and water service trunk lines to the Property to the point of separation of service lines or separate metering for each of the CC Parcel and Hotel Parcel, now or hereafter being a part of or servicing the Property and all replacements thereof or additions thereto.

**1.21** “**Financing District**” means the Bayfront Project Special Tax Financing District, a financing district established and existing pursuant to Chula Vista Municipal Code Chapter 3.61 Bayfront Project Special Tax Financing District Procedural Ordinance.

**1.22 “Hotel Improvements”** means a 1,600 room resort hotel and at least 1,600 space parking structure, together with ancillary improvements related thereto, in each case to be constructed on the Hotel Parcel in accordance with the Hotel Ground Lease.

**1.23 “Hotel Expansion”** means the occurrence of the following: (a) the termination or expiration of the CC Site Lease, the CC Facility Lease and the CC Sublease and (b) the automatic expansion of the premises under the Hotel Ground Lease to include the CC Parcel and the Improvements located on the CC Parcel pursuant to the terms of the Hotel Ground Lease.

**1.24 “Hotel Ground Lease”** means that certain ground lease, dated as of the date hereof, by and between Declarant, as landlord, and RIDA, as tenant, as the same may be amended, restated, extended, supplemented or modified from time to time, and as the same may be replaced by a substitute lease with Hotel Tenant of all or substantially of the Hotel Parcel as permitted under the Hotel Ground Lease (including, without limitation, any New Lease under and as defined in the Hotel Ground Lease).

**1.25 “Hotel Parcel”** means the land described on Exhibit A-2 and all Improvements located thereon, as the same may be modified from time to time due to condemnation.

**1.26 “Hotel Parcel Owner”** means the Owner of the Hotel Parcel.

**1.27 “Hotel Tenant”** means the tenant under the Hotel Ground Lease, from time to time in effect, and any tenant under a New Lease under and as defined in the Hotel Ground Lease. As of the date hereof, the Hotel Tenant is RIDA.

**1.28 “Improvements”** means all Buildings and other improvements, including the footings, foundations, columns, piles, loading docks, fixtures, equipment, machinery, Facilities, sidewalks, walkways at ground level, driveways and landscaping now or hereafter located in, on, under, within or upon the Property, including the CC Improvements and Hotel Improvements.

**1.29 “including”** means “including, without limitation”, and shall be construed as a term of illustration, not a term of limitation.

**1.30 “JEPA”** has the meaning set forth in the preamble hereto.

**1.31 “Maintenance” or “Maintain”** means and includes, as the tense may indicate, use, operation, maintenance, repair, restoration, reconditioning, refurbishing, reconfiguration, inspection, testing, cleaning, painting, installation, construction and replacement of the Facilities, and the right to remove therefrom the Facilities or any such portions thereof, for, or in connection with, any of the above purposes, subject, however, in all events to any limitations set forth elsewhere in this Declaration and the rights of any third party that is not a party to this Declaration to such Facilities. The Owners, RIDA, the City, the JEPA, the Hotel Tenant, the CC Site Lease Tenant, the CC Sublease Tenant, and the CC Facility Lease Tenant acknowledge and agree, on their behalf and on behalf of their Permittees and Authorized Parties, that this Declaration shall not be interpreted to amend, modify, limit, supplement, reduce, restate or replace any “Approved Agreements”, “Contemporaneous Agreements”, or “Prior Agreements” as such terms are defined

in the Project Implementation Agreement, Hotel Ground Lease, and CC Subleases (defined below).

**1.32 “Owner” or “Owners”** means any Person or Persons who or which at any specified time is the record title owner of the CC Parcel or any portion thereof or the Hotel Parcel or any portion thereof and their respective successors and assigns who become owners of any portion of such Parcels. As of the date hereof, the Owner of the Hotel Parcel and the CC Parcel is Declarant.

**1.33 “Parcel” or “Parcels”** means that portion of the Property owned by an Owner. As of the date hereof, Parcel means the CC Parcel and the Hotel Parcel, individually or collectively, as the context requires.

**1.34 “Permittees”** means, without limiting the generality of the foregoing, (i) in the case of the CC Parcel, each of the CC Site Lease Tenant (if any), the CC Facility Lease Tenant (if any), the CC Sublease Tenant (if any); and (ii) in the case of the Hotel Parcel, the Hotel Tenant.

**1.35 “Person”** means any individual, partnership, firm, association, corporation, limited liability company, trust, or any other form of business or government entity.

**1.36 “Project Implementation Agreement”** means that certain Project Implementation Agreement, dated as of the date hereof, by and among Declarant, the JEPA, the City, the Financing District and RIDA, as the same may be amended, restated, extended, supplemented or modified from time to time.

**1.37 “Property”** means the CC Parcel and the Hotel Parcel.

**1.38 “Recording Office”** means the office of the San Diego County Recorder.

**1.39 “RIDA”** has the meaning set forth in the preamble hereto.

**1.40 “Utility Systems”** means the Central Plant, electricity, natural gas, steam, chilled water, potable water, fire protection water, sewer (including public or private sanitary sewer systems and manholes), storm water drainage systems, grease drainage systems, trash or refuse chutes, telecommunication and data lines, closed circuit television lines, life safety and fire protection lines and systems, wireless information equipment, cable television, internet service, electrical power systems, heating, ventilation and air conditioning lines and ducts, and all other utility services commonly provided to a convention center hotel, conference center hotel, or resort hotel located in the United States, in the case of the Hotel Parcel, and convention center or conference center located in the United States of America, in the case of the CC Parcel, from time to time, and any replacement thereof.

## **ARTICLE II**

### **EASEMENTS BENEFITING THE CC PARCEL**

#### **2.1 Grant of Easements.**

(a) The Hotel Parcel Owner hereby grants to the CC Parcel Owner, for the benefit of the CC Parcel, the CC Parcel Owner and its Permittees the following easements, which shall burden the Hotel Parcel in accordance with the terms and conditions set forth below:

(i) A non-exclusive easement in and to all structural members, columns and beams and any other supporting components located within or constituting a part of the Hotel Parcel for the support of (1) the CC Improvements and (2) any Facilities located within the Hotel Parcel with respect to which the CC Parcel Owner is granted an easement under this Declaration, together with the right to perform Maintenance of such structural members, columns and beams and such other supporting components, and the reasonable right of ingress and egress in, on, over, across, under and through the Hotel Parcel at any and all levels as is reasonably necessary to Maintain the same; provided, that the use of such easement shall not unreasonably and materially interfere with the business or beneficial use and enjoyment of the Hotel Parcel by the Hotel Parcel Owner or the Hotel Tenant.

(ii) A non-exclusive easement to use, for the intended purposes of and to perform Maintenance of, all Facilities at any time located on the Hotel Parcel which are connected to and used in connection with any Facilities that are at any time located on the CC Parcel (and any replacements thereof) and/or which provide or shall be necessary to provide the CC Parcel with any utilities or other services necessary for the use and operation of the CC Parcel; provided, that the use of such easement shall not unreasonably and materially interfere with the business or beneficial use and enjoyment of the Hotel Parcel by the Hotel Parcel Owner or the Hotel Tenant.

(iii) An easement for an encroachment that is part of the CC Improvements approved by the Hotel Parcel Owner upon any part of the Hotel Parcel and an easement for a future encroachment that is part of the CC Improvements but not previously approved by the Hotel Parcel Owner; provided, that in the case of the latter, (A) (1) such encroachment shall have been approved in writing by the Hotel Parcel Owner (which approval shall not be unreasonably withheld, conditioned or delayed) or (2) such encroachment is accurately shown on the final as-built plans or the final as-built survey provided to the Hotel Parcel Owner and (B) such encroachment shall not materially and unreasonably interfere with the business or beneficial use and enjoyment of the Hotel Parcel by the Hotel Parcel Owner, or its Permittees. At the request of the Hotel Parcel Owner, the CC Sublease Tenant shall remove from the Hotel Parcel any part of any such CC Improvements or any replacement thereof in accordance with the applicable provisions of the CC Sublease.

(iv) A non-exclusive easement over, on, across and through the Hotel Parcel to the extent reasonably necessary to permit the Maintenance, repair, replacement, restoration or reconstruction of the CC Improvements or as permitted pursuant to this Declaration, or to the extent reasonably necessary to assure the beneficial use and enjoyment of the Easements set forth in this Section 2.1.

(b) The Hotel Parcel Owner hereby grants to the CC Parcel Owner for the benefit of the CC Parcel, the CC Parcel Owner and its Permittees, the following easements, which shall burden the Hotel Parcel in accordance with the terms and conditions set forth below:

(i) A non-exclusive easement for ingress and egress by persons, material and equipment over, on, across and through the Common Areas on the Hotel Parcel to and from the CC Parcel, and for use of the Common Areas on the Hotel Parcel for their intended purposes, each to the extent reasonably necessary for the use and operation of the CC Parcel, subject to such reasonable rules and regulations governing access to and the use of such Common Areas as established by Hotel Parcel Owner from time to time and provided, that the use of such easement shall not unreasonably and materially interfere with the business or beneficial use and enjoyment of the Hotel Parcel by the Hotel Parcel Owner or the Hotel Tenant.

(ii) A non-exclusive easement for ingress and egress by persons, material and equipment over, on, across and through those portions of the stairways located in the Common Areas and, during an Emergency Situation, the fire stairways located, from time to time, on the Hotel Parcel.

(iii) A non-exclusive easement over, on, across and through the Hotel Parcel to the extent reasonably necessary during an Emergency Situation.

**2.2 Ingress and Egress.** All Easements granted under Section 2.1 above shall include the reasonable right of ingress and egress in, on, over, across, under and through the Hotel Parcel at any and all levels as is reasonably necessary to access, maintain, repair and replace the subject Facilities or to perform the Maintenance thereof or is otherwise reasonably necessary for the beneficial use and enjoyment or exercise of any such Easement by the CC Parcel Owner. The CC Parcel Owner or its Permittee, as applicable, shall provide reasonable advance notice to the current occupant of the Hotel Parcel prior to accessing the Hotel Parcel to Maintain such Facilities, except in the event of an Emergency Situation, in which case concurrent notice may be provided. Each Easement granted under Section 2.1 above, which provides or requires for its enjoyment, ingress and egress on, over, across or through the Hotel Parcel, shall be subject (except in an Emergency Situation, in which case concurrent notice may be provided) to such reasonable limitations as Hotel Parcel Owner may, from time to time, after consultation with the CC Parcel Owner, impose with respect to the establishment of limited paths of ingress and egress, reasonable limitations and restrictions with respect to transport of materials and equipment and limited hours of the day or days of the week during which such Easements may be used, in order to prevent any unreasonable interference with the use and operation of the Hotel Improvements and in order to assure the reasonable security of the Hotel Improvements; provided, however, that any such limitations shall not preclude or unreasonably restrict or frustrate, or unreasonably increase the cost of, the beneficial use and enjoyment or exercise of any such Easement by the CC Parcel Owner or its Permittees; provided, further, such limitation shall not apply to a Permittee of all of the Owners. The CC Parcel Owner and its Permittees, as applicable, during the course of any construction on the CC Parcel or otherwise, shall not unreasonably interfere with the operation of the business of the Hotel Parcel Owner or Hotel Tenant.



**2.3 Relocation of Easements.** With the reasonable written consent of the Declarant and the CC Parcel Owner, the Hotel Tenant shall have the right, at its sole cost and expense, to relocate within the Hotel Parcel any Facilities and Easements which burden the Hotel Parcel and benefit the CC Parcel, other than Easements granted or created under Sections 2.1(a)(i) and 2.1(a)(iii) so long as such relocation does not have a material adverse effect on the CC Parcel or the business operations conducted on the CC Parcel.

## **ARTICLE III**

### **EASEMENTS BENEFITING THE HOTEL PARCEL**

#### **3.1 Grant of Easements.**

(a) The CC Parcel Owner hereby grants to the Hotel Parcel Owner, for the benefit of the Hotel Parcel, the Hotel Parcel Owner and its Permittees, the following easements, which shall burden the CC Parcel in accordance with the terms and conditions set forth below:

(i) A non-exclusive easement in and to all structural members, columns and beams, and any other supporting components located within or constituting a part of the CC Parcel for the support of (1) the Hotel Improvements and (2) any Facilities located within the CC Parcel with respect to which the Hotel Parcel Owner is granted an easement under subsection (ii) below, together with the right to perform Maintenance of such structural members, columns and beams and such other supporting components, and the reasonable right of ingress and egress in, on, over, across, under and through the CC Parcel at any and all levels as is reasonably necessary to Maintain the same provided, that the use of such easement shall not unreasonably and materially interfere with the business or beneficial use and enjoyment of the CC Parcel by the CC Parcel Owner or its Permittees.

(ii) A non-exclusive easement to use, for the intended purposes of and to perform Maintenance of, all Facilities at any time located on the CC Parcel which are connected to and used in connection with any Facilities that are at any time located on the Hotel Parcel (and any replacements thereof) and/or which provide or shall be necessary to provide the Hotel Parcel with any utilities or other services necessary for the use and operation of the Hotel Parcel; provided, that the use of such easement shall not unreasonably and materially interfere with the business or beneficial use and enjoyment of the CC Parcel by the CC Parcel Owner or its Permittees.

(iii) An easement for an encroachment that is part of the Hotel Improvements approved by the CC Parcel Owner upon any part of the CC Parcel and an easement for a future encroachment that is part of the Hotel Improvements but not previously approved by the CC Parcel Owner; provided, that in the case of the latter, (A) (1) such encroachment shall have been approved in writing by the CC Parcel Owner (which approval shall not be unreasonably withheld, conditioned or delayed) or (2) such encroachment is accurately shown on the final as-built plans or the final as-built survey provided to the CC Parcel Owner and (B) such encroachment shall not materially and unreasonably interfere with the business or beneficial use and enjoyment of the CC Parcel by the CC Parcel Owner, or its Permittees. At the request of the CC Parcel Owner, the

Hotel Tenant shall remove from the CC Parcel any part of any such Hotel Improvements or any replacement thereof in accordance with the applicable provisions of the Hotel Ground Lease.

(iv) A non-exclusive easement over, on, across and through the CC Parcel to the extent reasonably necessary to permit the Maintenance, repair, replacement, restoration or reconstruction of the Hotel Improvements as permitted pursuant to this Declaration, or to the extent reasonably necessary to assure the beneficial use and enjoyment of the Easements set forth in this Section 3.1.

(b) The CC Parcel Owner hereby grants to the Hotel Parcel Owner for the benefit of the Hotel Parcel, the Hotel Parcel Owner and its Permittees, the following easements, which shall burden the CC Parcel in accordance with the terms and conditions set forth below:

(i) A non-exclusive easement for ingress and egress by persons, material and equipment over, on, across and through the Common Areas on the CC Parcel, to and from the Hotel Parcel, and for use of the Common Areas on the CC Parcel for their intended purposes, each to the extent necessary for the use and operation of the Hotel Parcel, subject to such reasonable rules and regulations governing access to and the use of such Common Areas as established by CC Parcel Owner from time to time and provided, that, the use of such easement shall not unreasonably and materially interfere with the business or beneficial use and enjoyment of the CC Parcel by the CC Parcel Owner or its Permittees.

(ii) A non-exclusive easement for ingress and egress by persons, material and equipment over, on, across and through those portions of the stairways located in the Common Areas and, during an Emergency Situation, the fire stairways, and service elevators, located, from time to time, on the CC Parcel.

(iii) A non-exclusive easement over, on, across and through the CC Parcel to the extent reasonably necessary during an Emergency Situation.

**3.2 Ingress and Egress.** All Easements granted under Section 3.1 above shall include the reasonable right of ingress and egress in, on, over, across, under and through the CC Parcel at any and all levels as is reasonably necessary to access, maintain, repair and replace the subject Facilities or to perform the Maintenance thereof or as is otherwise reasonably necessary for the beneficial use and enjoyment or exercise of any such Easement by the Hotel Parcel Owner and its Permittees. The Hotel Parcel Owner or its Permittee, as applicable, shall provide reasonable advance notice to the current occupant of the CC Parcel prior to accessing the CC Parcel to Maintain such Facilities, except in the event of an Emergency Situation, in which case concurrent notice may be provided. Each Easement granted under Section 3.1 above, which provides or requires for its enjoyment, ingress and egress on, over, across or through the CC Parcel, shall be subject (except in an Emergency Situation) to such reasonable limitations as the CC Parcel Owner, may, from time to time after consultation with the Hotel Parcel Owner, impose with respect to the establishment of limited paths of ingress and egress, reasonable limitations and restrictions with respect to the transport of materials and equipment and limited hours of the day or days of the week during which such Easements may be used, in order to prevent any unreasonable interference

with the beneficial use and operation of the CC Improvements and in order to assure the reasonable security of the CC Improvements; provided, however, that any such limitations shall not preclude or unreasonably restrict or frustrate, or unreasonably increase the cost of, the beneficial use and enjoyment or exercise of any such Easement by the Hotel Parcel Owner or its Permittees; provided, further this sentence shall not apply to a Permittee of all of the Owners. The Hotel Parcel Owner and its Permittees, as applicable, during the course of any construction on the Hotel Parcel or otherwise, shall not unreasonably interfere with the operation of the business of the CC Parcel Owner or its Permittees.

**3.3 Relocation of Easements.** With the reasonable written consent of the Declarant and the Hotel Parcel Owner, the CC Sublease Tenant shall have the right, at its sole cost and expense, to relocate within the CC Parcel any Facilities and Easements which burden the CC Parcel and benefit the Hotel Parcel, other than easements granted or created under Sections 3.1(a)(i) and 3.1(a)(iii), so long as such relocation does not have a material adverse effect on the Hotel Parcel or the business operations conducted on the Hotel Parcel.

## ARTICLE IV

### INDEMNIFICATION

#### **4.1 Indemnification.**

(a) **Permittees Indemnification of Declarant and the Owners.** The Permittees shall at all times indemnify, defend and save harmless the Declarant and the Owners from and against and pay in full any and all claims, loss, damage or expense (collectively, “**Claims**”) that Declarant or Owners sustain, incur or are liable for arising out of (A) the actions of the Permittees and their Authorized Parties with respect to this Declaration or the failure by the Permittees or their Authorized Parties to perform their respective obligations under this Declaration, excepting, in each case, any Claims resulting from the sole negligence or willful misconduct of the Declarant or any Owner; and (B) injury or death of persons resulting in any manner from the actions of any of the Permittees or their Authorized Parties with respect to this Declaration or from the failure by the Permittees or their Authorized Parties to perform their respective obligations under this Declaration, excepting, in each case, any Claims resulting from the sole negligence or willful misconduct of the Declarant or any Owner.

(b) **CC Sublease Tenant’s and Hotel Tenant’s Indemnification of the City and JEPA.** CC Sublease Tenant and Hotel Tenant shall at all times indemnify, defend and save harmless the City and the JEPA from and against and pay in full any and all Claims that the City or JEPA sustain, incur or are liable for arising out of (A) the actions of CC Sublease Tenant, Hotel Tenant and their Authorized Parties with respect to this Declaration or the failure by CC Sublease Tenant, Hotel Tenant or their Authorized Parties to perform their respective obligations under this Declaration, excepting, in each case, any Claims resulting from the sole negligence or willful misconduct of the City or the JEPA; provided, that the sole negligence or willful misconduct of the City shall not be attributable to the JEPA and vice versa, the sole negligence or willful misconduct of the JEPA shall not be attributable to the City; and (B) injury or death of persons resulting in any manner from the actions of any of CC Sublease Tenant, Hotel Tenant or their Authorized Parties with respect to this Declaration or from the failure by CC Sublease Tenant,

Hotel Tenant or their Authorized Parties to perform their respective obligations under this Declaration, excepting, in each case, any Claims resulting from the sole negligence or willful misconduct of City or the JEPA; provided, that the sole negligence or willful misconduct of the City shall not be attributable to the JEPA and vice versa, the sole negligence or willful misconduct of the JEPA shall not be attributable to the City.

For purposes of this Section 4.1, the action of the Authorized Parties of a Permittee shall be attributable to such Permittee. This Section 4.1 shall survive the expiration or termination of this Declaration.

## ARTICLE V

### TERM

**5.1 Term.** The term of this Declaration (“**Term**”) shall commence on the Effective Date and end on the date that is the earlier of the following dates (“**Expiration Date**”), unless terminated earlier as provided in Section 5.2 below: (a) Specified Expiration Date (as defined below); (b) termination or expiration of the Hotel Ground Lease and the CC Site Lease, the CC Facility Lease, and the CC Sublease (collectively, the “**CC Leases**”) that is not the result of the Hotel Expansion; or (c) the Hotel Expansion. “**Specified Expiration Date**” means the fifth (5th) anniversary of the Effective Date; provided, that Declarant may extend the Specified Expiration Date if the Board of Port Commissioners (“**Board**”) approves through an ordinance (“**Consenting Ordinance**”) the execution, delivery, and recordation of a notice, in the form attached hereto as **Exhibit B**, that extends the Specified Expiration Date to the sixty-sixth (66<sup>th</sup>) anniversary of the Effective Date (the “**Extension Notice**”). If the Board approves the execution, delivery, and recordation of the Extension Notice through a Consenting Ordinance, Declarant shall record and file with the Recording Office the Extension Notice within fifteen (15) days after the Consenting Ordinance becomes effective, and following recordation of the Extension Notice, the Specified Expiration Date shall mean the sixty-sixth (66<sup>th</sup>) anniversary of the Effective Date. During the Term of this Declaration all the easements, rights, benefits, burdens, covenants, agreements, and reservations set forth herein, shall run with the land and shall inure to the benefit of the CC Parcel Owner and its Permittees with respect to the Hotel Parcel, and the Hotel Parcel Owner and its Permittees with respect to the CC Parcel, and be binding upon the Owners and their successors and assigns, with the same full force and effect, for all purposes, as though set forth at length in each and every future conveyance of the Property or any part thereof.

**5.2 Termination:** If the Permittees, each in their sole discretion, collectively determine that the easements granted herein are no longer required and will no longer be required for the conduct of their business at any time during the Term, then the Permittees shall provide written notice to the Declarant that Permittees desire to terminate this Declaration and shall promptly furnish to the Declarant a good and sufficient Quitclaim Deed of all of the Permittees’ right, title, and interest in and to this Declaration. Notwithstanding the foregoing, if none of the Permittees use the Easements for a consecutive period of five (5) years (other than any periods of inactivity attributable to an event of force majeure, casualty or condemnation affecting the Property or the initial construction of the Improvements), the Declarant shall have the right to terminate this Declaration and require that the Permittees promptly furnish the Declarant a good and sufficient Quitclaim Deed of all of the Permittees’ right, title, and interest in and to this Declaration.

## ARTICLE VI

### **GENERAL TERMS**

**6.1 Rights of Permittees.** A Permittee shall have the right from time to time to permit its Authorized Parties to use and enjoy the benefit of the Easements granted for such Permittee's use and benefit under this Declaration, subject to the terms of this Declaration; provided, that none of the Authorized Parties shall have the right to use any such Easement in excess of the scope of use permitted therefor under this Declaration.

**6.2 Use of Easements.**

(a) Each Permittee performing work in connection with the Easements shall at all times take any and all safety measures reasonably required to protect the other Owner and all Permittees from injury or damage caused by or resulting from the performance of such work. If any work is undertaken or takes place when the improvements of any Permittee shall be open to the public, the Permittee performing such work shall take reasonable safety precautions in the context of the work being undertaken including erecting or causing to be erected an adequate and attractive construction barricade where reasonably appropriate, substantially enclosing the area of its work.

(b) Each Permittee covenants and agrees that, in connection with the use or enjoyment of any Easement, such Permittee shall, at its sole cost and expense, promptly repair, replace or restore, in accordance with any approved plans, any and all Improvements that are thereby proximately damaged or destroyed.

(c) Each Permittee covenants and agrees that Permittee shall be responsible for the conduct of its Authorized Parties in using the Easements.

**6.3 Demolition.** Nothing herein shall prohibit any Owner, RIDA, the City, or the JEPA (together with its permitted successors and assigns, each, a "**Demolishing Party**") from demolishing, or causing, requiring, or permitting the demolition of, all or any portion of any Improvement located on either Parcel as permitted under the Hotel Ground Lease, Site Lease, Facility Lease, Project Implementation Agreement, and Sublease, as applicable. If the CC Leases expire or are terminated and the Central Plant is in a workable condition and still in use by the Hotel Improvements and if the CC Parcel Owner desires to demolish the Central Plant, then the Owners and the Hotel Tenant shall negotiate reasonably and in good faith to agree how to cost effectively enable the continued operation of the Hotel Improvements without interruption due to the demolition of the Central Plant while giving due consideration to the interest of the CC Parcel Owner in maximizing the beneficial use of the CC Parcel.

**6.4 Compliance with Applicable Laws.** The Permittees, and the Authorized Parties of the Permittees, shall each comply with all Applicable Laws in connection with their use of the Property, respectively.

**6.5     No Limitation.** The foregoing provisions of this Article VI shall not be deemed to limit any of the rights that either of the Owners may have against the Permittees pursuant to any other agreements with the Permittees, including without limitation, the Hotel Ground Lease, the CC Leases, the Project Implementation Agreement, Approved Agreements, Contemporaneous Agreements, and Prior Agreements, or against any third parties.

## **ARTICLE VII**

### **DEFAULTS**

**7.1     Events of Default.** Failure by Declarant, Owner(s), or Permittee to perform or fulfill any obligation required of it under this Declaration, where such failure continues for thirty (30) days after written notice thereof from the Declarant, Owner or Permittee, as applicable, shall constitute an “Event of Default”; provided that, if the nature of such failure is such that the same cannot reasonably be cured within such thirty (30) day period, and the Declarant, Owner, or Permittee, as the case may be, diligently commences such cure within such thirty (30) day period and thereafter diligently proceeds to rectify and cure such failure, then such failure shall not constitute an “Event of Default” hereunder.

**7.2     Remedies upon an Event of Default by Permittee.** Upon the occurrence of an Event of Default by a Permittee, the Declarant or Owner, as applicable, may pursue any available remedy at law or in equity to enforce their rights under or with respect to this Declaration, including:

(a)     By mandamus or other suit or proceeding at law or in equity to enforce any rights against the Permittee, and to compel the Permittee, to perform and carry out its duties under this Declaration;

(b)     By suit in equity to enjoin any actions or things which are unlawful or violate the rights of the Declarant, or Owner, as applicable; or

(c)     By a suit in equity to require the Permittee to perform.

No remedy herein conferred upon or reserved to the Declarant or Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by law or equity.

**7.3     Remedies upon an Event of Default by Declarant or Owner.** Upon the occurrence of an Event of Default by Declarant or Owner, a Permittee may pursue the following remedies to enforce their rights under or with respect to this Declaration:

(a)     By mandamus to compel the Declarant or Owner, as applicable, to perform and carry out its duties under this Declaration;

(b) By suit in equity to enjoin any actions or things which are unlawful or violate the rights of a Permittee; or

(c) By a suit in equity to require the Declarant or Owner to perform.

In no event shall Permittee seek, or be entitled to receive, monetary damages as a result of any Event of Default by Declarant or Owner. Notwithstanding the foregoing or anything to the contrary in this Declaration, in no event shall Declarant, Owner or Permittee have the right to terminate this Declaration in connection with any Event of Default.

## **ARTICLE VIII**

### **NOTICES**

**8.1 Notices.** All notices, demands, or other communications required, permitted or desired to be served hereunder shall be in writing and shall be deemed delivered when delivered by reputable overnight courier service, hand delivered in person or mailed as certified or registered mail, postage prepaid, return receipt requested, addressed as below stated:

To Hotel Parcel Owner:

Executive Director  
San Diego Unified Port District  
Administration Building  
3165 Pacific Highway  
San Diego, California 92101-1128  
(Mailing Address: P.O. Box 120488  
San Diego, California 92112-0488)

With a copy to:

Director, Real Estate  
San Diego Unified Port District  
Administration Building  
3165 Pacific Highway  
San Diego, California 92101-1128  
(Mailing Address: P.O. Box 120488  
San Diego, California 92112-0488)

With a copy to:

Port Attorney  
3165 Pacific Highway  
San Diego, California 92101-1128  
(Mailing Address: P.O. Box 120488  
San Diego, California 92112-0488)

To CC Parcel Owner:

Executive Director  
San Diego Unified Port District

Administration Building  
3165 Pacific Highway  
San Diego, California 92101-1128  
(Mailing Address: P.O. Box 120488  
San Diego, California 92112-0488)

With a copy to:

Director, Real Estate  
San Diego Unified Port District  
Administration Building  
3165 Pacific Highway  
San Diego, California 92101-1128  
(Mailing Address: P.O. Box 120488  
San Diego, California 92112-0488)

With a copy to:

Port Attorney  
3165 Pacific Highway  
San Diego, California 92101-1128  
(Mailing Address: P.O. Box 120488  
San Diego, California 92112-0488)

To RIDA:

RIDA Chula Vista, LLC  
1777 Walker Street, Suite 501  
Houston, Texas 77010

To City:

Attn: City Manager  
City of Chula Vista  
276 4<sup>th</sup> Avenue  
Chula Vista, CA 91910

With a copy to:

City Attorney  
City of Chula Vista  
276 4<sup>th</sup> Avenue  
Chula Vista, CA 91910

To JEPA:

JEPA  
PO Box 5296  
Chula Vista, CA 91912

With a copy to:

Executive Director  
San Diego Unified Port District  
Administration Building  
3165 Pacific Highway  
San Diego, California 92101-1128  
(Mailing Address: P.O. Box 120488  
San Diego, California 92112-0488)



With a copy to: Director, Real Estate  
San Diego Unified Port District  
Administration Building  
3165 Pacific Highway  
San Diego, California 92101-1128  
(Mailing Address: P.O. Box 120488  
San Diego, California 92112-0488)

With a copy to: Port Attorney  
3165 Pacific Highway  
San Diego, California 92101-1128  
(Mailing Address: P.O. Box 120488  
San Diego, California 92112-0488)

With a copy to: Attn: City Manager  
City of Chula Vista  
276 4<sup>th</sup> Avenue  
Chula Vista, CA 91910

With a copy to: City Attorney  
City of Chula Vista  
276 4<sup>th</sup> Avenue  
Chula Vista, CA 91910

**8.2 Delivery and Receipt.** Any notice, demand, or other communication delivered as provided above in Section 8.1 shall be deemed received one (1) business day after being delivered to a reputable overnight courier service if sent for and guaranteeing next business day delivery, and any notice, demand, election or other communication mailed as provided above in Section 8.1 shall be deemed received three (3) business days after deposit in the United States mail, or upon actual receipt, whichever is earlier. Addresses for service of notice may be changed by written notice served as hereinabove provided at least ten (10) days prior to the effective date of any such change. Nothing herein contained, however, shall be construed to preclude service of any notice, demand, or other communication in the same manner that service of a summons of legal process may be made. All notices, demands, or other communications made to an Owner hereunder shall be made concurrently to such Owner's Permittees.

## **ARTICLE IX**

### **GENERAL**

**9.1 Further Assurances.** From time to time after the date hereof, each Owner and Permittee shall furnish, execute and acknowledge, without charge (except where elsewhere provided herein) the following: (1) such other instruments, documents, materials and information as the other Owner or Permittee may reasonably request in order to confirm to such requesting Owner or Permittee the benefits contemplated hereby, but only so long as any such request does

not restrict, modify, supplement, expand, reduce, or abridge the benefits granted the other Owner or Permittee; provided, however, each Owner may elect to obtain approval of the Board of Port Commissioners as a condition to exercising this authority.

**9.2 Severability.** The illegality, invalidity or unenforceability of any covenant, restriction, condition, limitation or any other provision of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of the remaining provisions of this Declaration, all of which shall remain in full force and effect to the fullest extent not prohibited by Applicable Laws.

**9.3 Headings.** The headings of Articles in this Declaration are for convenience of reference only and shall not in any way limit or define the content, substance or effect of the Articles.

**9.4 Amendment.** Except with respect to an Extension Notice pursuant to Section 5.1, which shall only require the signature of the Declarant to give it effect, this Declaration may be amended only by an instrument signed by the then Owner of the Hotel Parcel, the then Owner of the CC Parcel, the Hotel Tenant (if any), the CC Site Lease Tenant (if any), the CC Facility Lease Tenant (if any), and the CC Sublease Tenant (if any). Any amendments hereof (including any extensions and renewals hereof), whenever made, shall be superior to any and all liens, to the same extent as this Declaration as if such amendment or modification had been executed concurrently herewith. Any amendment of this Declaration shall be recorded and filed with the Recording Office.

**9.5 Defined Terms.** Terms used in this Declaration, unless elsewhere defined in this Declaration, shall have the meanings set forth in Article I of this Declaration.

**9.6 Non-Use.** Without limiting Section 5.2, Easements created hereunder shall not be presumed abandoned by non-use or the occurrence of damage or destruction to a portion of the Improvements subject to an Easement unless the Owner benefited by such Easement states in writing its intention to abandon the Easement.

**9.7 Governing Law.** The parties hereto acknowledge that this Declaration has been negotiated, executed and delivered in the City of San Diego, County of San Diego and State of California. This Declaration shall, in all respects, be governed, construed, applied and enforced in accordance with the laws of the State of California, including matters affecting title to all real property described herein. Any action involving this Declaration shall be brought and maintained solely in a court of San Diego County, California or a Federal court sitting in the State of California.

**9.8 No Third Party Beneficiaries.** This Declaration is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any other person or entity as a third party beneficiary.

**9.9 Incorporation by Reference.** Each provision of the Recitals to this Declaration and each Schedule, diagram and appendix attached hereto is hereby incorporated in this

Declaration by reference and hereby made a part hereof and comprises an integral part of this Declaration.

**9.10 No Waiver.** No provision of this Declaration shall be deemed to have been waived by any party hereto unless such waiver is in writing signed by the party making such waiver. The failure of any party subject hereto to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Declaration, shall not be deemed a waiver thereof or permit a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. One or more written waivers of any default in the performance of any provision of this Declaration shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained herein. The consent or approval by an Owner or Declarant to or of any act or request requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar acts or requests. Unless expressly herein provided to the contrary, the rights and remedies given to an Owner or Declarant by this Declaration shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which an Owner or Declarant might otherwise have by virtue of a default under this Declaration, and the exercise of one such right or remedy by an Owner or Declarant shall not impair such Owner's or Declarant's standing to exercise any other right or remedy.

**9.11 Additional Easements.** If it becomes clear that additional easements relating to the ordinary use and operation of the Property are necessary or desirable to effectuate the purposes of this Declaration for the benefit of any Permittee (or Owner if such Owner does not have a Permittee), the Owners and such Permittee (if any) shall reasonably cooperate to determine, create and grant such additional easements as are reasonably necessary to effectuate same; provided, that such proposed additional easements will neither (a) materially interfere with the beneficial use and occupancy of any portion of the Improvements by the non-requesting Owner, (b) materially affect access to, or operation of, any portion of the Improvements by the non-requesting Owner, nor (c) materially increase the operating costs of, or create any additional expense for, any non-requesting Owner. In the event any such new easements are created, this Declaration and the Exhibits hereto shall be amended by designating and describing such easements and such amendment shall be signed by the Owners to effectuate the grant or creation of such additional easements, and shall be recorded and filed with the Recording Office and shall have the same force, effect and priority as if such new easements were originally contained herein. No Owner shall have the right, without the prior written consent of the other Owner, to grant or otherwise convey an easement that burdens such granting Owner's Parcel for the benefit of any property not within the Property if, or to the extent, such easement would materially adversely affect any Easement or the other Owner's Parcel.

**9.12 Standard of Approval and Consent.** Unless expressly provided herein to the contrary, all consents and approvals of any of the Owners or Declarant shall be in such Declarant's or Owner's sole and absolute discretion. Any disapproval of or failure to consent to any matter hereunder shall be in writing and shall state in reasonable detail the reason or reasons therefore, other than where consent is subject to the sole and absolute discretion of the party whose consent is required. Whenever an Owner or Declarant is requested to consent to or approve of any matter with respect to which its consent or approval is required by this Declaration, such consent or

approval, if given, shall be given in writing and shall be given within thirty (30) days of the delivery of written request therefor, unless a shorter or longer response period is required or permitted under this Declaration, and if no response is received within such thirty (30) day period (or such shorter or longer period of time required or permitted under this Declaration), then a second written request shall be given and if no response is received within ten (10) days after delivery of such second request, such request shall be deemed rejected.

**9.13 No Merger of Estates.** Notwithstanding any ownership, directly or indirectly, in all or any portion of the Hotel Parcel or the CC Parcel in one person or entity, it is the intent and understanding of the parties hereto that all such properties and estates during the Term shall remain separate and distinct from each other and shall not be merged with such other estates and properties by reason of such common ownership. A merger of any of such estates and properties can only be effected by termination or expiration of this Declaration or a written instrument signed by the then owner of such estates and properties.

**9.14 Interpretation.** Ambiguities in this Declaration shall not be construed against the party drafting this Declaration, notwithstanding any contrary rule of construction or interpretation at law or in equity. Each of the Permittees acknowledge and agree that this Declaration shall not amend, modify, limit, replace, supplement, reduce, or restate any of the obligations of the Permittees under the Hotel Lease, CC Site Lease, CC Facility Lease, CC Sublease, Project Implementation Agreement, Approved Agreements, Prior Agreements, Contemporaneous Agreements, or any other agreement between the parties to this Declaration.

**9.15 No Public Dedication.** Nothing in this Declaration shall be deemed to be a gift or dedication of any portion of the Hotel Parcel or CC Parcel to the general public or for the general public or for any public purposes whatsoever, it being the intention of the Declarant and the Owners that this Declaration shall be strictly limited to and for the purposes herein expressed.

**9.16 Breach Shall Not Defeat Mortgage.** A breach of any of the terms, conditions, covenants or restrictions of this Declaration shall not defeat, render invalid or impair any of the Easements granted hereunder or the lien of any mortgage made in good faith and for value.

**9.17 Breach Shall Not Permit Termination.** No breach of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration or any portion hereof, but such limitation shall not affect, in any manner, any other right or remedies which any Owner may have hereunder by reason of any breach of this Declaration.

**9.18 No Partnership.** Nothing in this Declaration nor any acts of any Owner or Permittee shall be deemed or construed by any Person to create the relationship of principal and agent or of partners, or of joint venturers, or of any association between the Owner(s) and Permittee(s).

**9.19 No Liability after a Transfer.** In the event of any transfer or transfers of any Owner's interest in a Parcel, the transferor shall (i) require any transferee to assume all obligations of such Owner under this Declaration and (ii) be automatically relieved of any and all obligations on the part of such Owner arising from and after the date of such transfer. In the event a Person ceases to be a Permittee under this Declaration, then such Person shall be automatically relieved

of any and all obligations on the part of such Permittee arising from and after the date of such cessation, but such Person shall remain liable for all prior obligations occurring or arising or accruing prior to the date of such cessation.

**9.20 Divestiture of Title.** In the event of any conveyance or divestiture of title to any portion of or interest in any portion of the Property: (a) the Owner who is divested of title shall be entirely freed and relieved of all covenants and obligations thereafter accruing hereunder from and after such conveyance or divestiture but only with respect to any such portion or interest conveyed or divested, and (b) the grantee or the person or persons or other entity or entities who succeed to title shall be deemed to have assumed all of the covenants and obligations of the Owner of such portion or interest from and after such conveyance or divestiture until such grantee or successor is itself freed and relieved therefrom as hereinabove provided in this Section 9.20, and then any such grantee's or successor's grantee or successor shall be so bound.

**9.21 Counterparts.** This Declaration may be signed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument. This Declaration shall be deemed fully executed when each Declarant, Owner, Hotel Tenant, CC Sublease Tenant, CC Site Lease Tenant, and CC Facility Lease Tenant that exists as of the Effective Date, has executed signature pages to this document and they have all been appended hereto.

**[REMAINDER OF PAGE IS LEFT INTENTIONALLY BLANK; SIGNATURES  
APPEAR ON FOLLOWING PAGES.]**

IN WITNESS WHEREOF, the undersigned have caused this Declaration of Reciprocal Easements to be duly executed as of the day and year first above written.

**Declarant and Owners:**

SAN DIEGO UNIFIED PORT DISTRICT, APPROVED AS TO FORM AND LEGALITY:  
a public corporation

GENERAL COUNSEL

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Thomas A. Russell

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

33156939.5  
4845-7471-7362.2

**ACCEPTED AND AGREED:**

RIDA CHULA VISTA, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

**ACCEPTED AND AGREED:**

CITY OF CHULA VISTA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ ) ss

On \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC



Secretary

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ ) ss

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

SIGNATURE OF NOTARY PUBLIC

**ACCEPTED AND AGREED:**

CHULA VISTA BAYFRONT FACILITIES APPROVED AS TO FORM AND  
FINANCING AUTHORITY, a California LEGALITY:  
joint exercise of powers authority

By: \_\_\_\_\_  
Joe Stuyvesant, Executive Director

\_\_\_\_\_  
Thomas A. Russell, Co-Counsel, General  
Counsel, San Diego Unified Port District

\_\_\_\_\_  
Glen R. Googins, Co-Counsel, City Attorney,  
City of Chula Vista

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

### **List of Exhibits**

<b>Exhibit A-1</b>	<b>Description of CC Parcel</b>
<b>Exhibit A-2</b>	<b>Description of Hotel Parcel</b>
<b>Exhibit B</b>	<b>Form of Extension Notice</b>

## **Exhibit A-1 - Description of CC Parcel**

[To come.]

## **Exhibit A-2 - Description of Hotel Parcel**

[To come.]

### Exhibit A-3 - Form of Extension Notice

Recording requested by  
and when recorded return to:

San Diego Unified Port District  
Post Office Box 120488  
San Diego, CA 92112-0488  
Attention: Director, Real Estate Department

---

(Space Above for Recorder's Use Only)

#### EXTENSION NOTICE

This EXTENSION NOTICE (this “**Extension Notice**”) is made and entered into as of the [ ● ] day of [ ● ], 2022 (“**Effective Date**”) by the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (“**Declarant**”), pursuant to Section 5.1 of that certain Declaration of Reciprocal Easements, dated as of [ ● ], 2022 (the “**Effective Date**”) and recorded on [ ● ], 2022 as Instrument No. [ ● ] in the office of the San Diego County Recorder (the “**Declaration**”), by and among the Declarant, RIDA Chula Vista, LLC, a Delaware limited liability company, the City of Chula Vista, a charter city of the State of California duly organized and existing under and by virtue of the Constitution and laws of the State of California, and the Chula Vista Bayfront Facilities Financing Authority, a California joint exercise of powers authority. This Extension Notice constitutes the “Extension Notice” under and as defined in Section 5.1 of the Declaration. On [ ● ], 2022, the Board of Port Commissioners passed Ordinance [\_\_\_\_], which became effective on [ ● ], 2022 (“**Consenting Ordinance**”). The Consenting Ordinance directed the Executive Director of Declarant or his designated representative to execute, deliver, and record this Extension Notice. A copy of the Consenting Ordinance is attached hereto as **Exhibit 1**. Upon recordation of this Extension Notice, the Specified Expiration Date (as defined in the Declaration) shall be the sixty-sixth (66<sup>th</sup>) anniversary of the Effective Date.

[Signature Page Follows]

**Declarant:**

SAN DIEGO UNIFIED PORT DISTRICT, APPROVED AS TO FORM AND LEGALITY:  
a public corporation

GENERAL COUNSEL

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Thomas A. Russell

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
--

STATE OF CALIFORNIA

)

) ss

COUNTY OF \_\_\_\_\_

)

On \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

**Exhibit 1**

Consenting Ordinance

(to be attached prior to execution.)