

DRAFT

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE xxxx

**ORDINANCE GRANTING A 23-YEAR TERM
EXTENSION FOR A NEW 40-YEAR LEASE
BETWEEN THE SAN DIEGO UNIFIED PORT
DISTRICT AND SUNROAD MARINA PARTNERS,
L.P. FOR THE SUNROAD RESORT MARINA
LOCATED AT 955 HARBOR ISLAND DRIVE, IN THE
CITY OF SAN DIEGO**

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, Section 21 of the Port Act requires that all grants, franchises, leases, permits or privileges for more than five (5) years shall be made by ordinance; and

WHEREAS, Sunroad Marina Partners, L.P. (Sunroad) has a 50-year lease with the District that commenced on February 1, 1987 and expires on January 31, 2037; and

WHEREAS, there is approximately 17 years of term remaining on the existing lease; and

WHEREAS, Sunroad operates a 600-slip marina (Sunroad Resort Marina) at 955 Harbor Island Drive, in the City of San Diego; and

WHEREAS, in September 2019, Sunroad submitted a request for a lease term extension to extend the lease by 23 years, which request requires replacing the existing lease with a new lease containing updated lease provisions for a total term of 40-years; and

WHEREAS, Board of Port Commissioner's Policy No. 355 (BPC 355) states:

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“The District should utilize the lease extension process to (a) promote investment in leasehold improvements, (b) encourage development, and (c) update out-of-date leases.”; and

WHEREAS, consistent with BPC 355, staff negotiated a market-based lease term extension for a new 40-year lease including the District’s most current lease provisions; and

WHEREAS, as consideration for the lease term extension, Sunroad would be required to either (1) obtain term through qualified capital investment per BPC 355, as may be approved by the Board of Port Commissioners (BPC) in its sole and absolute discretion, or (2) pay a purchase of term fee required for any term not earned through approved capital investment, if any, at the end of lease year 6; and

WHEREAS, any proposed capital investment must be presented to the BPC for its consideration before the end of lease year 5 and any approved capital investment, if any, must be completed by the end of lease year 8; and

WHEREAS, BPC approval of a capital investment in the leasehold would include the description of all approved project components, estimated cost, and amount of term qualified for consistent with the standards of BPC 355; and

WHEREAS, if BPC-approved capital investment projects, if any, do not qualify for the full 23 years of term, Sunroad would be required to purchase any remaining term by the end of the lease year 6; and

WHEREAS, any required purchase of term fee would include a 4% interest rate, accruing from Lease Commencement until the purchase of term fee is paid by Sunroad, with required interest; and

WHEREAS, assuming no approved capital investment, the purchase of term fee would be \$7,051,357, which is consistent with the methodology and standards of BPC 355; and

WHEREAS, the purchase of term fee would decrease proportionally with approval of capital investment, if any, based upon the value of approved capital investment; and

WHEREAS, if any outstanding purchase of term fee is not paid by the end of lease year 6, the percentage rental rate on marina slips would automatically increase such that the unpaid fee would be recouped by the end of the lease term; and

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WHEREAS, Sunroad is an exceptional marina operator, Sunroad is a tenant in good standing, and the Sunroad Resort Marina is one of the District's highest performing marinas; and

WHEREAS, the proposed 40-year lease, including a combination of capital investment and purchase of term, represents a favorable deal for the District; and

WHEREAS, the proposed 40-year lease (1) encourages capital investment in tidelands by providing a well-positioned tenant with long-term security in its leasehold interest; (2) updates out-of-date language in the old lease; and (3) represents a market-based deal that generates additional revenue to the District over the term of the lease; and

WHEREAS, staff recommends the BPC adopt an ordinance granting a 23-year lease term extension for a new 40-year lease to Sunroad located at 955 Harbor Island Drive, in the City of San Diego.

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

1. The 23-year term extension for a new 40-year lease between San Diego Unified Port District and Sunroad Marina Partners, L.P., is hereby approved in form and substance.
2. The Executive Director or her designated representative is hereby directed to execute said new 40-year lease between San Diego Unified Port District and Sunroad Marina Partners, L.P., for the Sunroad Resort Marina located at 955 Harbor Island Drive, in the City of San Diego.
3. This Ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 28th day of December 2020, by the following vote: