

**CONSENT TO ASSIGNMENT OF PERCENTAGE LEASE
(10950 N. Torrey Pines Rd.)**

THIS CONSENT TO ASSIGNMENT OF PERCENTAGE LEASE ("**Consent**") is entered into as of July 11, 2024, by and between THE CITY OF SAN DIEGO ("**City**"), and CHH Torrey Pines Hotel Partners, LP, a Delaware limited partnership ("**Assignor**"), in relation to that certain Percentage Lease, filed in the Office of the San Diego City Clerk on August 10, 1987, as Document No. RR-269077, as amended by that certain First Amendment filed in the Office of the City Clerk on May 21, 2002, as Document No. RR-296517, as further amended by that certain Second Amendment to Percentage Lease filed in the Office of the San Diego City Clerk on May 23, 2017, as Document No. RR-31148, and as further amended by that certain Third Amendment to Percentage Lease with an effective date of May 28, 2019, as assigned under that certain Assignment and Assumption of Percentage Lease and Deed to Improvements recorded on December 29, 1998 as Document No. 1998-0853813 with the San Diego County Recorder's Office, and as further assigned under that certain Assignment and Assumption of Percentage Lease and Deed to Improvements dated December 17, 2003, and recorded December 18, 2003, in the Official records of San Diego County, California, as Document No. 2003-1487568 (as amended and assigned, the "**Lease**") between City, as landlord, and Assignor, as the successor in interest under the Lease to Torrey Pines Hotel Associates, a California general partnership, regarding that certain real property consisting of approximately 11.383 acres of land located at 10950 N. Torrey Pines Road, San Diego, California 92037, commonly known as the Hilton La Jolla Torrey Pines, as more particularly described in Exhibit A attached to this Consent ("**Premises**"). Assignor has or will soon enter into that certain Assignment and Assumption of Ground Lease in the form set forth in that certain Agreement of Purchase and Sale (as defined below) ("**Assignment Agreement**"), in which Assignor assigns to **JRK Torrey Pines Hotel Owner LLC**, a Delaware limited liability company ("**Assignee**"), all of Assignor's right, title, and interest in the Lease to Assignee and Assignee assumes all obligations of the "Lessee" under the Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, City and Assignor agree as follows:

1. Consent to Assignment. City, as landlord under the Lease, consents to the assignment of the Lease to Assignee under the Assignment Agreement.
2. Mortgage Subordination. City confirms that the leasehold estate in the Premises or any deed of trust or mortgage held by a Leasehold Beneficiary (as defined in the Lease) which encumbers the leasehold estate under the Lease shall not be subject or subordinate to any mortgage encumbering the fee estate to the Premises.
3. Assumption. Assignee expressly assumes and agrees for the benefit of City to be bound by, and to perform and comply with, every obligation of Assignor under the Lease from and after the date hereof.
4. Subsequent Assignments. This Consent does not constitute City's consent to any subsequent subletting or assignment and does not relieve Assignee or any person claiming under or through Assignee of the obligation to obtain City's consent to any future assignment or sublease, if and to the extent City's consent is required by the terms of the Lease.

5. Consideration for Assignments of Ground Leases. Assignor represents and warrants to City that there are no additional payments of rent or any other consideration of any type that has been paid, is payable, or may become payable by Assignee or any other person to Assignor in connection with the assignment of the Lease to Assignee, other than as disclosed in that certain Agreement of Purchase and Sale, dated May 6, 2024, by and among Assignor, Assignee, and CHH Torrey Pines Tenant Corp., a Delaware corporation.

6. Brokerage Commission. Assignor acknowledges and agrees that City will not be liable for any brokerage commission or finder's fee in connection with the assignments of the Lease to Assignee or this Consent. Assignor agrees to protect, defend, indemnify, and hold City harmless from any brokerage commission or finder's fee in connection with the assignment of the Lease to Assignee or this Consent, and from any cost or expense (including attorney fees) incurred by City in resisting any claim for any such brokerage commission or finder's fee. The provisions of this Section 6 shall survive the expiration or earlier termination of both the Assignment Agreement and this Consent.

7. Additional Consideration to City. In accordance with Section 4.5.2 of the Lease, Assignor shall pay City additional consideration in the amount of \$3,300,000.00 in connection with Assignor's assignment of the Lease to Assignee. If Assignor receives the Earn-Out Payment (as defined in Section 2.6 of the Agreement of Purchase and Sale), Assignor shall pay City an additional \$60,000.00, for a total of \$3,360,000 as additional consideration in connection with Assignor's assignment of the Lease to Assignee.

8. Controlling Law. The terms and provisions of this Consent will be construed in accordance with and will be governed by the laws of the State of California.

9. Captions. Captions to the sections in this Consent are included for convenience only and do not modify any of the terms of this Consent.

10. Entire Agreement; Waiver. This Consent constitutes the final, complete, and exclusive statement between the parties to this Consent pertaining to the terms of City's consent to the assignment of the Lease to Assignee pursuant to the Assignment Agreement, supersedes all prior and contemporaneous understandings or agreements of the parties relating to the Assignment, and is binding on and inures to the benefit of their respective heirs, representatives, successors, and assigns. No party has been induced to enter into this Consent by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Consent. Any agreement made after the date of this Consent is ineffective to modify, waive, or terminate this Consent, in whole or in part, unless that agreement is in writing, is signed by the parties to this Consent, and specifically states that agreement modifies this Consent.

11. No Effect on Lease. Notwithstanding any provision of this Consent to the contrary, this Consent does not release, discharge, or modify any obligation of Lessee or Assignor or Assignee under the Lease.

12. Processing Fees. Assignor agrees to pay City all applicable processing and/or administrative fee(s) charged by City for processing this Consent.

13. No Fee Title Encumbrance. Nothing in this Consent or any document referenced in this Consent is intended to create or authorize the creation of any transfer, lien, or encumbrance affecting the fee title to the Premises.

[SIGNATURE PAGE FOLLOWS]

**SIGNATURE PAGE
TO
CONSENT TO ASSIGNMENT OF PERCENTAGE LEASE
(10950 N. Torrey Pines Rd.)**

City, Assignor, and Assignee sign and enter into this Consent by and through the signatures of their respective authorized representatives set forth below:

THE CITY OF SAN DIEGO, a California
municipal corporation

By: 
Name: LUCY CONTRERAS
Title: DEPUTY DIRECTOR, REAL ESTATE

CHH Torrey Pines Hotel Partners LP,
a Delaware partnership

By: CHH Torrey Pines Hotel GP LLC,
a Delaware limited liability company,
its general partner

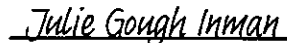
By: 
Name: Alex Rose
Title: Vice President

JRK Torrey Pines Hotel Owner LLC, a
Delaware limited liability company

By: _____
Name: _____
Title: _____

Approved as to form on
Jul 3, 2024 _____:

MARA W. ELLIOTT, City Attorney

By: 
Julie Gough Inman (Jul 3, 2024 18:12 PDT)
Julie Gough Inman
Deputy City Attorney

**SIGNATURE PAGE
TO
CONSENT TO ASSIGNMENT OF PERCENTAGE LEASE
(10950 N. Torrey Pines Rd.)**

City, Assignor, and Assignee sign and enter into this Consent by and through the signatures of their respective authorized representatives set forth below:

THE CITY OF SAN DIEGO, a California
municipal corporation

CHH Torrey Pines Hotel Partners LP, a
Delaware partnership

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

JRK Torrey Pines Hotel Owner LLC, a
Delaware limited liability company

By:  _____
Name: Daniel Lippman
Title: Authorized Signatory

Approved as to form on

_____:

MARA W. ELLIOTT, City Attorney

By: _____
Julie Gough Inman
Deputy City Attorney

EXHIBIT A

Property Description

ALL THOSE PORTIONS OF PUEBLO LOTS 1325, 1326, 1330 AND 1331 OF THE PUEBLO LANDS OF SAN DIEGO IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF BY JAMES PASCOE, IN 1870, A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921 AS MISCELLANEOUS MAP 36, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PUEBLO LOT 1325, WHICH IS THE COMMON CORNER OF PUEBLO LOTS 1325, 1326, 1330 AND 1331; THENCE ALONG THE COMMON LINE OF PUEBLO LOTS 1325 AND 1331 NORTH 89°05'90" WEST, 255.74 FEET; THENCE LEAVING SAID COMMON LINE NORTH 2°48'32" WEST 285.07 FEET; THENCE NORTH 7°31'23" WEST, 399.47 FEET; THENCE NORTH 6°28'50" WEST, 134.23 FEET TO A POINT THAT BEARS SOUTH 82°32'25" WEST 42.90 FEET FROM THE SOUTHWEST CORNER OF THE PROPERTY DESCRIBED IN THAT CERTAIN LEASE AGREEMENT EXECUTED OCTOBER 2, 1961, FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN DIEGO AS DOCUMENT NO. 629873, OFFICIAL RECORDS, THE BOUNDARIES OF WHICH ARE SET OUT ON CITY ENGINEER'S DRAWING 13929-CL ON FILE IN THE OFFICE OF THE CITY ENGINEER OF THE CITY OF SAN DIEGO; THENCE NORTH 82°32'25" EAST 42.90 FEET TO SAID SOUTHWEST CORNER; THENCE CONTINUING ALONG THE SOUTH LINE OF SAID PROPERTY DESCRIBED IN SAID LEASE AGREEMENT NORTH 82°32'25" EAST TO THE SOUTHEAST CORNER OF LAST SAID PROPERTY; SAID POINT ALSO BEING A POINT IN THE WESTERLY RIGHT OF WAY LINE OF TORREY PINES ROAD, AS DEDICATED BY CITY OF SAN DIEGO ORDINANCE 7634 DATED MARCH 24, 1919; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE SOUTH 9°28'56" EAST 842.58 FEET TO A POINT "A"; THENCE SOUTH 80°31'04" WEST 368.36 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED LAND IS NOW COMMONLY KNOWN AS:

LOT 1 OF SHERATON HOTEL AT TORREY PINES UNIT NO. 2, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 12164, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 12, 1988.