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Caring for Your Coast

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Deputy Director

Brock Ladewig
Deputy Director

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

September 06, 2016

44 September 6, 2016

LORI GLASGOW
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF LEASE AMENDMENT NO.1 TO FACILITATE A REFINANCING AND
AMENDMENT NO. 1 TO COVENANTS, CONDITIONS, AND RESTRICTIONS TO EXTEND THE
TERMS OF AFFORDABLE HOUSING COVENANT FOR THE DEL REY SHORES RESIDENTIAL
DEVELOPMENT IN
MARINA DEL REY (PARCELS 100S/101S at 4201 to 4261 Via Marina)
(FOURTH DISTRICT) (4 VOTES)**

SUBJECT

Request for approval of: (a) an amendment to that certain Amended and Restated Lease Agreement, Parcels 100S and 101S-Marina del Rey dated March 3, 2011, by and between the County of Los Angeles and Shores, LLC, a Delaware limited liability company, to: (1) eliminate provisions specifically pertaining to the original HUD financing through a Federal Home Administration loan, which will no longer exist under the proposed refinancing; (2) eliminate certain provisions that are no longer applicable due to the passage of time; (3) grant an additional rent credit in the amount of \$3.8 million to extend the existing affordable housing covenant for an additional approximately 20 years to the end of the Lease term; and (4) obtain a release of all environmental and other alleged claims by Lessee against the County in connection with the development of the Lessee's project; and (b) approve the amendment of the Covenants, Conditions, and Restrictions for the Lessee's project to extend the term of the affordable housing covenant through the end of the Lease term.

IT IS RECOMMENDED THAT THE BOARD:

1. Find that your Board has previously considered and recertified the Environmental Impact Report and adopted the Environmental Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring Program for the proposed redevelopment project in compliance with the California Environmental Quality Act and the writ of mandate by the Los Angeles Superior Court.

2. Approve and authorize the Chair to execute Amendment No.1 to the Amended and Restated Lease Agreement for Parcels 100S and 101S (attached hereto as Exhibit A).
3. Approve the amendment to the Covenants, Conditions and Restrictions requiring the project to maintain its existing 54 affordable housing units until the end of the Lease term (approximately an additional 20 years).
4. Authorize the Director of the Department of Beaches and Harbors to execute and deliver such other ancillary documentation (including without limitation a lender estoppel certificate and a memorandum of lease amendment) for Parcels 100 and 101, as may be required in connection with the proposed refinancing of the project or the other transactions contemplated hereby.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Background

In 1964, the County of Los Angeles entered into two, separate leases for Parcels 100S and 101S in Marina del Rey, each of which had a term ending March 31, 2022.

On December 12, 2006, your Board approved an Option to Amend Lease Agreements for Parcels 100S and 101S (Option Agreement), pursuant to which the lessee, Shores, LLC (Lessee), was granted an option to consolidate the leaseholds and extend the term of the resulting consolidated lease by 41 years to July 31, 2063, in exchange for their demolition of the then-existing 201 apartments and construction of 544 new apartment units (including 54 affordable units). The Option Agreement included an approved draft of an Amended and Restated Lease Agreement for the consolidated and extended leasehold, which was to be executed after satisfaction of various requirements, including evidence that the lessee had sufficient project financing.

On December 15, 2009, your Board approved a renewal/extension of the Option Agreement due to complex litigation impacting the project's entitlements and the Lessee's difficulty in obtaining financing.

The Lessee was unable to secure financing from traditional sources for a commercial loan but was able to negotiate financing with the U.S. Department of Housing and Urban Development (HUD) through a Federal Housing Administration (FHA) program loan. The \$125 million, 40-year FHA loan serves as both construction and permanent financing.

To secure the financing, the Lessee requested that your Board approve among other things certain modifications to the previously-approved draft of the Amended and Restated Lease to accommodate certain HUD/FHA requirements. The principal modification required that certain future lease payments to the County in excess of the minimum rent and initial percentage rent be subordinated to debt service and ongoing project costs. Your Board approved the modifications on February 2, 2011, and the Amended and Restated Lease for the project (the Lease) was executed on March 3, 2011.

The Lessee is now refinancing the HUD/FHA loan with a \$156 million permanent loan, and is requesting your Board's approval of an amendment of the existing Lease that will accommodate the new loan and eliminate the HUD/FHA modifications.

In addition to eliminating the HUD/FHA lease modifications, the proposed Lease amendment (Amendment) will:

- (a) Eliminate the “Additional Lease Extension Fee” defined in the existing Lease;
- (b) Extend by approximately an additional 20 years the Lessee’s obligation to provide 54 affordable apartment units (37 moderate income and 17 very low income);
- (c) Add a rent credit in the amount of \$3.8 million as consideration for the 20-year extension of the affordable housing covenant through the end of the Lease term;
- (d) Release environmental and other claims alleged by the Lessee against the County in connection with the construction of the Lessee’s project (Del Rey Shores);
- (e) Bind the County and Lessee, post execution of the Lease Amendment, to negotiate changes to the structure of the Capital Improvement Fund to include having a reserve study conducted every 5 years, requiring Lessee to reserve sufficient funds for Permitted Capital Expenditures (as defined in the Lease) as provided in the reserve study.

The County’s economic consultant has analyzed the economic impact of the elimination of the Additional Lease Extension Fee and has concluded that it is revenue-neutral as no payment is due under that clause now and there is no possibility that any payment will be due in the future for the County, assuming that all cost and rent data provided to the economic consultant by the Lessee are confirmed by the County. The County’s economic consultant has also analyzed whether the rent credit is at or below similar concessions currently being given by public entities to create affordable housing units, and has concluded that the rent credit measured on a per unit basis adjusted for the 20-year term represents a per unit cost lower than the typical or “market” level of per unit subsidies needed to fund affordable housing.

Implementation of Strategic Plan Goals

The recommended actions will further County policies that promote and facilitate the economic viability and public benefit of the parcels, which will help the County achieve fiscal sustainability (Strategic Plan Goal No. 1, Strategy No. 1).

FISCAL IMPACT/FINANCING

There is no fiscal impact to the County in the short term. The rent credit provided by the proposed Lease Amendment will have no fiscal impact until approximately 2019 and then over a period of approximately two years.

Operating Budget Impact

No change to the operating budget is expected as a result of this action.

Costs of the consultants involved in the negotiation and development of the Amended and Restated Lease Agreement are being reimbursed by the Lessee on an ongoing basis.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The terms of the original leases for Parcels 100S and 101S were scheduled to expire concurrently on March 31, 2022. In exchange for a Lease term extension for the consolidated Lease to July 31, 2063, the Lessee agreed to raze the existing 201 apartments and other existing improvements and to construct 544 new apartments (including 54 affordable units).

The existing affordable housing covenant does not extend through the end of the Lease term in 2063; the proposed Amendment (and concurrent amendment of the affordable housing covenant for the project) will extend the Lessee's covenant to provide affordable housing so that it runs concurrently with the Lease term. The County's signatories to the existing affordable housing covenant (Department of Regional Planning and Community Development Commission) are authorized by the Coastal Development Permit for the project to sign the Covenants, Conditions and Restrictions (CC&Rs) amendment that would be required by the proposed Lease Amendment.

At its meeting on August 10, 2016, the Small Craft Harbor Commission unanimously endorsed the Director's recommendation that your Board approve and execute the proposed Amendment.

Amendment of the Lease is authorized by Government code Sections 25907 and 25536. The proposed Amendment was reviewed and approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

On December 16, 2008, your Board considered and recertified the Environmental Impact Report (EIR) and adopted the Environmental Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring Program for the proposed redevelopment project in compliance with the California Environmental Quality Act and the writ of mandate by the Los Angeles Superior Court. The recommended actions are within the scope of the project in the previously certified EIR.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on other current services or projects

CONCLUSION

It is requested that the Executive Officer, Board of Supervisors send two executed original copies of the Amendment No. 1 to the Amended and Restated Lease and an adopted Board Letter to the Department of Beaches and Harbors. Should you have any questions please contact Don Geisinger at (310) 305-9506 or dgeisinger@bh.lacounty.gov.

The Honorable Board of Supervisors

9/6/2016

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. Jones", with a stylized, looped initial "G".

GARY JONES

Director

GJ:BL:dlg

Enclosures

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors

AMENDMENT NO. 1 TO AMENDED AND RESTATED LEASE AGREEMENT
PARCELS 100S AND 101S — MARINA DEL REY
(LEASE NO. 77483)

THIS AMENDMENT NO. 1 TO AMENDED AND RESTATED LEASE AGREEMENT (the “**Amendment**”) is made and entered into as of September 6th, 2016 (the “**Effective Date**”), by and between COUNTY OF LOS ANGELES (“**County**”) and SHORES, LLC, a Delaware limited liability company (“**Lessee**”).

RECITALS

A. County and Lessee entered into Amended and Restated Lease Agreement (Lease No. 747483) dated March 3, 2011 (the “**Lease**”), pursuant to which County leased to Lessee that certain real property located in the Marina del Rey Small Craft Harbor, County of Los Angeles, State of California, commonly known as Parcels 100S and 101S and more particularly described in Exhibit A attached hereto (the “**Premises**”).

B. County and Lessee have agreed to an increase in the Lessee Credit as defined in Section 4.4.1 of the Lease in consideration of the agreement by Lessee to amend the Covenants, Conditions and Restrictions by and among the Community Development Commission of the County of Los Angeles (the “**CDC**”), the County (by and through the Department of Regional Planning), and Lessee dated as of February 24, 2011 (the “**Affordable Housing Agreement**”) to extend the affordable housing obligations described therein to be coterminous with the Term of the Lease.

C. County and Lessee have also agreed to eliminate provisions in the Lease relating to the “FHA Loan,” as described in the Lease, since the FHA Loan is being repaid contemporaneously with the date of the Amendment.

D. County has also acknowledged that no “Additional Lease Extension Fee,” as defined in the Lease, is due and owing, and the provisions related to the Additional Lease Extension Fee may be deleted from the Lease.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Lessee agree as follows:

1. Capitalized Terms. All capitalized terms used in this Amendment and not otherwise defined herein shall have the same meanings given to such terms in the Lease.

2. FHA Loan Provisions. All references to and provisions pertaining to the FHA Loan in the Lease are deleted. In particular:

a. The last Recital (which begins, “WHEREAS in connection with the acquisition by Lessee of the FHA Loan...”) is deleted.

b. Section 1.2 is deleted.

- c. Section 1.4 is deleted.
- d. The reference to "and the FHA provisions" in Subsection 4.3.4 is deleted.
- e. The last 2 sentences of Section 5.9 are deleted.
- f. Subsection 6.7.5 is deleted.
- g. The second paragraph of Subsection 11.2.4 (which begins, "Notwithstanding any contrary provision of this Section 11.2.4, during the FHA Loan Term...") is deleted.
- h. The reference to "FHA, HUD or other Encumbrance Holder under the FHA Loan" in Subsection 12.3.1 is deleted.
- i. The last sentence in Subsection 12.6.3(a) is deleted.
- j. Subsection 12.6.3(b)(3) is deleted.
- k. The last sentence in Subsection 13.3.1 is deleted.
- l. Section 17.10 is deleted.
- m. The FHA Lease Addendum is deleted.
- n. Exhibit F is deleted.

3. Funds held by FHA. Immediately following the consummation/closing of Lessee's new financing by a Fannie Mae related entity, the amount required by Lessee to be paid into the Capital Improvement Fund as of August 31, 2016 (estimated to be approximately Four Hundred Fifty-Five Thousand Six Hundred Thirty Dollars (\$455,630)) shall be established and maintained in accordance with Section 5.12 of the Lease.

4. Additional Lease Extension Fee. Section 2.3 is deleted.

5. Lessee Credit. The Lessee Credit of Eleven Million Fifty Thousand Dollars (\$11,050,000) in Section 4.4.1 is increased to Fourteen Million Eight Hundred Fifty Thousand Dollars (\$14,850,000).

6. Release & Indemnity. Lessee agrees that as a condition to the effectiveness of this Amendment, Lessee shall execute and deliver to County concurrently with its execution and delivery of this Amendment a letter in the form attached hereto as Exhibit B, with only the following changes: (a) the letter shall be dated as of the Effective Date and addressed to the attention of the Director of the County of Los Angeles, Department of Beaches and Harbors ("**Director**"), and (b) the first and last paragraphs of the letter shall be updated to reflect the current status of the reabandonment of the wells so that the letter is factually correct with respect to the same as of the Effective Date.

7. Amendment of Affordable Housing Covenant. As consideration for the increase of the Lessee Credit as set forth in Paragraph 5 above, Lessee agrees to amend the Affordable Housing Covenant to extend the affordable housing obligations described therein to be coterminous with the Term of the Lease (the "**Affordable Housing Amendment**"). Lessee (a) shall execute, acknowledge and deliver the Affordable Housing Amendment to County within thirty (30) days after Lessee's receipt of the final form thereof as approved by the CDC and County, and (b) consents to the recordation thereof in the Official Records of Los Angeles County, California. Furthermore, Section 17.11 of the Lease is hereby amended to add ", as amended from time to time" after "in accordance with the provisions of the Affordable Housing Covenant."

8. Capital Improvement Fund. Immediately following the Effective Date of this Amendment, Lessee agrees to negotiate in good faith so that within sixty (60) days following such Effective Date the County and Lessee shall agree upon a mutually acceptable supplement to Section 5.12 of the Lease regarding the Capital Improvement Fund and its utilization such that commencing on the seventh (7th) anniversary date of this Amendment and thereafter every five (5) to seven (7) years as the company conducting the seven (7) year reserve study so recommends, Lessee (at its expense) shall cause a Reserve Study (as defined below) to be prepared within one hundred twenty (120) days from anniversary date, by a mutually acceptable company (who has special expertise in preparing capital improvement reserve studies for similar projects) (the "**Reserve Study**"), and (i) the Capital Improvement Fund contributions will be adjusted to insure the availability of funds for "**Permitted Capital Expenditures**" in the amounts and at the times indicated by the Reserve Study; and (ii) Lessee shall complete the Permitted Capital Expenditures recommended in the Reserve Study, subject to the new lender's (Fannie Mae related entity) requirements. In the event that the County and Lessee are unable to agree upon a mutually acceptable company to prepare the Reserve Study, then the Director shall select a company in its reasonable discretion. The Director or his designee is hereby authorized to execute said ancillary supplement to Section 5.12.

9. CASp Disclosure. For purposes of Section 1938 of the California Civil Code, County hereby discloses to Lessee, and Lessee hereby acknowledges, that the Premises has not undergone an inspection by a Certified Access Specialist.

10. No Other Modifications. Except as expressly set forth in this Amendment, all terms, conditions, and provisions of the Lease remain in full force and effect and are unmodified, and each of the parties reaffirms and acknowledges its respective obligations under the Lease as amended hereby.

11. Encumbrance Holder. Lessee represents and warrants to County that as of the Effective Date of this Amendment (a) there are no deeds of trust, mortgages or other security interests that encumber Lessee's interest in the Lease or the Premises other than the Deed of Trust in connection with the FHA Loan which is intended to be refinanced, and (b) there will be no further Deed of Trust recorded against Lessee's interest in the Lease or the Premises until the Memorandum described in Paragraph 14 below is recorded.

12. County Costs. Lessee shall promptly following written demand from County reimburse County for the Actual Costs (as defined in the Lease) incurred by County in the review,

negotiation, preparation and documentation of the matters that are the subject of this Amendment, including any lender consent or estoppel certificate pertaining to the Lease or this Amendment.

13. Counterparts. This Amendment may be signed in counterparts. Each counterpart represents an original of this Amendment and all such counterparts shall collectively constitute one fully-executed document.

14. Memorandum of Amendment. Concurrent with the execution and delivery of this Amendment, County and Lessee shall execute a Memorandum of Amendment to Amended and Restated Lease Agreement (the “**Memorandum**”) and cause same to be recorded in the Official Records of Los Angeles County, California.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, County and Lessee have entered into this Amendment as of the date first set forth above.

COUNTY OF LOS ANGELES:

By: Hilda F. Solis
Chair, Board of Supervisors

LESSEE:

SHORES, LLC, a Delaware limited liability company

By: Del Rey Shores, LLC, a Delaware limited liability company, its Managing Member

By: David O. Levine
David O. Levine, Vice President

ATTEST:

LORI GLASGOW,
Executive Officer - Clerk of the Board of Supervisors

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

By: Sachelle Smitheman
Deputy

LORI GLASGOW
Executive Officer
Clerk of the Board of Supervisors

By: Sachelle Smitheman
Deputy

APPROVED AS TO FORM:

MARY C. WICKHAM,
County Counsel

By: [Signature]
Deputy



APPROVED AS TO FORM:

GLASER WEIL FINK HOWARD AVCHEN & SHAPIRO LLP

By: Ron W. Hume

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

#44 SEP 06 2016

Lori Glasgow
LORI GLASGOW
EXECUTIVE OFFICER

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

Commencing at the intersection of a line parallel with and 40 feet northwesterly, measured at right angles, from the straight line in the northwesterly boundary of Parcel 406, as shown on said map, with a line parallel with and 35.5 feet southwesterly, measured at right angles, from the straight line in the southwesterly boundary of said last mentioned parcel; thence South $36^{\circ}00'53''$ East along said last mentioned parallel line 156.78 feet to the beginning of a tangent curve concave to the southwest and having a radius of 810 feet; thence southeasterly along said last mentioned curve through a central angle of $23^{\circ}06'08''$ a distance of 326.60 feet; thence South $12^{\circ}54'45''$ East tangent to said last mentioned curve 64.36 feet to the beginning of a curve concave to the west, having a radius of 1231.31 feet, tangent to said last mentioned course and tangent to a line parallel with and 40 feet easterly, measured at right angles, from the easterly line of said Parcel 308; thence southerly along said last mentioned curve 247.07 feet to a point hereby designated "Point A"; thence continuing southerly along said last mentioned curve 30.42 feet to said last mentioned parallel line; thence South along said last mentioned parallel line to the easterly prolongation of the southerly line of the northerly 26 feet of said Parcel 304; thence West along said easterly prolongation and said last mentioned southerly line to a point in the westerly line of the easterly 3.5 feet of said last mentioned parcel, said last mentioned point being the true point of beginning; thence North along said westerly line and its northerly prolongation 358.24 feet to a line parallel with and 19.41 feet southerly, measured at right angles, from the straight line in the northerly boundary of said Parcel 202; thence West along said last mentioned parallel line 2.00 feet; thence North 6.00 feet; thence East 2.00 feet; thence North 5.00 feet; thence North $1^{\circ}24'56''$ West along a straight line, which passes through the intersection of a radial of said 1231.31 foot radius curve at said "Point A" with a curve concentric with and 47 feet westerly, measured radially, from said last mentioned curve a distance of 7.00 feet; thence South $88^{\circ}35'04''$ West 4.00 feet; thence North $1^{\circ}24'56''$ West 5.00 feet; thence North $88^{\circ}35'04''$ East 4.00 feet to said last mentioned straight line; thence North $1^{\circ}24'56''$ West along said last mentioned straight line 23.42 feet to a line parallel with and 27 feet northerly, measured at right angles, from said straight line in the northerly boundary of Parcel 202.

Together with a right of way for ingress and egress, to be used in common with the owners of the leasehold estates designated as Parcels 1008, 1028 and 103T and their tenants, all persons lawfully occupying the premises, and their invitees (hereinafter referred to as "Others"), over those portions of Parcels 300, 315, 316, 317, 323 to 326 inclusive, 332, 353, 354 and 369, as shown on said map, within the following described boundaries:

Beginning at the intersection of the southwesterly boundary of said Parcel 326 with the westerly prolongation of the straight line in the southerly boundary of said Parcel 300; thence East along said westerly prolongation and said last mentioned straight

line 54.85 feet; thence North 35°03'05" West to the southeasterly boundary of above described parcel of land; thence South 54°56'55" West along said southeasterly boundary to the most southerly corner of said parcel of land; thence northwesterly along the southwesterly boundary of said parcel of land to the most westerly corner of said parcel of land; thence northeasterly along the northwesterly boundary of said parcel of land to the northwesterly prolongation of said course of North 35°03'05" West; thence North 35°03'05" West along said northwesterly prolongation to a line parallel with and 30 feet northeasterly, measured at right angles, from the southwesterly line of said Parcel 325; thence North 34°06'16" West along said last mentioned parallel line 529.10 feet to a line parallel with and 30 feet northeasterly, measured at right angles, from that certain course of North 36°00'30" West 380.10 feet in the southwesterly boundary of said Parcel 369; thence North 36°00'30" West along said last mentioned parallel line 371.20 feet; thence North 14°23'56" West 54.29 feet to the northwesterly boundary of said last mentioned parcel; thence South 52°40'22" West along said last mentioned northwesterly boundary to the most westerly corner of said last mentioned parcel; thence southeasterly along the southwesterly lines of said Parcels 369, 354, 353, 332, 325 and 324 to the northeasterly corner of said Parcel 326; thence westerly and southeasterly along the northerly and southwesterly boundaries of said last mentioned parcel to the point of beginning.

Also together with a right of way for ingress and egress over those portions of Parcels 308, 309, 319, 320, 322 and 323, as shown on said map, within the following described boundaries:

Beginning at the most westerly corner of above described parcel of land; thence North 35°52'53" West along the southwesterly line of said Parcel 323 to a line parallel with and 26 feet northwesterly, measured at right angles, from above described course of South 54°56'55" West 440.96 feet in the northwesterly boundary of said parcel of land; thence North 54°56'55" East along said last mentioned parallel line to a line parallel with and 20 feet northerly, measured at right angles, from above described course of West in the northerly boundary of said parcel of land; thence East along said last mentioned parallel line to the northerly prolongation of above described course of North 1°24'56" West 23.42 feet in the easterly boundary of said parcel of land; thence South 1°24'56" East along said last mentioned northerly prolongation to said northerly boundary; thence westerly and southwesterly along the northerly and northwesterly boundaries of said parcel of land to the point of beginning.

Reserving and excepting unto the County of Los Angeles a right of way for ingress and egress, to be used only in common with "Others", over that portion of above described parcel of land which lies southwesterly of the following described line:

Beginning at a point in the southerly boundary of said Parcel 300 distant East thereon 27.40 feet from the southwesterly corner of said last mentioned parcel; thence North $35^{\circ}03'05''$ West to a line parallel with and 30 feet northeasterly, measured at right angles, from the southwesterly line of said Parcel 325.

Also reserving and excepting unto the County of Los Angeles a right of way for access, fire access and harbor utility purposes in and across that portion thereof designated on said map as easement to be reserved by said County for such purposes.

DESCRIPTION APPROVED

UN 14 1972
HARVEY T. BRANDT
County Engineer

By James L. [Signature] Deputy

APN: 8940-370-016 and 8940-370-017 (affects Parcel 101S)

EXHIBIT B

FORM OF RELEASE AND INDEMNITY LETTER

SHORES, LLC

4201 Via Marina
Marina del Rey, California 90292
Telephone: 310-823-5384
FAX: 310-301-1710

September 12, 2011

County of Los Angeles
c/o Department of Beaches and Harbors
13836 Fiji Way
Marina del Rey, CA 90292
Attention: Santos Kriemann

Re: Amended and Restated Lease between the County of Los Angeles (the "County") and Shores, LLC ("Shores" or "Lessee") dated March 3, 2011 (the "Lease") – Confirmation of Lessee's Waivers and Indemnification

Dear Santos:

Shores is in the process of securing from the California Department of Conservation, Division of Oil and Gas and Geothermal Resources ("DOGGR") a permit for the supplemental reabandonment of the two abandoned oil wells (the "Oil Wells") that are located on the demised premises that is the subject of the Lease. Despite the fact that re-abandonment has not been required by any governmental entity, Shores has submitted to County a plan for supplemental re-abandonment (the "supplemental re-abandonment plan") in order to provide comfort concerning the impact the Shores construction might have on the Oil Wells. We understand that County is prepared to allow Shores to proceed with the supplemental re-abandonment plan, and to sign the necessary permit application, provided that Shores confirms its understanding regarding certain terms and provisions of the Lease pertaining to the Oil Wells.

Without limitation of the specific terms and provisions of Section 15.4 of the Lease, including the exceptions provided therein, Section 15.4 of the Lease provides for (a) Lessee's acceptance of the Premises in its "AS IS" condition, including all known and unknown defects; (b) acknowledgment that County has no obligation for any additional engineering or construction costs that Lessee might incur with respect to defects or conditions affecting the Premises; and (c) Lessee's waiver and release with respect to the physical condition of the demised premises and the soil thereon and thereunder as and to the extent set forth in Section 15.4.1. Section 49 of the prior Existing Lease (as such term is defined in the Lease) for Parcel 101S includes similar acceptances, acknowledgments, waivers and releases.

Section 5.8.1 of the Lease imposes certain obligations upon Lessee with respect to the performance by Lessee of construction, alteration, modification or repair work pertaining to or affecting the Premises.

Finally, Article 8 of the Lease contains certain indemnification, hold harmless and defense obligations of the Lessee.

Shores acknowledges and agrees that the terms and provisions of Sections 15.4 and 5.8.1 (and Section 49 of the prior Existing Lease for Parcel 101S to the extent relevant with respect to Parcel 101S) and Article 8 of the Lease (including without limitation, the acceptances, acknowledgments, waivers and releases by Lessee set forth in Sections 15.4, the obligations of

Lessee under Section 5.8.1 of the Lease, and the indemnification, defense and hold harmless obligations of Lessee under Article 8 of the Lease) (all of the foregoing matters referenced in this sentence are collectively referred to herein as the "Subject Provisions") are binding and enforceable against Lessee, and pertain to (i) the supplemental re-abandonment of the Oil Wells, including any adverse effect or negative impact of the supplemental re-abandonment on the Oil Wells, (ii) any current and future construction, modification, alteration or repair to any of the improvements being constructed or contemplated to be constructed on the demised premises and (iii) other activities on or use of the demised premises by or on behalf of Lessee subsequent to the supplemental re-abandonment that affect the Oil Wells as a result of Lessee having conducted the supplemental re-abandonment (clauses (i), (ii) and (iii) are collectively referred to herein as the "Subject Matters"). For clarification, the Subject Provisions, and Lessee's obligations thereunder, shall extend to any future orders by DOGGR or any other governmental agency pertaining or relating to, or affecting, the Oil Wells (including without limitation, any future leaks, additional re-abandonment or other required work relating to the Oil Wells) to the extent that such future orders arise out of, result from, or are required because of, the Subject Matters. Shores further acknowledges and agrees that in accordance with the terms of the Lease, neither County, nor its officers, agents, employees or volunteers shall have any obligations or liabilities to Lessee with respect to any of the Subject Matters. Without limitation of the foregoing, Lessee acknowledges and agrees that, in clarification of clause (ii) of Section 15.4.1.3 of the Lease, County has no obligations or liabilities to Lessee under the Existing Leases (as such term is defined in the Lease) with respect to the Subject Matters.

Without limitation of the foregoing, Shores understands and agrees that the execution by County of the application for the DOGGR supplemental re-abandonment plan permit will not result in any demand being made upon County, nor result in any claim, assertion or defense by Lessee against the County, based on any of the exceptions, qualifications or limitations to Shores' repair, indemnification or other obligations, waivers or releases under the Lease.

This letter shall not limit, restrict, reduce, waive or release any liabilities or obligations of Lessee under the Lease.

Lessee acknowledges that County's execution at Lessee's request of the DOGGR permit application for the supplemental reabandonment plan will be in reliance on the terms and provisions of this letter.

Respectfully yours,

David O. Levine

David O. Levine for Shores, LLC

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