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June 5, 2003

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

SUBJECT: **COMMISSION AGENDA – JUNE 11, 2003**

Enclosed is the June 11, 2003 meeting agenda, together with the minutes from your meeting of May 14, 2003. Also enclosed are reports related to agenda items 4a, 4b, 5b, 5c, 5d, 5e, 6a, 7a and 7b.

Please call me if you have any questions or need additional information.

SW:tlh
Enclosures

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://beaches.co.la.ca.us

Stan Wisniewski Director • **Kerry Gottlieb** Chief Deputy

COUNTY OF LOS ANGELES

SMALL CRAFT HARBOR COMMISSION
(310) 305-9527

Harley A. Searcy, Chairman
Carole B. Stevens, Vice-Chairperson
John C. Law
Russ Lesser
Joe Crail

AGENDA

SMALL CRAFT HARBOR COMMISSION MEETING
JUNE 11, 2003
9:30 a.m.
BURTON W. CHACE PARK COMMUNITY BUILDING
13650 MINDANAO WAY
MARINA DEL REY, CA. 90292

1. Call to Order and Action on Absences

2. Approval of Minutes: Meeting of May 14, 2003

3. Service Awards

4. **REGULAR REPORTS**

   a. Marina Sheriff (DISCUSS REPORTS)
      -Crime Statistics
      -Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance

   b. Marina Special Events (DISCUSS REPORT)

5. **NEW BUSINESS**

   a. Election of Commission Officers (ACTION REQUIRED)

   b. Approve the Attached Resolution Authorizing the Execution of an Agreement for Grant Funds in the Amount of $55,000 from the California State Coastal Conservancy for the 2003 Marina Coastlink Water Shuttle Service Alternative Power Evaluation and Permanent Water Shuttle Feasibility Study (RECOMMENDATION TO THE BOARD)

   c. Approval of Option and Amended and Restated Lease to Facilitate Redevelopment – Parcels 95S and LLS (Marina West Shopping Center) – Marina del Rey (RECOMMENDATION TO THE BOARD)

   d. Approval of Option and Amended and Restated Lease to Facilitate Redevelopment – Parcel 97R (Marina Beach Shopping Center) – Marina del Rey (RECOMMENDATION TO THE BOARD)

   e. Approval of Option and Amended and Restated Lease to Facilitate Redevelopment – Parcel 140V (Admiralty Apartments) – Marina del Rey (RECOMMENDATION TO THE BOARD)

6. **OLD BUSINESS**

   a. Rules Regarding Ceding of Time for Speakers to Address the Commission (ACTION REQUIRED)

7. **STAFF REPORTS**

   a. Marina Harbor Anchorage – Slip Agreement Rules Regarding Working on Boats (DISCUSS)

   b. Ongoing Activities (DISCUSS REPORTS)
      - Board Actions on Items Relating to Marina del Rey
      - Marina del Rey Water Shuttle Service Update
      - Design Control Board Minutes

7. **COMMUNICATION FROM THE PUBLIC**

8. **ADJOURNMENT**

PLEASE NOTE:

1. The Los Angeles County Board of Supervisors adopted Chapter 2.160 of the Los Angeles Code 93-031 relating to lobbyists. Any person who seeks support or endorsement from the Small Craft Harbor Commission on any official action must certify that he/she is familiar with the requirements of this ordinance. A copy of the ordinance can be provided prior to the meeting and certification is to be made before or at the meeting.

2. The agenda will be posted on the Internet and displayed at the following locations at least 72 hours preceding the meeting date:

   Department of Beaches and Harbors' Website Address: http://beaches.co.la.ca.us

   Department of Beaches and Harbors
   Administration Building
   13837 Fiji Way
   Marina del Rey, CA 90292

   MdR Visitors & Information Center
   4701 Admiralty Way
   Marina del Rey, CA 90292

   Burton Chace Park Community Room
   13650 Mindanao Way
   Marina del Rey, CA 90292

   Marina del Rey Library
   4533 Admiralty Way
   Marina del Rey, CA 90292

Si necesita asistencia para interpretar esta informacion llame al (310) 305-9546.

Small Craft Harbor Commission
Meeting of May 14, 2003
Minutes

Commissioners Present:

Harley A. Searcy, Chairman
Carole Stevens, Vice-Chairperson
John C. Law

Excused Absences:

Joe Crail
Russ Lesser

Department of Beaches & Harbors:
Stan Wisniewski, Director
Roger Moliere, Chief, Asset Management Division
Joe Chesler, Chief, Planning Division
Dusty Crane, Chief, Community & Marketing Services Division
Gary Brockman, Sr. Real Property Agent, Asset Management Division
Sal Iannotti, Sr. Real Property Agent, Asset Management Division
Mark Myers, Student Worker, Planning Division

Other County Departments:
Rick Weiss, County Counsel
Captain Sam Dacus, Sheriff's Department
Lt. Tracee Edmonds, Sherff's Department
Sgt. Gary Thornton, Sheriff's Department
Deputy Paul Carvalho, Sheriff's Department

Also Present: Beverly Moore, Executive Director, MdR Convention and Visitors Bureau

1. CALL TO ORDER & ACTION ON ABSENCES

Chairman Searcy called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 9:36 a.m. in the Burton W. Chace Park Community Room, Marina del Rey.

Vice-Chairperson Stevens moved and Commissioner Law seconded a motion to excuse Commissioner Crail and Commissioner Lesser from today's meeting. The motion passed unanimously.

2. APPROVAL OF MINUTES

Commissioner Law moved and Vice-Chairperson Stevens seconded a motion to approve the minutes of April 9, 2003. The motion passed unanimously.

3. REGULAR REPORTS

a. Marina Sheriff's Department Report

— Crime Statistics

Lt. Tracee Edmonds introduced herself and informed the Commission that she is the new Harbor Master at the Marina Station and is looking forward to her new assignment. Lt. Edmonds formerly worked for the City of Compton.

Lt. Edmonds reported that the April crime statistics don't reflect much of a change from the March statistics. There is a significant decrease in burglaries, primarily in the residential and vehicle areas. As summer approaches, Lt. Edmonds said, there may be an increase, however, the Department is developing innovative programs and will be able to use grant money to deploy

additional officers. The Department hasn't received funds for the summer enforcement team, however, the Department has ideas that would enable it to provide ample staff.

Vice-Chairperson Stevens asked Lt. Edmonds to explain the distinctions between robbery:weapon; robbery:strong-arm; and aggravated assault crimes. Lt. Edmonds responded that these crimes are against persons. Robbery:weapon refers to the use of a knife, firearm or a blunt instrument as a weapon. Strong-arm is personally taking someone's property by force. She explained that a person could use his/her hands to take the property or assault someone to take the property. Aggravated assault is a crime related to a person or weapons without the adjunct of a known weapon, using hands, fists, feet; it's basically when someone gets beaten up.

--- **Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance**

Deputy Paul Carvalho reported that this month's report reflects no new notices to comply were issued. A derelict vessel was disposed of by being sold to a film company. It was destroyed during the movie's production. The Department of Boating and Waterways' grant has been tentatively approved and staff is waiting for the Sheriff to sign the final papers. Deputy Carvalho said, at this point, there is no timeframe for the vessels' removal from the docks. He is hopeful this would occur sometime during the summer at which time all the paperwork should be approved and bids should go out for the vendors to take care of the disposal.

Deputy Carvalho said the Seaworthy and Liveaboard discussion in the April minutes is somewhat misleading. He explained that someone reading the April minutes "might construe that we're not enforcing the seaworthy part of the ordinance. We, in fact, are. What we are not doing at this time is, we're not, on a regular basis, walking the docks in search of unseaworthy vessels, simply because we have so many vessels at our docks and a lot of those vessels...notices to comply have been given to them at an earlier date, pretty much that's why we end up with them. If we receive information regarding a vessel that is reported to be unseaworthy, we will act on it. We will go out and we'll do the inspection. Should we find that it's unseaworthy, we will give a notice to comply to it."

b. Marina Special Events

Mr. Wisniewski reported there is a significant amount of activity identified in the "Marina del Rey Outdoor Adventures" section of the Special Events Report. The adventures include an ocean experience aboard a 65' Sea World UCLA vessel, a bird watching program, and a kayaking program. The kayaking lessons are conducted by L.A. County Ocean Lifeguards. He said this is the first time the Department has had such a program available and thanked Dusty Crane and her staff for offering the program to the public. Mr. Wisniewski commended Ms. Crane for her work as Chief of the Community and Marketing Services Division.

Mr. Wisniewski continued, informing the Commission that the California Yacht Club will be hosting its 45th California Cup Regatta. The Special Events Report also lists the open air concerts being held on the weekends at Fisherman's Village.

4. NEW BUSINESS

a. Rules Regarding Ceding of Time for Speakers To Address the Commission

Commissioner Law asked to be heard on a point of order. He said that Commissioner Crail and Commissioner Lesser, who are absent today, made statements at the April meeting about the issue of ceding time for speakers. Commissioner Lesser requested that the item be carried over until, at least, four of the five Commissioners are present. Chairman Searcy said, "Certainly, if that's the pleasure of the Commission. However, in as much as we were all here and I did hear, the Chair did, what they all had to say, and I likewise assume that my fellow Commissioners did. I don't think that it's absolutely necessary to carry it over. I do recall their comments, their general tone of what they thought should be done. The Chair is ready to proceed in this regard."

Vice-Chairperson Stevens said the Commission previously decided that a speaker would address the Commission for three minutes and be allowed an additional three minutes if someone ceded time to the speaker. She said, "Technically, what we had decided on, and you did by order of the Chair, was three minutes with the potential of an additional three minutes from some other speaker not speaking. Also, in reading our regular standing rules, this is something we could think about until there is enough of us here that makes it fair to vote on it. Technically, a speaker could ask to speak on every single item and if somebody could relinquish their time, it could be six minutes on every single item on the agenda. If you look at today's agenda, it's no big deal, but if you look at last month's minutes, the book, as we have been calling it this morning, it was a very long meeting. I would like my fellow Commissioners to think about that and I would agree with Commissioner Law that we wait until, at least, there are four of us here."

Vice-Chairperson Stevens moved and Commissioner Law seconded a motion for the Commission to postpone taking action on Agenda Item #4a until there are at least four Commissioners present at the meeting. Discussion ensued regarding postponing action on the item. Mr. Weiss informed the Commission that, rather than take action at this time, members have the option to open the issue for public discussion, take testimony, then continue the item until the June meeting. The Commissioners who are absent from today's meeting could read the May minutes to prepare to vote on the issue at the June meeting.

Chairman Searcy said he would like to hear the staff report on the issue, as well as from members of the public. He said that members of the public have taken time to attend today's meeting to speak on the matter and should be allowed to speak. After listening to the staff report and public testimony, the Commission could then determine whether it needs to take action today or continue the item to the June meeting. Commissioner Law said he is willing to follow Chairman Searcy's suggestion with the following conditions: 1) Commission hears the staff report; 2) Commission hears the public testimony and the people heard from today would not be able to speak on the subject in June. Chairman Searcy said he would like to err on the side of caution that, "if we have discussion today on the item on the agenda and we carry it over and have the item on the next agenda, irrespective of the people speaking previously, they will be permitted to speak again on the item. It's a separate day... even though it's the same agenda item." He requested guidance from Mr. Weiss. Mr. Weiss responded that the matter is within the Chair's discretion. He said, "Legally, you are only required to hear once from any one person on an item. If you continue the item, it is still the same item. You are not required to hear them twice. However, I will advise that the minutes be prepared in time so that the Commissioners who are not present have an opportunity to hear what people have said that last time so that it

could be considered in a vote." Commissioner Law said he would agree with the Chairman that the Commission need not vote on the motion until the Commission has heard the staff report and public testimony.

Mr. Wisniewski said the current rules provide that, at the discretion of the Chair, individual speakers may be limited to a time period of not less than three minutes. Chairman Searcy asked whether Mr. Wisniewski was referring to previous rules since the current Commission Rules allow people to speak for three minutes; people are also allowed to cede their time. Mr. Wisniewski said he believed the ceding of time was something the Commission agreed to do at the Chair's discretion. Mr. Weiss clarified that, as he advised the Commission at a previous meeting, it is within the Commission's discretion to allow or not allow the ceding of time; this could be done on a meeting-by-meeting basis. He said there was also previous discussion about establishing a rule that would not allow a decision to be made on the ceding of time on a meeting-by-meeting basis. During that discussion, Mr. Weiss said he suggested the item be agendized for consideration of a rule change.

For clarification purposes, Chairman Searcy asked whether the ceding of time is not automatic and is within the Chair's discretion to allow or not allow it. Mr. Weiss responded that Chairman Searcy is correct. Mr. Wisniewski said he believes the Commission Rules are sufficiently clear to give the Chair discretion and he would not suggest any changes to them at this point.

Vice-Chairperson Stevens referenced the Commission Rules, Chapter IV—Conduct of Meetings, Section II, Item 5, on page 3, which states, "The Chairman, at his discretion, may alter or change the order in which agenda items are considered, depending upon his determination of the importance or urgency of an item." Vice-Chairperson Stevens said she believes Chairman Searcy decided, at his discretion as Chair, the ceding of time would be limited to an additional three minutes. She asked Mr. Weiss whether the Chair has the ability to take this action. Mr. Weiss responded that the rule she is speaking of specifically addresses the Chair's authority to change the order in which agenda items are addressed; this rule doesn't directly relate to the ceding of time issue. He said it is his advice to the Commission "that the Chair has the authority to control reasonably the conduct of public testimony. That would include the authority to decide whether or not to allow people to cede time. It could be done on a day-by-day basis, on an issue-by-issue basis. You could also have limited ceding, one time per meeting, one per person, and so forth, but it is within your discretion."

Chairman Searcy informed the public that the document being referenced is entitled, "Rules of the Los Angeles County Small Craft Harbor Commission." (Throughout the discussion, the document is referred to as "Commission Rules.") Mr. Wisniewski said he would ensure that copies are available to the public at the June meeting. Chairman Searcy referenced the Commission Rules' Chapter IV—Conduct of Meetings, Section II, Item 2, on page 3, which states, "Individual speakers may be limited to specific time periods of not less than three minutes, and are requested to present information not already provided. Speakers will be recognized only once on a given item." Chairman Searcy said relative to Mr. Weiss' comments that the Chair has the discretion to allow or not allow the ceding of time on a case-by-case basis, he isn't sure "we need to have an action if we already have the authority. If we want to establish something for a specific understanding, that's a different matter altogether. If we want to let people know clearly that is something we will exercise at the Chair's discretion, with some judiciousness, we could certainly do that."

Relative to Mr. Weiss' opinion that the Chair has discretion to allow the ceding of time on a case-by-case basis, Commissioner Law asked him from where the Chair's discretionary power derives since the Commission Rules state that the Commission's concurrence is needed for such an action. Commissioner Law referenced the Commission Rules, Chapter III, Section 9d--Chairman Duties and Powers, which states the Chair possesses the power to, "Allocate the length of time for public discussion of any matter in advance of such discussion, with the concurrence of the Commission." According to these rules, Commissioner Law said it appears that the ceding of time needs the Commission's concurrence and is not within the Chair's discretion. Mr. Weiss responded that the section referenced by Commissioner Law, "specifically addresses in advance, deciding that you're going to spend an hour on an item or 20 minutes on an item. It doesn't refer specifically to the individual time allocated to an individual speaker."

Mr. Weiss said the section pertaining to the individual time allocated to an individual speaker is in Chapter III, Section 9f--Chairman Duties and Powers, which states the Chair possesses the power to, "Limit the amount of time that a person may address the Commission during a public discussion period in order to accommodate those persons desiring to speak and to facilitate the business of the Commission." Mr. Weiss said that this rule, in conjunction with the rule that allows the public to speak for a minimum of three minutes, is from where, he believes, the Chair's discretionary power derives. He explained that three minutes could be both the minimum and the maximum. A speaker cannot be restricted to less than three minutes, but does not have to speak for three minutes.

Commissioner Law said he isn't opposed to the Chair having reasonable discretionary power, but the change that was within the Chair's discretion relative to the ceding of time has "proven to be challenging to at least three members of this Commission." He suggested that the Commission receive public input today and postpone taking any action until the "full Commission hears this and decides whether or not we're all agreed on what operating rules are going to be as opposed to a case-by-case basis at the discretion of the Chair, whoever that might be."

Commissioner Law mentioned that the Commission Rules call for an election of Commission officers every January. He asked whether this was done. Mr. Wisniewski informed him that the January election wasn't held, but the election would be held in June. Commissioner Law asked the Chair to review the Commission Rules and make a judgment regarding how well the Commission is implementing its own rules.

Commissioner Law said he would "like to give the Chairman the advice of the sense of the Commission as is implied with Commission concurrence on length of time so he may be guided by what the pleasure of the Commission is when he exercises his discretion." Mr. Wisniewski said, "from staff's perspective, what we heard from the Commission loud and clear at the last meeting was they felt that there was inappropriate use of the ceding of three minutes to other speakers and that was something they were not comfortable with allowing to go forward, so as you take public testimony on this, they may want to direct their comments to that particular issue because I certainly see that as the direction that at least two other members, and I'm certain of, probably, three other members, maybe four, are going at this point. I have to say from staff's perspective, I think the ceding got a little out of hand at the last meeting."

Chairman Searcy said for the benefit of the public and his fellow Commissioners, "I am not confused at all by the comments and categorization and wishes as expressed and opinions expressed by our fellow Commissioners who are not here. I think it was very clear, at least to me and the other two who weren't here that it did get out of hand. We had tried to extend as

much public input as possible, and, quite frankly, from the Chair's point of view, it was abused. If we want to wait to address that, that's one thing, but the Chair is prepared to address it today."

Vice-Chairperson Stevens offered to withdraw her motion. Chairman Searcy suggested that she not withdraw her motion at this point, but wait until after public testimony to decide.

Chairman Searcy informed members of the public that per the Commission's existing rules, they are limited to three minutes. Additionally, per the existing rules, any request for ceding time to other speakers would be granted or denied by the Chair. Mr. Weiss said that Chairman Searcy's earlier comment about the judicious use of discretion is well taken. He advised the Commission that if it "were going to provide for ceding, you should announce that in advance. It should not be used so that some individuals are authorized to cede and others are not. In my opinion, that would not be a judicious use of the authority. And, I just want to caution the Commission about using that power in an objective and impartial manner."

Chairman Searcy opened the floor to public comment:

Mr. John Davis said, "It should be completely within the discretion of the Chair to determine whether time is ceded or not ceded because it's not stated in the rules and that's the logical operator. However, I think it should be stated at the beginning of each meeting whether time could be ceded or not and not changed in the middle of the meeting because people may feel that they were being treated unfairly, so I would just recommend that you state the case at the beginning of each meeting and use your discretion."

Mr. Weiss informed the Commission that it could announce whether the ceding of time would be allowed at the beginning of the meeting or, if the Commission wished, decide the ceding of time on an item-by-item basis depending on the matter's length and complexity.

Ms. Carla Andrus said, "If the meetings were long and you had an issue with ceding the time, I would suggest that if these meetings are too long, instead of shortchanging the public on this, maybe you could shorten the agenda some." Chairman Searcy commented that Ms. Andrus has a good idea.

Mr. James Sokalski, president of MdR News, suggested that the Commission, "look at the issue of amount of time given to the public and ceding time in the context of issues raised about public participation in general. That's 30006 of the Public Resource Code and the County Counsel recently has developed an opinion presented to the Board of Supervisors. I haven't read it yet. I haven't received it yet. I think the response at the last meeting to the ceding of time and to speaking was kind of a desperate attempt to participate in the system a little better than has been afforded the public in the past. Particularly earlier on in the process. Understandably, it presents some issues with managing a meeting such as this. If possible, I would like to give you some thoughts of this and E-mail them to you or mail them in a larger context. For example, how the Coastal Commission handles public testimony." Chairman Searcy requested, for ease of distribution and dissemination, that Mr. Sokalski provide Beaches and Harbors' staff the material so they could forward it to Commission members.

Mr. Sokalski continued, stating that the Coastal Commission, "has spent some considerable time developing policies about it. They do differentiate amongst the issues, how much time is allowed, to allow time for organized presentations as a major element of public participation and speaking. That's the problem. If we could only speak three minutes and there's some very large

issues the only way you can have a cohesive presentation requires more than three minutes. I think that's what Commissioner Lesser responded to in presenting the motion before, that time be allowed, to be ceded three minutes to equal a total of six minutes. So, rather than rush to a solution, I would like to provide some information, open it for discussion a little more, perhaps. You certainly have the power to decide whatever you want to do, but I'm suggesting you take the time to look at it from a variety of point of views first." Chairman Searcy commented that the Commission looks forward to seeing his material.

Mr. Steve Weinman, Dock 77, said, "It's encouraging to see the amount of weight this is being given. It has far reaching implications. As you know, this is, by and large, the public's only opportunity, the only window we have to speak to almost everything that goes on in the Marina."

Chairman Searcy said one of the things that he tries to continually do is inform the public that the Small Craft Harbor Commission meeting is one of the opportunities and certainly not the only one in which they can participate. He explained, "It definitely is not the one that may have the determinative and disposition powers over an issue, over matters of traffic, development, etc., architectural approaches. The Planning Commission is a public forum. The Planning Commission meets specifically with conditions on mitigation, with conditions on issues of soils, with conditions on height, etc., buildings, as well as the Coastal Commission and there's probably some others. We have in the past distributed a document here from a presentation which showed the entire approval and regulatory process in a variety of other entities. I would continue to urge members of the public to avail themselves on those issues. These forums do go to the specifics of developmental opportunities and actions. I mean to the heart of them. To not avail yourselves of those forums where you can be heard, where they directly affect building permits, number of units, timing of slip vacancies, etc. I just wanted to mention that because there are people here who have not heard that and I didn't want them to be misled." Mr. Weinman said he appreciated Chairman Searcy, "bringing that up. Many members of the public feel kind of trapped because they don't always know about this, so your continued education is good for all of us."

Chairman Searcy asked whether staff could place on the public information table at each meeting the material that was presented at a previous Commission meeting regarding the regulatory process. Mr. Wisniewski responded that the Marina development information is included in the Marina's Development Report on a project-by-project basis. This report is updated each month and is available to the public at the Marina library, the Visitors Center and the Department's administration building. Chairman Searcy explained he was referring to the regulatory process in general. He said the Commission was given an excellent presentation by, he believes, the Planning Commission. Mr. Wisniewski said if the information isn't already attached to the Department's Marina Development Report, he would make sure it is attached. Chairman Searcy said, "on each specific one, that's great information, but you have people that want to know in general how they impact it, let's just have it out here for them to have."

Mr. Weinman continued, stating, "As most of the boaters here, as almost all of the boaters here are, aside from a few liveaboards, they are considered visitors. You could easily consider them visitors. A lot of them come down here to visit their boats, visit the Marina, and they don't always take the time to go to the Visitors Center, to the governing body centers, therefore, they don't always get this information. If there's some easier way of getting it to them, maybe through the leaseholders with their bills, with their monthly statements, something like that, I'm sure it would be quite appreciated."

Vice-Chairperson Stevens requested that when the issue of ceding time to speakers is agendized, staff broaden the Commission's ability to talk about other aspects.

Mr. Nicholas Coster said he, "would just appeal to continue the Chairman's jurisdiction over the time allotted to the public. In your case, in my experience listening to you Mr. Chairman, you certainly are a fair man and have proven to be so. Your successor...I'm simply concerned that this prerogative would not, in any way, be cancelled in the future. In your case, we happen to have a fair minded person, but to ensure that the public's right for a decent amount of time. A lot of people aren't trained speakers, they're not as organized as conceivably they might be, but they should be given the time to express their views, so I just ask that this precedent be continued in the future."

Commissioner Law said he wanted to "concur that the Chair is a fair person and good person. I would like to make the same statement of the Vice-Chairperson and also of the absent Commissioners. We are blessed with great leadership that is fair and honest and I have great confidence that the successor, should there ever be one to Commissioner Searcy, would also be a fair person, and a good person, and a reasonable person." Chairman Searcy thanked Commissioner Law for his accolade.

Vice-Chairperson Steven's motion was reintroduced into the discussion. Specifically, Vice-Chairperson Stevens moved and Commissioner Law seconded a motion for the Commission to postpone taking action on Agenda Item #4a until there are at least four Commissioners present at the meeting. Vice-Chairperson Stevens and Commissioner Law voted in favor. Chairman Searcy opposed. The motion failed.

Mr. Weiss said the Commission Rules provide that "a majority of the Commission, not a majority of the quorum is necessary to carry a vote...If you don't have three votes in order to take the action, the practical effect of the matter is that it would be carried over until the next meeting."

Chairman Searcy said that since the motion failed, he wants to be clear about what action needs to be taken. Chairman Searcy suggested that he tell Mr. Weiss what he would like to have in the form of a motion and Mr. Weiss could help him to craft it. Chairman Searcy said he would like a motion in which the "Chair has the authority to grant speakers to cede time or not. People are limited to a minimum of three minutes and that is the rule that we are utilizing; three minutes per speaker, no duplicative testimony, and we have been very lax on that, letting people come up and say the same thing over and over again. That may or may not continue. That is what I would like to have in a motion so that it is clear the Chair has the authority to cede, but it is not automatic. Just because someone requests it, it doesn't automatically happen. I can say yes or I can say no. We've already clarified that we would make it specific as we go, item-by-item, per the rules, in terms of length, etc."

Mr. Weiss said the motion to continue failed because there was not a majority of the Commissioner's present. The Commission is free to put any motion on the table, but needs three votes for the motion to be adopted. He said Chairman Searcy's motion "to be quite honest, is not taking any different action. I think what you described is already the rules of the Commission based upon the advice of my office, what you described is already within this Chair's discretion. So, in other words, you don't need to do anything to implement what you just described. There is no motion that's necessary. There's no change that you are contemplating by your motion as I understand it." Chairman Searcy said, "in effect, what you're telling me is that when we made a motion, we had all that discussion and a motion to have the ability to cede

time that we didn't need to do that." Mr. Weiss responded that, "my recollection of the last meeting is that there was a discussion by the Commission regarding whether it was appropriate to continue to allow the ceding of time or whether it should be more limited or whether it should happen at all. I was asked whether or not if there was going to be a standard effective rule of the Commission, for instance, that specifically did not allow ceding and it was going to be a standard rule that was not subject to day-by-day interpretation, whether or not that should be agendized as an item and I suggested that it ought to be. That is my understanding of why this item was put on the agenda. That's slightly different from what I understood the Chair's motion to be right now. I understand the Chair's motion to be reflective of what already is in effect and does not require any action of the Commission."

Chairman Searcy asked Mr. Weiss whether it is possible to make a motion in which it is clear that it is not the standing rule to allow ceding on every issue and that it would be done on a case-by-case basis. Mr. Weiss responded that he believes it is a given already, however, in order to provide public disclosure, the Commission could adopt a motion that would state it is within the Chair's discretion to do so on a case-by-case basis. Chairman Searcy asked could the motion also include that the ceding of time is not a right or a privilege or something the Commission automatically allows. Mr. Weiss responded that he thinks that it is already true, but if the Commission wants to make this rule clear in a motion so there is no misunderstanding, the Commission is allowed to do so. Chairman Searcy said he would make this his motion. Commissioner Law informed Chairman Searcy that he would not support his motion.

Commissioner Law said he thought he heard Mr. Weiss state earlier it would be an injudicious use of the Chair's prerogative to allow a case-by-case, individual-by-individual, testifier to cede time. He asked whether he heard Mr. Weiss correctly. Mr. Weiss responded that he tried to distinguish between that and an agenda item-by agenda item utilization, which he believes would be appropriate. Commissioner Law said the Commission did not previously deal with this degree of intricacy at the last meeting. He asked how to get the issue placed on the June agenda since the motion to continue the item until the June meeting failed. Commissioner Law explained that his understanding is that it is enough when a Commissioner requests an item to be agendized to have it agendized. If this remains the policy, Commissioner Law said he would like to have the issue of ceding time for speakers agendized for the June meeting. Chairman Searcy informed him that the matter is already agendized. He added that Commissioner Law raised an interesting point in that more information regarding the issue's intricacies were revealed after voting on Vice-Chairperson Steven's motion. Chairman Searcy asked whether Vice-Chairperson Steven's motion could be reintroduced.

Vice-Chairperson Stevens stated that she wants the item to be reconsidered at the next meeting. Relative to how the issue is titled on the June agenda, Vice-Chairperson Stevens requested staff to broaden the title so the Commission could go beyond the ceding of time discussion if it chooses. Mr. Weiss informed the Commissioners that if the issue is broadened for the June meeting, they would have to allow the same speakers who addressed the Commission today to speak in June if those speakers want to address the item's other aspects.

Vice-Chairperson Stevens moved and Commissioner Law seconded a motion to "continue Agenda Item #4a--Rules Regarding Ceding of Time for Speakers to Address the Commission, to the next meeting and request of staff that the item's wording be broadened so that we could go further afield in discussing the various other items, including Chairman's duties and so forth." Chairman Searcy asked Vice-Chairperson Stevens whether she wants the Commission Rules, in general, to be agendized. He explained that he believes the current name of Agenda Item #4a--

Rules Regarding Ceding of Time, covers a variety of things and is broad enough as it is currently stated to cover discussion of everything that impacts on the question of time for public speakers. Vice-Chairperson Stevens said what is lacking is what is permitted within the Chair's discretion, which she would like to be included. Chairman Searcy informed her that he believes it is already included. Mr. Weiss said the item currently before the Commission would provide a forum for its members to decide to prohibit ceding or allow it to be on a case-by-case basis.

Vice-Chairperson Stevens moved and Commissioner Law seconded a motion to continue Agenda Item #4a--Rules Regarding Ceding of Time for Speakers to Address the Commission, to the June meeting. The motion passed unanimously.

5. STAFF REPORTS

a. Ongoing Activities Report

Mr. Wisniewski stated that at its April 23 meeting, the Board of Supervisors approved the Request for Proposals (RFP) for Development of Hotel and/or Other Uses on Parcels GR, IR and NR. The RFP's availability is currently being advertised.

Mr. Wisniewski reported that at the May 13th Board of Supervisors' meeting, the Contract for Pacific Adventure Cruises, Inc. was approved, which would provide a water shuttle in the Marina beginning Friday, May 16, from 5:00 p.m. - 10:00 p.m. and 10:00 a.m. to 10:00 p.m. on Saturdays, Sundays and holidays. The shuttle would operate from May 16 through Labor Day weekend and cost $1.00 per person. The shuttle sites are: Fisherman's Village, Chace Park, Mother's Beach, and the Fire Station, which is adjacent to the Ritz-Carlton and California Yacht Club.

Mr. Wisniewski reported the Design Control Board approved a plan for identifying the public promenade that the Department plans to officially declare open. Certain devices, called wind disks, will be placed along the promenade to note its existence. Banners will also be used to note the locations for the water shuttle sites. He said the Department is delighted the Design Control Board approved a program to highlight the public promenade and banner the existence of the water shuttle sites. He thanked the Visitors and Convention Bureau, which provided the money to design the banners. The Department is excited about the contract, which the Board approved unanimously at its May 13th meeting. Mr. Wisniewski reported that the ramp at Chace Park was retrofitted to comply with Title 24 guidelines. The Department has now exceeded the federal guidelines for Americans with Disabilities Act (ADA) access.

Mr. Wisniewski said the Department received a grant from the Coastal Conservancy to fund a soy mixture, which will be going into the diesel of the Miss Christi so it would be partially soy-powered. The contractor purchased an $86,000 vessel called the Electric Lady, which is solar powered and has a gas-assist engine. Mr. Wisniewski said staff is excited about this environmentally friendly system being piloted in the Marina. The Coastal Conservancy advised the Department that it would fund its purchase of another Electric Lady if it works out well this year. There is interest in expanding the water shuttle program and a few additional sites are being considered.

Mr. Wisniewski informed the Commission the Department intends to meet with Fire Department personnel after every weekend. The fire dock site created a certain degree of controversy,

particularly by California Yacht Club members who protested the contract before the Board of Supervisors. The Department intends to work out any kinks that may arise.

Commissioner Law said he walked along the promenade this morning and found that it comes to an abrupt ending at the California Yacht Club facility. He asked Mr. Wisniewski the reason for this. Mr. Wisniewski responded it is one of the unfortunate ways that Marina del Rey developed. As the Department goes forward with development projects, any lessee that has to obtain a permit through the California Coastal Commission, which they all do, must open up the waterfront promenade. When the California Yacht Club comes to the Department for redevelopment, it will be required to open up a waterfront promenade. Mr. Wisniewski said he met with Steve Hathaway, the lessee's representative, and proposed to extend the promenade through the leasehold, bi-secting the leasehold, and not interrupting the privacy of the Club's dining and club facilities. This proposal was rejected. Mr. Wisniewski said he doesn't have a way of insisting on the promenade because of the way the contracts were written, but at the first opportunity, he will make the matter the first item on his agenda.

Commissioner Law said the promenade is a public access issue and the water shuttle is a different kind of public access issue. He said, "Perhaps, if it may make its way into the minutes and you might choose to supply them to see at the California Yacht Club that people who live in glass houses should be careful when they throw stones." Mr. Wisniewski clarified that the lessee did not appear before the Board of Supervisors, but, rather, three individuals who were members of the California Yacht Club.

Chairman Searcy opened the floor to public comment:

Mr. John Davis informed the Commissioners that he is representing himself at today's meeting. He said, "First of all, the Director stated that a Coastal Commission permit would be necessary for the Miss Christi, which may sound a little friendlier on soy, but I just question its ability to operate on soy. The Director said the Coastal Development Permit, and you can review this on the audio record, an approval from the Coastal Commission would be necessary to employ this vessel." Mr. Wisniewski interrupted and informed him that he did not say that. Mr. Davis continued, stating "the Director did state, I believe, and I'm sure the record will support this, that a Coastal Commission approval would have to be made, therefore, I question the Director's ability to employ this service before the Coastal Commission approves. All of the projects on this item are inconsistent with the deed of perpetual easement and right of way granted to the..." Chairman Searcy interrupted and informed Mr. Davis that he should stop for a second. He asked Mr. Weiss for an opinion. Mr. Weiss responded, "If the Commission is asking if the Commission had this before them last month and has already taken an action, it's not for the Commission's consideration. The Director is now reporting to the Board follow up on the action and the Commission is not required to hear testimony again regarding the merits or lack of merits of the proposal."

Mr. Davis said he would restrict his testimony to the merits or demerits of the proposal. He continued, stating "The demerits of all of these proposals are that they are inconsistent with the perpetual right of way and easement granted to the United States by the County of Los Angeles, Burton Chace, recorded in Book 296, page 840 of the Recorder's office in the County of Los Angeles. Let the record show that I'm providing a copy of this easement, which clouds all titles in Marina del Rey, to the secretary, after the meeting, to copy, to include as part of the permanent record. The demerit is all of these proposals threaten to violate the Coastal Act and the LCP, which is a violation of the Coastal Act, to threaten to violate the Coastal Act, so this is

another demerit. The final issue that I want you all to know about is Marina del Rey is being investigated by the liaison between the Senate and the Congress and he is Major General William J. Lennox, Jr. and I will provide this information and other information for the secretary to copy and record as part of this record."

Vice-Chairperson Stevens asked the status of her request from the April meeting that Mr. Weiss provide the Commission with information relative to jurisdictional issues. She would like this issue to be agendized so that "we have our Counsel's opinion and know where we're coming from and what we're doing because every meeting we hear from the public that we're doing it wrong." Chairman Searcy asked Mr. Weiss when the material would be presented to the Commission. Additionally, he requested that when the material is ready, Mr. Wisniewski agendize the meeting in plenty of time to inform the public. Mr. Weiss responded that during the April meeting Vice-Chairperson Stevens requested a written report and he indicated at that time he would try to prepare the report by the May meeting, but would request an additional month if he was unable to meet this deadline. Mr. Weiss said he is grateful Mr. Davis brought the documents today and plans to provide them to the secretary. Mr. Weiss explained that Mr. Davis agreed during the April meeting to provide Mr. Weiss with the material, but Mr. Weiss hasn't yet received it. He said that not having the material has been somewhat of an impediment to him completing the report and he expects to receive the material today.

Mr. Tim Riley, Marina del Rey Lessee's Association, said, "I just want to add something to the record. The Association formally supported the water taxi. We testified before the Board of Supervisors on two occasions recently: two weeks ago and then yesterday. Mr. Steve Hathaway, representing the California Yacht Club, is a lessee representative and member of the Association. He concurs with that support of the water taxi system. I want to make it very clear that he is supportive of it. I talked to him personally when it was apparent that some members of the Yacht Club were opposed and came down to the Board and testified against it. Those are individuals. They may be members of the Yacht Club, they do not speak for the Yacht Club. I wanted to make that very clear. The Association is firmly behind the water taxi concept. It is a good thing for the Marina. We want to encourage its use and think it's going to bring more visitors to the Marina. I just wanted to add that so that the Commissioners were not in doubt about the support of the lessees for this."

Ms. Carla Andrus said, "This taxi, which I always thought, when it first came up, I had the idea of a small electric boat with a canopy over it and not using our limited slips for it, but however it goes, I hope we don't consider it recreation, and somebody said at the last meeting, 'as modest as a recreation as that is.' It's not recreation. It's a way to get people to the restaurants and all of this and to get them across from one point to another, but let's don't call it recreation."

Mr. Wisniewski said he "couldn't disagree more with her. I think it is a type of recreation for a family that has very modest means and may never have an opportunity to get on the water. A family of six can get on the water for $6.00. It may not be a recreation to a recreational boater like I am, although I have to say I consider it a type of recreation because I think it's gonna be kind of fun. But, I think to a lot of people, it would be a type of recreation and, hopefully, it will get people interested in pursuing more of a recreational experience by renting a boat or buying a boat."

Vice-Chairperson Stevens said the water shuttle is definitely public access and that is part of the Coastal Commission mandate to the Department. Commissioner Law said he disagrees with Ms. Andrus' contention and agrees with Vice-Chairperson Steven's view of this. He said he has

recreated in several harbors by taking a ride on their water taxi service and it is a great way to see the harbor. He didn't take the water taxi to go to a restaurant, but because it was a good way to see the harbor.

Mr. Steve Weinman expressed his opinion that "it would be the last point of recreation for the 2,000 small boat slips that we're going to be eliminating from Marina del Rey from people who can afford to have boats here. They won't be able to afford to have them here by the time the bar is raised to the point where they won't be able to afford their boats here and yes, this would be recreation."

Mr. Wisniewski said he would like to correct the record. He said it isn't true that there would be a 2,000 small boat slip reduction in Marina del Rey. Mr. Wisniewski commented, "It's unfortunate that we give out accurate information and people continue to persist and live in dreams where information is presented back to you for consumption by the audience as truth. I think we as staff are going to have to start challenging these kind of comments in the future."

Mr. Nicholas Coster said, "I have no vested financial interest. I do run a charity teaching disabled scuba divers. I must compliment Mr. Wisniewski on the environmental information that you've given today. I'm fascinated. I'm fairly new here. I was in Oxnard for 18 years running this disabled diver program, but I was really very moved by the amount of interest that you exhibit. Just so it doesn't seem like every boater out here is ganging up. I take issues, each one as they come up. I don't feel that I have any prejudice whatsoever, so I compliment you on your apparent interest, proven interest, in the environmental issues."

b. <u>Marina del Rey Convention and Visitors Bureau (CVB)</u>

Ms. Beverly Moore informed the Commission that the CVB has just published a new group sales brochure, which she distributed to members of the Commission and the public. She reported, "As part of our outreach to meeting planners, we focus on attracting small groups to the Marina who can use our commercial charter boat companies, our restaurants and our hotels of course. In this new version, you'll see that we emphasize our community's special relationship to the water and to boating. We love to promote all the different ways people can organize activities on the water. Those include seminars at sea and retreats, sunset cruises, onboard receptions and mini-regattas. We recognize the unique position Marina del Rey has in our community. Also, for our visitors and residents who might be entertaining visiting friends and relatives, we have just published a new map and guide to the Marina. This map is larger and more detailed then our previous version and includes lots of helpful information. 75,000 copies have been printed and are being distributed throughout the community and Southern California."

Ms. Moore explained that since the Director has already covered the collaboration between the Department of Beaches and Harbors and Convention and Visitors Bureau on the banner and wind disc project, she wouldn't go into any detail on the subject, however, Ms. Moore did inform the Commission that, "This is a very important project for us because it does create a new sense of warmth and welcome in the community. We have lots of activities to promote this summer in the Marina, with the waterfront walk and the water shuttle being front and center, but by creating a new integrated well designed family of color and design, we think it would be much more effective and much more beautiful for the community."

Chairman Searcy opened the floor to public comment:

Mr. John Davis informed the Commission that he is speaking on his own behalf. He said, "Regarding the purpose of the Convention Center, it seems like it's solely to promote 5-Star hotels that are located in the federal project, Marina del Rey. It seems to promote luxury, I mean like conventions of corporations in Marina del Rey in these 5-star hotels. So, what I will say to you in short...the Convention Center is clearly violating the tenets of the congressional intent, which I'm going to submit at public comments time. I will give you all of the congressional documents that show Marina del Rey is not intended for 5-Star hotels, not in any way or form. It's not intended for conventions either. So, basically what this represents is a public investment of capital to promote private interests, which are 5-Star hotels on a federal project and public park, Marina del Rey, and I object to this Convention Center."

6. COMMUNICATION FROM THE PUBLIC

Chairman Searcy encouraged members of the public to come forward and informed them that they have three minutes to speak.

Mr. Davis said, "I have brought a copy of Policy Statement 25, which was requested by Commissioner Stevens. I would like to submit this to the secretary to copy. This is my only copy, so I have to keep my original. I would also like to make a statement regarding the parking lot over by the Cheesecake Factory. Every night there are probably about at least 70 vehicles being parked in there, but they're not going through the County gate and paying. The valets are unlocking a gate and parking lots of cars and charging valet parking fees in this parking lot and I don't believe the County is getting a penny of it. As per the request of Commissioner Stevens, I am providing the following documents to the secretary to copy. They're my originals, so I have to make sure that copies are made and I want to submit them for the record."

1) Title 1: Rivers and Harbors, which shows Marina del Rey as a federal project authorized for cutting and dredging of the harbor and other purposes.

2) House Document 389 of the 83rd Congress in 1954, which describes Marina del Rey, describes what Marina del Rey will be. In fact, that's where this Commission originates. House Document 389 addresses the fact that this Commission will basically be here to run Marina del Rey.

3) HR7481, a House law from the Senate and Congress of the United States authorizing the federal project.

Mr. Davis also submitted other documents, informing the Commission, "I submit to you the Perpetual Deed of Easement and Rights-of-Ways. This is the most pivotal document there is. This is where Burton Chace himself signed over all lands, easements and rights-of-ways to construct a harbor described in detail by the 83rd Congress in House Document 389. This easement clouds all titles in Marina del Rey, all titles, and if it's not showing up on your title reports, there's a huge problem with the title company and that should be addressed. Lastly, Senator Boxer and Senator McClain requested that Roger Moliere respond to Dan Cohen regarding his concerns that Marina del Rey is being abused by the County of Los Angeles by abridging and interfering with those easements and rights-of-ways granted to the United States in 1954. The next and final document is a letter from Senator Boxer to Major General William J. Lennox, who is the liaison between Congress and the Army. They are conducting a review of Mr. Cohen's assertations that the County is extrajurisdictional and has abridged and interfered

with those rights and easements and lands granted to the United States forever and in perpetuity in 1954."

Mr. Joe Chesler, Chief, Planning Division, informed the Commission of an activity that was omitted from the Ongoing Activity Report because it wasn't confirmed at the time the report was issued. He said it has now been confirmed that the National Boating Safety Week celebration will begin at Burton Chace Park, at 9:30 on Friday, May 16. The Department of Beaches and Harbors, Fire Department and Sheriff's Department will act as hosts. Representatives from the Department of Boating and Waterways, the Director, and Secretary of Resources, will be here for the event. He encouraged everyone to come and participate.

Mr. Nicholas Coster said,"I compliment the Chairman regarding the first issue, which was the length of time afforded to the public. Mr. Davis has obviously done a great deal of research. Whether one agrees with him or not is irrelevant...I compliment the Chairman on allowing that the time allowed is a minimum of three minutes, not a maximum. The issue I would like to bring up is...the recent notice by Bellport who have control now of most of Basin A, there have been some instructions, with the obvious result if you disagree or don't obey those instructions, that your lease will be terminated, that we cannot any longer have our crew, in my case I have a crew on one of my boats, work on the boats. Now, understanding clearly, that one cannot violate environmental rules, etc., that are given. It's a long tradition of having your crew work on your boat and to have that made impossible I have to take issue with. I only present it as a problem. I don't have a solution, except that traditionally we who have boats, larger boats especially, have a crew that is entitled to work on them."

Commissioner Law said he heard a complaint about a new lease for a dock that was redeveloped that had highly restrictive language about crews working on boats. It is his understanding that this restriction is required by the County. Mr. Wisniewski informed the Commission that he would report on the matter at the June meeting.

Mr. Larry Derr, owner and operator of Insane Bait, a Marina del Rey company, informed the Commission he is the major supplier of bait to the fishermen. He said, "I made a living for 17 years here in the harbor and I've been doing bait for the last seven years. I recently lost my slip position at the fuel dock, which I'm trying to deal with getting back. But, in the mean time, I'm having a hard time finding a slip to continue my operation just to moor my vessel. It's taken up a lot of my time trying to do that. My business I take pride in and I do it very well. I'm known for my quality of service and it's dipping into that because my time now is running around looking for a slip. Because the construction and everything, it was a bad time to lose my slip. I was given a list of 23 operators in the Marina that could maybe help me out, of which no one could. There are no slips available above 40' in this harbor to this date. Zero. None. There are a lot of spaces that could be utilized, where I probably could be put, but because of certain reasons, we're not allowed to moor here, we're not allowed to moor this space out. I think there are places that there should be exceptions made for somebody in my case because I do provide a tremendous service. The visitors that come because they know of me. It's a tremendous amount of service that I supply to the fisherman that go out of this harbor. I am their major supplier. Even though there are two of us, I am the majority when it comes to helping these folks. I'm just having a hard time finding a slip that's all. I wish there was someone who could help out." Mr. Wisniewski suggested that Mr. Derr speak to Mr. Chesler regarding the matter after today's meeting.

Ms. Andrus said that during a "recent Small Craft Harbor meeting, the Commission recommended that the Board release the Request for Proposals for some major developments around Mother's Beach, and around Mindanao and Admiralty Way." She asked how the public could participate in the process or would they be able to participate.

Mr. Wisniewski informed Ms. Andrus that responses to the RFPs would be brought before the Commissioners en route to the Board of Supervisors and copies would be made available to the public. All public documents, everything that comes before the Regional Planning Commission, Board of Supervisors, Coastal Commission, etc., would be provided to the public. The Department's recommended proposal would be brought before the Small Craft Harbor Commission in a public meeting, then before the Board of Supervisors in a public meeting. Assuming the Board authorizes negotiations, the Department then negotiates a lease and that lease comes before the Small Craft Harbor Commission in a public meeting and before the Board in a public meeting. Mr. Wisniewski said the development itself has to go before the Design Control Board in a public meeting, the Regional Planning Commission in a public meeting and, very likely, Coastal Commission, if it involves water. Often times, if it's landside development and is consistent with the LCP, it's typically appealed to the Coastal Commission as well. There are many public meetings where public input is solicited, invited and encouraged.

Ms. Andrus requested that an additional public meeting be held to obtain input about what the public would like to see included in the proposal. Relative to Regional Planning, Ms. Andrus requested that the public receive a report on projects that are submitted to Regional Planning. Mr. Weiss informed her that individuals who want notification about Regional Planning Commission items should contact the Department of Regional Planning. He added that he doesn't know whether Regional Planning would send notices to people who request them. For those who are interested, the Department of Regional Planning is in the County directory and could be reached via its website.

Ms. Andrus suggested the Small Craft Harbor Commission include projects on its agenda. Chairman Searcy informed her that the Small Craft Harbor Commission or Beaches and Harbors does not have "control of the information and the timing, quite often not at all, of the timing of other entities' schedules. When we know about it and it directly impacts and we have that information in a timely manner, I think we generally do let that information be disseminated. But, that's a courtesy we're doing and not an obligation on our part. I wouldn't want to get in the position of having the public make us responsible for publishing the notices on the agendas of other entities because we quite often don't get them all. If there is information that we have, certainly, Coastal Commission hearings that have direct impact, I think we do, once we know that information, include that in our posting and on our website to the greatest extent possible. So, we will continue to do what we can, but I think what Counsel is saying is that there is a web page, there are phone numbers for the Regional Planning Commission. To the extent that we know about it, we will disseminate it, but don't look at us as being the source documentation."

Ms. Andrus said she doesn't look at the Commission as the source and she is also aware it would be a courtesy. Ms. Andrus asked whether the developer who owns several parcels, including Fisherman's Village and Gateway Marina, has any projects currently before the Regional Planning Commission or when they might be. Mr. Chesler responded that two projects have proceeded through Regional Planning. He could not recall the projects' names, but the one that is south of Via Marina on Washington Blvd. was approved. The one north of Via Marina is pending review by the Regional Planning Commission and those notices are posted at the Marina del Rey library and are available on the Regional Planning Department's website and via

a link on Beaches and Harbors' website. Mr. Chesler said he would provide Ms. Andrus with the Marina planner's phone number if she wishes to seek further direct advice, which is also the subject of a letter being sent to her and should arrive this week. Mr. Chesler informed her that those two projects are proceeding and the others are not yet ready for hearing and she could be notified by contacting Mr. Johnson.

Ms. Andrus said there is a senate bill that requires notification to be given to "the people that have those apartments. You're supposed to give them notice as soon as that goes into the process. As far as I know, that's way over due and they haven't gotten notice yet." Mr. Weiss responded that Ms. Andrus has contacted his office about this matter. He explained there is a law for providing notification to apartment tenants, but he doesn't recall the specifics. Marina lessees are required to comply with applicable provisions of state law relative to notifying tenants. No one is excused from state law.

Chairman Searcy asked Mr. Weiss whether it is fair to state that, "when you have a chance to look at that law and as we work with any of the developments in the Marina, that if we see that there is some provisions, especially with new laws, that either they're a) unaware of; b) aware of and don't know what to do, or c) aware of and are just ignoring it, that we will make them aware of their requirements and that we will follow up with regard to any notification we need to make to them about their obligations. Is that a fair statement?" Mr. Weiss responded that the Department and his office will, "do whatever we can to make sure that our lessees are complying with all applicable provisions of state law. New laws are adopted all the time and sometime there's a learning curve. I think that's the best way I could respond to that." Chairman Searcy asked whether there is a process that would take this into consideration on a going forward basis. Mr. Weiss responded that he "would do my best to make sure that I advise the Department regarding all these things so that they, in turn, advise the lessees. The lessees are under an independent obligation to be aware of all state laws regarding tenancy and so forth. We certainly are not adverse to making sure that they're aware of them if we're aware of them."

Mr. Sokalski said, "I wonder if you might agendize an item to consider the public participation conditions allowed here at this body to see how well they comport with the Coastal Act. For example, on February 24, there was a special meeting of the Small Craft Harbor Commission meeting in this room. The room was filled up with boaters here. They came from word of mouth...The sole item of that meeting was an option agreement that this Board was to vote upon, and recommend or not recommend, to the Board of Supervisors to approve. During that lengthy testimony from a lot of people that expressed concern, no one informed this group, specifically, the Director did not inform this group, that the item had already been agendized on the Board of Supervisors' agenda for the very next day, February 25. So, no one was aware of that. I find out late that evening...That clearly is not keeping good faith with the public of informing them of how they could participate in this process. It speaks to the intent to limit public participation very drastically. Carla Andrus brought up a point, when does the public and how does the public participate in the RFP process. I think what has been overlooked is the need to participate early on in the process, in the project definition stage and in the selection of the various proposals that are submitted. To simply say that you can participate by going to the Regional Planning Commission later is like you get to arrange deck chairs on the Titanic at best. The whole situation has already been set and headed for disaster. This has come up repeatedly. Just in the last couple of months was the issue of the water taxi or water bus service and the public brought up some good issues, good points about it, about the type of craft selected, points, and whatever. It didn't have to be hashed out this way if there was a process where the public comments could have been considered before it was brought to this meeting.

This is what many of us have been trying to promote for some time and looking to this Commission to encourage the Department of Beaches and Harbors to set up procedures, to discuss them and see if there's a better way to include the public. It would certainly help to slow down lawsuits and other problems if that were to happen."

Chairman Searcy stated, "For clarification, this is a public process. To say that...there is no public input process here and you want a different one just flies in the face of people wanting to speak and be heard here and our attempts to keep it an open process. To say that you have no impact on the RFP process until the deck chairs are arranged on the deck of the Titanic ignores the fact that the last, I think, two RFPs that came out had specific language and specific requirements put in there as a direct result of the public input to this public process. I think that is misleading. It's incorrect and I call your attention to the specific steps taken by staff in response to public comments about those RFPs. So, to say that you have no input to it until it's a done deal and the deck chairs are arranged on the Titanic is misleading."

Mr. Steve Weinman said, "What I would like to speak to, and I don't think it's brought up often enough, is basic affordability; public access to the sea and it being affordable. I've talked to Bellport. It's gonna cost Hunter Von Leer about $600 to put his boat in the dry rack storage. It's gonna cost Jimmy Stathis, whose 20' boat is right beside him, about $400... You're gonna price the small boaters out. You're eliminating small boat slips. You're eliminating the ability of the working man to have a boat here. I know Bellport's done a great job down in Newport to get the prices up and bring in more money for the governing bodies there and I'm sure that's their mandate here and they're doing it well. Bellport has set it up over on the end of Tahiti where the new slips are over there, like Mr. Coster addressed, their language in their contract states...the people who work on your boat have to have, like a $500,000 liability policy. If you can't provide that, you got to use Bellport's people, which is a monopoly. They're creating a monopoly and making it more difficult for people to maintain their own vessels. I don't know what the answer is to that, but I just hope that is remembered through the process and is addressed."

6. **ADJOURNMENT**

Vice-Chairperson Stevens moved and Commissioner Law seconded a motion to adjourn the meeting at 11:19 a.m. The motion passed unanimously.

Respectfully Submitted,

Toni Minor
Commission Secretary

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

MARINA DEL REY STATION

PART I CRIMES- May 2003

Part I Crimes	MARINA AREA (RD'S 2760-2763)	EAST END (RD'S 2764-2768)
Homicide	1	0
Rape	0	0
Robbery: Weapon	0	2
Robbery: Strong-Arm	1	1
Aggravated Assault	2	3
Burglary: Residence	3	15
Burglary: Other Structure	2	6
Grand Theft	10	4
Grand Theft Auto	4	3
Arson	0	1
Boat Theft	0	0
Vehicle Burglary	5	3
Boat Burglary	3	0
Petty Theft	7	5
Total	38	43

Note- The above numbers may change due to late reports and adjustments to previously reported crimes.

Source- LARCIS, **Date Prepared** - May 29, 2003
CRIME INFORMATION REPORT - OPTION B

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
MARINA DEL REY STATION
PART I CRIMES- May 2003

	West Marina 2760	East Marina 2761	Lost R.D. 2762	Marina Water 2763	Upper Ladera 2764	County Area 2765	Lower Ladera 2766	Windsor Hills 2767	View Park 2768	TOTALS
Homicide				1						1
Rape										0
Robbery: Weapon					1		1			2
Robbery: Strong-Arm	1				1					2
Aggravated Assault	2						1	1	1	5
Burglary: Residence	2			1	3		3	5	4	18
Burglary: Other Structure	2				1	2	3			8
Grand Theft	6			4	1		1		2	14
Grand Theft Auto	4				1		1	1		7
Arson								1		1
Boat Theft										0
Vehicle Burglary	2	3			1				2	8
Boat Burglary	1	2								3
Petty Theft	3	2	1	1			2	3		12
REPORTING DISTRICTS TOTALS	**23**	**7**	**1**	**7**	**9**	**2**	**12**	**11**	**9**	81

Note- The above numbers may change due to late reports and adjustments to previously reported crimes.

Source- LARCIS, **Date Prepared -** May 29, 2003
CRIME INFORMATION REPORT - OPTION B

MARINA DEL REY HARBOR ORDINANCE
SEAWORTHY & LIVEABOARD COMPLIANCE REPORT

	April	May
Liveaboard Permits Issued	2	0
Warnings Issued (Yellow Tags)	0	0
Notices to Comply Issued	0	0

Total Reported Liveaboards By Lessees - 529
Total Liveaboard Permits Issued - 419
Percentage of Compliance - 79

No new Warnings were issued in the month of May. There is 1 case that is still being investigated.

No new Notices to Comply were issued in the month of May. There are no active cases.

No new citations were issued for violations of 19.12.1110 L.A.C.C. (liveaboard permit) or 19.12.1060 L.A.C.C. (unseaworthy vessel) in the month of May.

Number Of Unseaworthy Vessels Demolished

To date, one hundred and thirty eight (138) vessels have been removed from the marina for disposal. Currently, seventeen (17) vessels are ready for disposal and ten (10) are awaiting lien sale procedures.

Los Angeles County Beaches & Harbors

Caring for Your Coast

To enrich lives through effective and caring service

June 5, 2003

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

SUBJECT: **ITEM 4b - MARINA DEL REY SPECIAL EVENTS**

29th ANNUAL MARINA DEL REY IN-WATER BOAT SHOW
June 26, 27, 28 and 29

The Marina del Rey In-Water Boat Show will be held at Burton Chace Park. The boat show spans a four-day period featuring a staggering array of boats, yachts and personal watercraft both via the water and on land. Community booths and food from leading area restaurants along with live music will also be present. The hours are Thursday, June 26 and Friday, June 27 from 12 noon – 7 p.m., Saturday, June 28 from 10 a.m. – 7 p.m. and Sunday, June 29 from 10 a.m. – 5 p.m. Presented by the Westchester/LAX/Marina del Rey Chamber of Commerce.

For more information call: Westchester/LAX-Marina del Rey Chamber of Commerce at (310) 645-5151 or visit www.mdrboatshow.com.

MARINA DEL REY FOURTH OF JULY FIREWORKS

The traditional fireworks extravaganza over the main channel in Marina del Rey will be presented on Friday evening, July 4th, starting promptly at 9 pm. This event is sponsored by the Los Angeles County Department of Beaches and Harbors. The fireworks are choreographed to patriotic music, which will be broadcasted by radio station KXLU 88.9 FM in sync with the pyrotechnic display. The music will be relayed over loudspeakers in Burton Chace Park for those watching there. Parking is available in Lot #4 on Mindanao Way and Lot #5 on Bali Way for $2. Fireworks may also be viewed at Fisherman's Village and throughout Marina del Rey.

For more information call: Marina del Rey Visitor Center at (310) 305-9545.

13837 Fiji Way • Marina del Rey • CA 90292 ● 310.305.9503 • fax 310.821.6345 ● internet: http://beaches.co.la.ca.us

Stan Wisniewski Director ● **Kerry Gottlieb** Chief Deputy

FISHERMAN'S VILLAGE WEEKEND CONCERT SERIES
Sponsored by Pacific Ocean Management, LLC
All concerts from 2:00 – 5:00 pm

Saturday, June 14
Orquestra la Morena, playing Latin Jazz & Pop

Sunday, June 15
Nelsen Adelard, playing Blues

Saturday, June 21
11 O'clock Blues, playing Blues

Sunday, June 22
Dirk K., playing Jazz

Saturday, June 28
Toni Imus, playing Jazz

Sunday, June 29
The Anderson's, playing Pop & Rock

For recorded information call: (310) 823-5411.

SW:mc

Los Angeles County
Beaches & Harbors
Caring for Your Coast

To enrich lives through effective and caring service

June 5, 2003

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

SUBJECT: **AGENDA ITEM 5B - AGREEMENT FOR GRANT FUNDS IN THE AMOUNT OF $55,000 FROM THE CALIFORNIA STATE COASTAL CONSERVANCY FOR THE 2003 MARINA COASTLINK WATER SHUTTLE SERVICE ALTERNATIVE POWER EVALUATION AND PERMANENT WATER SHUTTLE FEASIBILITY STUDY**

Item 5b on your agenda relates to the resolution authorizing the execution of the agreement with the California State Coastal Conservancy for a grant in the amount $55,000 to fund the 2003 Marina CoastLink Water Shuttle service alternative power evaluation and permanent water shuttle feasibility study.

The attached Board letter and resolution provide details about the grant funds and the two studies. I request your concurrence with my recommendation to the Board of Supervisors.

SW:JJC:lh
Attachments

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://beaches.co.la.ca.us
Stan Wisniewski Director • **Kerry Gottlieb** Chief Deputy

June 5, 2003

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:

APPROVE THE ATTACHED RESOLUTION AUTHORIZING THE ACCEPTANCE OF A $55,000 GRANT FROM THE CALIFORNIA STATE COASTAL CONSERVANCY FOR THE 2003 MARINA COASTLINK WATER SHUTTLE SERVICE ALTERNATIVE POWER EVALUATION AND PERMANENT WATER SHUTTLE FEASIBILITY STUDY (4th DISTRICT)(3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that preparation of an alternative power evaluation and permanent water shuttle service feasibility study is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to Class 6 of the County's Environmental Documenting Reporting Procedures and Guidelines.

2. Adopt the attached Resolution authorizing the acceptance of a $55,000 grant from the California State Coastal Conservancy for the purposes of evaluating the use of alternative power for the summer 2003 Marina CoastLink Water Shuttle service and to assess the feasibility of a permanent water shuttle in Marina del Rey, and delegating authority to the Director of the Department of Beaches and Harbors as agent of the County to sign all documents pertaining to the acceptance of the grant.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On May 13, 2003, the Board awarded the Contract for Marina del Rey Water Bus Service to Pacific Adventure Cruises, Inc. to provide a Marina del Rey CoastLink water shuttle service from May 16, 2003 through September 1, 2003 at a County cost not to exceed $207,900 (plus 20 percent in the event service area/hours increase).

The California Coastal Conservancy (Coastal Conservancy), established in 1976, is a state agency that uses entrepreneurial techniques to purchase, protect, restore, and enhance coastal resources and to provide access to the shore working in partnership with local governments, other public agencies, nonprofit organizations, and private landowners. The Coastal Conservancy is offering the Department a grant to provide an evaluation of alternative power used in operating the summer 2003 Marina del Rey water shuttle and to assess the feasibility of a permanent water shuttle.

Implementation of Strategic Plan Goals

The County, by evaluating the use of alternative power during the 2003 Marina CoastLink Water Shuttle program and by preparing a feasibility study for the provision of a permanent water shuttle service in Marina del Rey, will further the Strategic Plan goal of Service Excellence. A permanent water shuttle service would provide the public with better water access and an alternative transportation option.

FISCAL IMPACT/FINANCING

Adoption of the attached Resolution to accept a grant in the amount of $55,000 from the Conservancy will allow for the preparation of the alternative power evaluation and the feasibility study of a permanent water shuttle service. There is no County cost for the development of these studies, as the cost of the project will be fully reimbursed by the grant.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Department of Beaches and Harbors is providing a water shuttle service in Marina del

Rey on a pilot project basis weekends during the summer of 2003. The goal of the pilot is to provide visitors and residents with water transportation in the Marina, both to expand the amenities in the Marina and to provide an alternative form of transportation for nearby residents, as well as a coastal trail link in Marina del Rey. Two water shuttles, one electrically-powered, are being utilized on the four-stop route.

The Department would like to continue to provide a viable and expanded water shuttle service in the long-term. A permanent water shuttle feasibility study would provide the Department with an evaluation of the current water shuttle pilot and recommendations concerning the expansion to a permanent water shuttle service in Marina del Rey. In addition, the Department would like to evaluate the use of the electrically powered boat during the pilot and develop specifications for the purchase and delivery of an electric vessel and the necessary docking and recharging infrastructure.

To this end, the Coastal Conservancy has offered the Department a grant through the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 (Proposition 12) in a manner consistent with the requirements of Proposition 12 and in compliance with Conservancy regulations, policies, guidelines, and requirements as they relate to the acceptance and use of Conservancy funds for these studies. These requirements include that the County has sufficient funds available to meet its own share of the study costs, will provide appropriate recognition of the Conservancy's assistance, work will commence within a reasonable time after execution of the grant agreement, and the Conservancy will have access to all project-related documents.

This Board letter was submitted to the Small Craft Harbor Commission for review at its June 11, 2003 meeting; the Commission _____ the recommendations contained herein.

ENVIRONMENTAL DOCUMENTATION

The preparation of an alternative power evaluation and a permanent water shuttle feasibility study is categorically exempt from CEQA pursuant to Class 6 of the County's Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no impact on other County services or projects.

CONCLUSION

Please return the executed Resolution to the Department of Beaches and Harbors, along with one approved copy of this letter.

Respectfully submitted,

Stan Wisniewski
Director

Attachments (1)

c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors
Auditor-Controller

RESOLUTION OF THE LOS ANGELES COUNTY BOARD OF SUPERVISORS

AUTHORIZING THE ACCEPTANCE OF A $55,000 GRANT

FROM THE CALIFORNIA STATE COASTAL CONSERVANCY

FOR THE 2003 MARINA COASTLINK WATER SHUTTLE SERVICE

ALTERNATIVE POWER EVALUATION

AND PERMANENT WATER SHUTTLE FEASIBILITY STUDY

WHEREAS, the County of Los Angeles has implemented a water shuttle service for summer 2003 between four points in Marina del Rey to improve water access for visitors and residents; and

WHEREAS, the Legislature has established the California State Coastal Conservancy under Division 21 of the California Public Resources Code, and has authorized the Conservancy to award grants to public agencies and nonprofit organizations to preserve, protect and restore the resources of the California coast; and

WHEREAS, grants are awarded under eligibility guidelines adopted by the Conservancy and said procedures require the applicant to certify acceptance of a grant through a resolution by the applicant's governing body and to agree to Conservancy terms, conditions and assurances; and

WHEREAS, the County of Los Angeles is willing to enter into an agreement with the Conservancy to research, demonstrate and evaluate the use of alternative power for the 2003 Marina CoastLink Water Shuttle service, and to prepare a feasibility study for a permanent water shuttle service in Marina del Rey;

NOW, THEREFORE, BE IT RESOLVED, that the Los Angeles County Board of Supervisors by adoption of this Resolution hereby authorizes the acceptance of a Conservancy grant in the amount of $55,000 for the purpose of evaluating the use of alternative power for the summer 2003 Marina CoastLink Water Shuttle service and to assess the feasibility of a permanent water shuttle service in Marina del Rey; and

BE IT FURTHER RESOLVED that County of Los Angeles has sufficient funds and agrees to provide any funds needed beyond the grant requested to complete the studies funded by this grant; and

BE IT FURTHER RESOLVED that County of Los Angeles agrees to the terms, assurances and conditions set forth in the grant agreement; and

BE IT FURTHER RESOLVED that the Los Angeles County Board of Supervisors hereby authorizes its Director of Beaches and Harbors to sign all necessary documents to obtain the grant and to accept the grant for the purpose stated above.

The foregoing Resolution was on the _____ day of _____ , 2003 adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

VIOLET VARONA-LUKENS, Executive Officer-
Clerk of the Board of Supervisors of
the County of Los Angeles

By_____
Deputy

APPROVED AS TO FORM
BY COUNTY COUNSEL

LLOYD W. PELLMAN

By:_____
Deputy

Los Angeles County
Caring for Your Coast
Beaches & Harbors

To enrich lives through effective and caring service

June 5, 2003

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

SUBJECT: **ITEM 5c - APPROVAL OF OPTION AND AMENDED AND RESTATED LEASE TO FACILITATE REDEVELOPMENT - PARCELS 95S AND LLS (MARINA WEST SHOPPING CENTER) - MARINA DEL REY**

Item 5c on your agenda pertains to a proposed extension of the existing lease agreement for Parcel 95S (Marina West Shopping Center), including the addition of Parcel LLS to the leasehold, in order to facilitate redevelopment of the existing shopping center by demolition of all existing commercial structures except for the 5,713 square foot Islands Restaurant, which will be remodeled to "like-new" condition and to replace the existing 21,119 square foot center with a new 40,763 square foot center by construction of a new 2-story office building (18,650 square feet) and a new 1-story retail building (16,400 square feet) on Parcel 95S and the construction of a new landscaped entryway park on Parcel LLS at the southwest corner of Washington Boulevard and Via Marina.

Attached is a copy of the Board Letter that explains the details of the proposed transaction. The exhibits to the Board Letter include a copy of the proposed Option to Amend Lease Agreement and a copy of the proposed Amended and Restated Lease Agreement. We may need to make minor, non-substantive, changes to the Amended and Restated Lease Agreement prior to filing it with the Board of Supervisors – if the changes are substantive, we will resolicit your Commission's consideration of this document.

Your Commission's endorsement of my recommendation to the Board of Supervisors as contained in the attached letter is requested.

SW:gb
Attachment

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://beaches.co.la.ca.us
Stan Wisniewski Director • Kerry Gottlieb Chief Deputy

June 5, 2003

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:

OPTION AND AMENDED AND RESTATED LEASE TO FACILITATE REDEVELOPMENT - PARCELS 95S AND LLS (MARINA WEST SHOPPING CENTER) - MARINA DEL REY (4th DISTRICT) (4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed Option to Amend Lease Agreement ("Option"), attached as Exhibit A, and the Amended and Restated Lease Agreement ("Restated Lease"), attached as Exhibit B, are categorically exempt under the California Environmental Quality Act pursuant to class 1 (r) of the County's Environmental Document Reporting Procedures and Guidelines.

2. Approve and authorize the Chair of the Board to sign the attached Option granting to the current lessee, upon fulfillment of stated conditions, the right to extend the term of its existing ground lease on Parcel 95S by 39 years and granting a new co-terminus lease for Parcel LLS.

3. Approve and authorize the Chair of the Board to sign, upon exercise of the Option, the attached Restated Lease for Parcels 95S and LLS, providing for a 39-year lease extension for Parcel 95S and a new lease for Parcel LLS; payment of a $270,000 lease extension fee; the demolition of all existing commercial structures except for the 5,713 square foot Islands Restaurant, which will be remodeled to "like-new" condition; construction of a new 2-story office building (18,650 square feet) and a new 1-story retail building (16,400

square feet) on Parcel 95S; construction of a new landscaped entryway park space/public area on Parcel LLS; establishment of a reserve for capital improvements equal to 1.5% of the gross revenues derived from the leasehold; establishment of a Renovation Fund equal to .5% of the gross revenues derived from the leasehold that must be fully expended to physically reposition the project to then current market requirements in 2022, 2037 and 2052; establishment of new minimum and percentage rents; County participation in leasehold sale and/or refinance; revised arbitration procedures; County right to recapture the leasehold if the lessee pursues its sale; establishment of a sinking fund to remove leasehold improvements at lease termination; liquidated damages of $100 per day (adjusted for inflation) for each cited maintenance deficiency that remains uncured after specified cure period; and other miscellaneous improvements to the lease (e.g., payment of late fees and interest on overdue County payments and enhanced audit and record-keeping standards).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Your Board previously authorized the release of Invitation to Apply for Lease Extensions on Certain Marina del Rey Parcels ("Extension Invitation"), which was intended to seek competitive proposals for the use of available entitlements that would both enable development and allow for the concurrent evaluation of multiple proposals for such development in order to determine the proposal(s) which best maximize the County's benefit from those available entitlements. The proposed lease extension for Parcel 95S and the co-terminus new lease for Parcel LLS is the result of negotiations initiated as a result of an evaluation committee's recommendation, accepted by the Director of the Department of Beaches and Harbors ("Director") and approved by your Board, to proceed with negotiations with the lessee, Gold Coast West, LLC ("Lessee"), for such extension and new Parcel LLS lease. The attached Option is designed to allow the Lessee to receive the benefits of the Restated Lease upon demonstration that it has obtained all needed land use entitlements, has provided evidence satisfactory to the Director of sufficient financial resources to complete the project and has received Director's approval of the schematic drawings and preliminary plans and specifications for the required development. If the Lessee does not exercise the Option, the new percentage rents and a number of improved lease terms will nonetheless be incorporated by amendment to the current lease.

The Department has obtained an appraisal that confirms the return to the County from the lease extension is equivalent to, or greater than, fair market value.

Implementation of Strategic Plan Goals

In furtherance of County Goal #4, "Fiscal Responsibility," the recommended action will allow the Department to implement that portion of its Strategic Plan that enhances strategic partnerships with existing and prospective lessees through proactive implementation of the Marina del Rey Asset Management Strategy toward both revenue maximization and property redevelopment.

The following chart details the proposed deal terms of the Restated Lease providing for the 39-year lease extension as they relate to your Board's existing lease extension policy:

BOARD POLICY ITEM	PROPOSED DEAL TERMS – PARCELS 95S/LLS
REDEVELOPMENT Redevelopment of existing improvements	• Demolition of all buildings except for the 5,713 sf Islands Restaurant, which will be remodeled to "like-new" condition. Construction of a new 2-story office building (First Floor – 4,250 sf Bank and 6,512 sf Restaurant and Second Floor – 7,888 sf Office), a 1-story retail building (16,400 sf) and 238 parking spaces (70 surface, 28 intermediate level and 140 atop the retail building) on Parcel 95S and a public park on Parcel LLS. Total of 40,763 sf. Construction to be completed within 2 years of Lessee's exercise of Option, exclusive of delays caused by force majeure delays, which in no event shall extend the completion date for more than 2 years. • Total development cost to be not less than $8,065,000. • A Capital Improvement Fund to be funded annually by Lessee in the amount of 1.5% of Lessee's total gross revenues derived from the leasehold will be maintained during the term of the lease. The Capital Improvement Fund must be fully expended for Permitted Capital Expenditures no later than 7 years prior to the expiration date of the lease. All Permitted Capital Expenditures are subject to prior approval by the Director.

	• Starting in the sixth year following completion of construction, a Renovation Fund to be funded annually by Lessee in the amount of 0.5% of Lessee's total gross revenues derived from the leasehold will be maintained during the remaining term of the lease. The Renovation Fund must be fully expended to physically reposition the project to then current market requirements in 2022, 2037, and 2052. All Renovation Fund Expenditures are subject to prior approval by the Director.
EXTENSION TERM	• Option to extend lease on Parcel 95S by 39 years, from June 1, 2028 to May 31, 2067, and a new lease on Parcel LLS co-terminus with the term of Parcel 95S lease. The Option is exercisable by Lessee within 18 months of grant of Option by Board of Supervisors. Lessee can exercise Option only after it has obtained all required planning, zoning and entitlement approvals, including approvals by Design Control Board, Regional Planning, Board of Supervisors (if applicable) and Coastal Commission (if applicable), and has provided to County satisfactory evidence of project financing. If Lessee is unable to obtain all of the necessary entitlement and financing approvals within the 18-month period, the Director may grant, in his discretion, one 6-month extension if Lessee can demonstrate it has diligently pursued approvals. If Lessee obtains its approvals within the 18-month (or 24-month) period, but such approvals are subject to litigation or appeal brought by a third party, then the Option exercise date will be tolled pending the resolution of such litigation or appeal; provided, however, that the Option exercise date shall in no event be later than 4 years after the date of the grant of Option.
EXTENSION FEE Fee equal to or commensurate with value of the extension	• The amount of the extension fee shall be $270,000, payable as follows: 1) Lessee shall pay a non-refundable option fee of $100,000 concurrent with the execution of the Option. Such payment shall be credited against extension fee if the Option is exercised, but shall not be refundable in the event the Option is not exercised. 2) The remaining $170,000 of the extension fee shall be payable in 7 equal annual principal installments, plus interest (at the prime rate) accrued on the unpaid balance of the extension fee.

MARKET RATE RENTS Ensure fair market rents	• Minimum annual rent during the demolition and construction period to be reset upon exercise of Option equal to 75% of the previous 3 years' average annual total rent paid to County. • Minimum annual rent for 3 years following completion of construction equal to 75% of average annual total rent to be paid to County based on Lessee's projected gross receipts for the first 3 years of operation, to be provided by Lessee no later than 3 months prior to completion and reasonably approved by County. If County and Lessee cannot agree on minimum annual rent based upon Lessee's projected gross receipts, then Lessee will pay County the Minimum Annual Floor Rental Amount. • The Minimum Annual Floor Rental Amount shall be the Base Rent Amount (as described below) increased (but not decreased) by the percentage change in the Consumer Price Index (All Urban Consumers for Los Angeles-Riverside-Orange Counties) from January 2002 through the month of the completion of construction. The Base Rent Amount shall mean 75% of the total rents payable by Lessee for the calendar year 2001 multiplied by a fraction the numerator of which is the proposed amount of commercial square footage to be developed (40,763) and the denominator of which is the existing amount of commercial square footage (21,119). • Minimum rent to be reset the fourth year after completion of construction and every 3 years thereafter, equal to 75% of the previous 3 years' average annual total rent paid to County and subject to renegotiation every 10 years from effective date of the Restated Lease. • Percentage rent on Gross Receipts: 2.0% of Retail 12.0% of Office 3.5% of Restaurant 5.0% of Vending (owned) 25.0% of Vending (commissions) 5.0% of Parking - valet or service (gross receipts) or 20.0% of Parking - valet or service (commissions or fees) Percentage rents shall be fixed for a 10-year period from effective date of Restated Lease and are subject to renegotiation to fair market rental as of the first day of the 11th year and every 10 years thereafter.
PARTICIPATION IN SALE AND REFINANCE Secure County participation in sale and refinance of leasehold	• Sale Participation: Greater of 5% of Gross Proceeds or 20% of Net Proceeds. • Refinance Participation: 20% of Net Proceeds not reinvested in leasehold improvements.

COUNTY ADMINISTRATIVE COSTS Ensure payment for County costs for lease extension and administration	• Reimbursement of County costs for extension negotiations/lease documentation.
COUNTY INCOME CONTINUITY Ensure County revenue flow during redevelopment	• Minimum rent payable during each lease year during construction in an amount equal to 75% of average of preceding 3 years' total annual rent at time of Option exercise.
RIGHT TO RECAPTURE	• County has right to recapture the leasehold if sale is proposed.
LEASE ASSIGNMENT-DISCLOSURE ISSUES	• Lessee has agreed to County disclosure requirements as to identity, operating experience and character/reputation of proposed assignees, as well as to disclosure of financial information in conformity with County policies.
APPRAISAL	• The Department has obtained an independent appraisal confirming the return to the County from the lease extension is equivalent to, or greater than, fair market value.
REGULATORY APPROVALS	• Lessee must obtain all regulatory approvals within 18 months of grant of option by Board of Supervisors. This period may be extended as discussed above in "Extension Term."

Additional Matters

OTHER TERMS	1. 7 years prior to expiration of lease, Lessee to structure funding for removal of improvements (at County's election). 2. Rental renegotiation and insurance disputes subject to rent-a-judge procedure pursuant to "baseball" type arbitration. 3. Maintenance standards for improvements to conform with Marina del Rey standards as revised from time to time. 4. Lease administrative items include: a) late fee of 6% plus interest at prime plus 3% for any late payments, b) security deposit equal to 3 months' minimum rent, c) insurance levels reset/renegotiated upon execution of the Restated Lease and every 5 years thereafter, d) County approval rights over all construction plans and specifications, e) enhanced audit and record-keeping standards. 5. Liquidated damages of $100 per day (adjusted for inflation) for each cited maintenance deficiency that remains uncured after a specified cure period, to be assessed against the security deposit.

If the lessee does not or is unable to exercise the Option on or before its stated expiration date (including any extensions), it is required to execute an amendment to the current lease which will add the following requirements to its currently-existing lease: a) new market rate percentage rents; b) County participation in sale and refinance; c) the obligation to reimburse the County's actual costs incurred for outside consultants, County Counsel and the Department's lead negotiator in the review, negotiation, preparation and documentation of the Restated Lease; d) the County's right to recapture the leasehold in the event of it being offered for sale; e) a sinking fund for the removal of lease improvements upon lease termination; f) disclosure provisions in the event of lease assignment; g) assessment of a late fee and interest for late payments due the County; h) security deposit equal to 3 months' minimum rent; i) insurance levels newly set and renegotiated every 5 years; j) provision for enhanced audit and record-keeping standards; k) leasehold maintenance in conformity with Marina standards as revised from time-to-time; l) minimum rents to be adjusted every third year to 75% of preceding 3 years' average total rent and renegotiated with percentage rent and insurance provisions each tenth lease year; and m) modernized arbitration provisions.

FISCAL IMPACT/FINANCING

The Restated Lease reflects the County's current market rate percentage rents for all relevant categories. It will produce two categories of fiscal benefit to the County: 1) an extension fee; and 2) rent increases due to construction of new office and retail buildings and the redevelopment of the Islands Restaurant. Each component is discussed in detail below.

Extension Fee

Lessee will pay an extension fee of $270,000 due on exercise of the Option, payable as a non-refundable option fee of $100,000 concurrent with the execution of the Option with the remaining balance of $170,000 payable in 7 equal installments of $24,285.71 in principal, plus interest on the unpaid balance at the prime rate.

Rent Increase Due to New Construction

The total rent derived from Parcel 95S during calendar year 2001 was approximately $149,373. After construction, lease-up and stabilization of the new office and retail facilities, our economic consultant has estimated that the total County rent will rise to approximately $344,000 annually, an annual increase of approximately $194,627.

The new lease will also reflect the County's current market rate percentage rents for all relevant categories.

Costs of consultants and primary County staff involved in the negotiation and development of the Restated Lease is being reimbursed by the Lessee on an ongoing basis.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The term of the lease for Parcel 95S commenced June 1, 1968, and will expire on May 31, 2028. There are currently 21,119 square feet of commercial space housing a restaurant, bank, offices and other smaller commercial tenants. In exchange for a lease extension to the date of May 31, 2067, Lessee has agreed to raze all of the existing improvements,

except for the Islands Restaurant (5,713 square feet) which will be remodeled to "like-new" condition, to construct a new 2-story office building (18,650 square feet), and a new 1-story retail building (16,400 square feet) on Parcel 95S, and to construct a new landscaped entryway park space/public area on Parcel LLS. The Restated Lease also requires renovations in 2022, 2037 and 2052 to physically reposition the project to then current market requirements.

The lessee has made application to the Regional Planning Department for its discretionary land use entitlements under the applicable standards of the Local Coastal Program (LCP), including those related to building height and traffic requirements. That application is under review.

Amendment and extension of the existing lease is authorized by Government Code Sections 25907 and 25536. The extended lease term is in conformance with the maximum 99-year period authorized by California law.

At its meeting of June 11, 2003, the Small Craft Harbor Commission _____ the Director's recommendation to approve the Option and Restated Lease. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

The Option and Restated Lease are categorically exempt under the California Environmental Quality Act pursuant to class 1 (r) of the County's Environmental Document Reporting Procedures and Guidelines. Approval of the Option does not authorize construction or re-construction of any improvements on the parcels. The discretionary land use entitlements necessary to implement the proposed redevelopment/replacement contemplated by the Option and the Restated Lease are under review by the Department of Regional Planning.

CONTRACTING PROCESS

The Lessee's proposal for a lease extension was received in response to the release of a Board-authorized solicitation document seeking proposals for new development and redevelopment on parcels on the Westside of Marina del Rey. Subsequent negotiations with the Lessee in development of the Option and the Restated Lease were based upon an evaluation committee's review of the proposal and ultimate recommendation to proceed

into negotiations, which recommendation was accepted by the Director and approved by your Board.

The new Restated Lease will be available to the Lessee upon the exercise of the Option. A precondition of the exercise of the Option is the Lessee's demonstration that it has obtained all necessary land use entitlements, has provided evidence satisfactory to the Director of sufficient financial resources to complete the project and has received the Director's approval of the schematic drawings and preliminary plans and specifications for the development required by the Restated Lease.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on other current services or projects.

CONCLUSION

Authorize the Executive Officer/Clerk of the Board to send three copies of the executed Option to the Department of Beaches and Harbors.

Authorize the Executive Officer/Clerk of the Board to secure the execution by the Chair of the Restated Lease upon determination and notification from the Director that Lessee has fulfilled the requirements of the Option and is entitled to its exercise.

Respectfully submitted,

Stan Wisniewski, Director

SW:RM:AK:GB
Attachments (2)

c: Chief Administrative Officer
Executive Officer, Board of Supervisors
County Counsel
Auditor-Controller

EXHIBIT A

OPTION TO AMEND LEASE AGREEMENT
(PARCELS 95S AND LLS)

THIS OPTION TO AMEND LEASE AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 2003, by and between the COUNTY OF LOS ANGELES ("County") and GOLD COAST WEST, LLC, a Delaware limited liability company ("Lessee").

RECITALS

A. County and Interstate Properties, a limited partnership (the "Original Lessee"), entered into Lease No. 13509, dated June 5, 1968, as amended (the "Existing Lease") regarding the lease from County of certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 95S, as more particularly described in the Existing Lease (the "Existing Premises").

B. Lessee has succeeded to the Original Lessee's right, title and interest as lessee under the Existing Lease.

C. The term of the Existing Lease is currently scheduled to expire on May 31, 2028 (the "Existing Expiration Date").

D. Lessee has requested County, and County is willing, to grant Lessee an option to (i) extend the term of the Existing Lease through May 31, 2067, and (ii) lease from County certain additional real property adjacent to the Existing Premises and commonly referred to as Parcel LLS (the "New Premises"), all subject to and in accordance with the terms and provisions of this Agreement.

E. The Existing Premises and the New Premises are described in Exhibit A attached to the Restated Lease (as defined in Section 1 of this Agreement) and are collectively referred to herein and in the Restated Lease as the "Premises."

AGREEMENT

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

1. Grant of Option. County hereby grants to Lessee an option (the "Option") to extend the term of the Existing Lease through May 31, 2067 (the "Extended Expiration Date") and to lease from County the New Premises. The Option shall be exercisable by Lessee, if at all, only in its entirety as to both the Existing Premises and the New Premises, and not as to the Existing Premises or the New Premises on a separate basis. If the Option is exercised by Lessee in accordance with the terms and provisions of this Agreement, such extension of the Existing Lease and lease of the New Premises shall be consummated by the parties' execution and delivery of an Amended and Restated Lease Agreement for Parcels 95S and LLS in the form attached to this Agreement as Exhibit A (the "Restated Lease").

2. Option Term. The term of the Option (the "Option Term") shall commence on the date of this Agreement and expire on that date (the "Option Expiration Date") which is the earlier of (i) forty-five (45) days following the date of the satisfaction of the Entitlement Conditions, or (ii) eighteen (18) months following the date of this Agreement.

3. Exercise of Option. The Option shall be exercisable by Lessee only by strict satisfaction on or before the Option Expiration Date of the following terms and conditions: (i) Lessee shall notify County in writing of its exercise of the Option; (ii) Lessee shall accompany the notice described in the preceding clause (i) with Lessee's (A) execution and delivery to County of the Restated Lease with any blank or bracketed terms set forth in Exhibit A completed in accordance with the terms and provisions of this Agreement, and (B) payment of the amount by which the Security Deposit required under Article 7 of the Restated Lease exceeds the amount of the security deposit then maintained by Lessee with County pursuant to Section 7 of the Existing Lease; (iii) as of the date of Lessee's delivery of the notice described in clause (i) above Lessee shall not be in breach or default of any term or provision of the Existing Lease, after notice from County and the expiration of any applicable cure period thereunder; (iv) the Entitlement Conditions (as defined below) shall have been satisfied; (v) Lessee shall have provided evidence satisfactory to County of its having sufficient financial resources, as determined by the Director of the Department of Beaches and Harbors of the County ("Director"), to complete the Redevelopment Work; (vi) Director shall have approved all plans, specifications and other materials for the Redevelopment Work required to be submitted to Director pursuant to Section 5.3 of this Agreement; and (vii) there shall be no legal action or proceeding pending to contest the issuance of the Entitlements (as defined below), or to enjoin or restrain the performance of the Redevelopment Work. Upon Lessee's proper and timely exercise of the Option, County shall execute and deliver the Restated Lease not later than forty-five (45) days following the date of Lessee's exercise of the Option. For purposes hereof, the "Entitlement Conditions" shall mean the following conditions: (a) Lessee shall have received all planning, zoning and other entitlement approvals required to be obtained from governmental authorities (including County and the California Coastal Commission) for the construction of the Redevelopment Work (as defined below), including without limitation, Design Control Board approval and issuance of any building permit(s) required for the construction of the Redevelopment Work (the "Entitlements"), and (b) any appeal period to contest the issuance of the Entitlements shall have lapsed. For purposes of this Agreement, the "Redevelopment Work" shall have the meaning given such term in Section 5.1 of the Restated Lease.

4. Option Fee/Extension Fee.

4.1 Option Fee. In consideration of County's grant of the Option to Lessee, Lessee shall pay to County concurrent with Lessee's execution of this Agreement the sum of One Hundred Thousand Dollars ($100,000.00) (the "Option Fee"). The Option Fee shall be non-refundable, but shall be applied against the Extension Fee described below if Lessee exercises the Option.

4.2 Extension Fee. If Lessee exercises the Option, Lessee shall pay County an extension fee in the amount of Two Hundred Seventy Thousand Dollars ($270,000.00) (the "Extension Fee") to compensate County for the value of the extension of the term of the Existing Lease. The Option Fee shall be applied against the Extension Fee. The

remaining One Hundred Seventy Thousand Dollars ($170,000.00) of the Extension Fee shall be paid by Lessee to County either, at Lessee's election, (i) concurrent with Lessee's exercise of the Option, or (ii) in seven (7) equal annual principal installments of $24,285.71 each, plus interest accrued on the unpaid principal balance of the Extension Fee as provided below (the "Extension Fee Installment Payments"). Interest shall accrue on the unpaid balance of the Extension Fee from the date of Lessee's exercise of the Option until paid by Lessee, at an annual rate of interest equal to the Prime Rate (as defined in subsection 4.4.5 of the Restated Lease) in effect from time to time. The first Extension Fee Installment Payment shall be due on the first anniversary of the date of Lessee's exercise of the Option and the remaining six (6) Extension Fee Installment Payments shall be due on each of the next six (6) anniversaries of the date of Lessee's exercise of the Option.

5. Entitlements and Plan Preparation During Option Term.

5.1 Obtaining Entitlements. Lessee shall use its best efforts to obtain the Entitlements and to satisfy the Entitlement Conditions as soon as possible following the date of this Agreement. Such efforts shall include Lessee's expenditure of such funds, including, without limitation, application fees, travel costs, architectural fees and consulting and lobbying fees, as reasonably necessary to expedite the permit, license and other approval processes.

5.2 County Cooperation. In its proprietary capacity, the Department of Beaches and Harbors of the County of Los Angeles (the "Department") shall cooperate with and assist Lessee, to the extent reasonably requested by Lessee, in Lessee's efforts to obtain the Entitlements. Such cooperative efforts may include the Department's joinder in any application for the Entitlements where joinder therein by the Department is required or helpful; provided, however, that Lessee shall reimburse County for the Actual Costs (as defined in the Restated Lease) incurred by the Department in connection with such joinder or cooperative efforts. Notwithstanding the foregoing, Lessee and County acknowledge that the approvals given by County under this Agreement and/or the Restated Lease shall be approvals pursuant to its authority under Section 25907 of the California Government Code and given in its proprietary capacity; that approvals given under this Agreement and/or the Restated Lease in no way release Lessee from obtaining, at Lessee's expense, all permits, licenses and other approvals required by law for the construction of the Redevelopment Work and operation and other use of the Premises; and that the Department's duty to cooperate and County's approvals under this Agreement and/or the Restated Lease do not in any way modify or limit the exercise of County's governmental functions or decisions as distinct from its proprietary functions pursuant to this Agreement and/or the Restated Lease.

5.3 Plans and Specifications for Redevelopment Work. The Redevelopment Work shall be constructed by Lessee in accordance with and subject to the terms and provisions of Article 5 of the Restated Lease. The requirements of Article 5 of the Lease include, without limitation, the obligation of Lessee to prepare and submit to the Director for the Director's approval certain plans, specifications, construction cost estimates and other materials pertaining to the Redevelopment Work, as set forth in more detail in Section 5.3 of the Restated Lease. The schedule for the preparation, submittal and approval of such plans, specifications, construction cost estimates and other materials shall generally proceed in accordance with the terms and provisions of the Restated Lease. Notwithstanding the foregoing, during the period

commencing on the date of this Agreement and expiring on the earlier of Lessee's exercise of the Option or the Option Expiration Date, Lessee shall prepare and submit to Director for Director's approval, any portions of the plans, specifications and other materials described in Section 5.3 of the Restated Lease that are required to be submitted to governmental authorities (including the County, the Design Control Board and the California Coastal Commission) in connection with Lessee's applications for and/or receipt of the Entitlements for the Redevelopment Work. Lessee shall accompany such plans, specifications and other materials with the construction cost estimates described in such Section 5.3, as applicable. The standards and time periods for Director's review and approval of the materials submitted by Lessee pursuant to this Section 5.3 shall be in accordance with the terms and provisions of Section 5.3 of the Restated Lease, which terms and provisions are hereby incorporated into this Agreement by reference. Such plans, specifications and other materials shall be prepared and submitted to Director by Lessee in accordance with a schedule which shall facilitate Lessee's satisfaction of all conditions precedent to the exercise of the Option on or before the Option Expiration Date. In addition to the plans, specifications and materials required to be submitted by Lessee to Director pursuant to this Section 5.3, Lessee shall have the right, at its election, to deliver to Director, for Director's approval, additional plans, specifications and materials pertaining to the Redevelopment Work. Director shall notify Lessee of its approval or disapproval of such additional plans, specifications and materials within the time frames and in accordance with the requirements of Section 5.3 of the Restated Lease.

6. Delay in Exercise of Option. If Lessee, despite its best efforts, is unable to obtain the Entitlements within eighteen (18) months after the date of this Agreement as a result of a delay beyond normal entitlement processing periods in the processing by the applicable governmental authorities of Lessee's applications for the Entitlements (an "Extraordinary Governmental Delay"), then the Director may, in the exercise of its reasonable discretion, grant Lessee one or more extensions of the Option Expiration Date. Any such extension shall be limited to the period of the Extraordinary Governmental Delay and in no event shall such extensions, in the aggregate, extend beyond the second (2nd) anniversary of the date of this Agreement. If Director shall determine not to grant Lessee an extension as provided above, then Lessee shall have the right, within thirty (30) days following Director's denial, to submit a written request to the Board of Supervisors of County to reconsider such denial by the Director. If Lessee obtains the Entitlements within eighteen (18) months after the date of this Agreement (or such longer period as granted by Director as provided above), but such Entitlements are contested by appeal or litigation brought by a third party (a "Contest Delay"), then upon the written request of Lessee, and provided that Lessee continues to use its best efforts to contest the appeal or litigation, Director shall extend the Option Expiration Date until a final order or decision on such appeal or litigation is issued or such appeal or litigation is dismissed or otherwise resolved; provided, however, in no event shall the Option Expiration Date be extended beyond the fourth (4th) anniversary of the date of this Agreement. For purposes of the immediately preceding sentence, a "third party" shall mean any person or entity other than (a) Lessee or any person or entity with any direct or indirect interest in Lessee, or (b) the governmental agency, commission, board or other instrumentality that issued the Entitlement that is the subject of the appeal or litigation. Director shall have no discretion or obligation to extend the Option Expiration Date under this Section 6 if Lessee is in breach or default of this Agreement or the Existing Lease. No Extraordinary Governmental Delay or Contest Delay shall

be considered to have commenced under this Section 6 until such time as Lessee shall have notified Director in writing of such delay. If Lessee desires to have the Option Expiration Date extended pursuant to this Section 6, then Lessee must deliver written notice to Director of its request for the extension not later than thirty (30) days prior to the Option Expiration Date, as such date may have been previously extended.

7. Alternative Lease Amendment. If Lessee does not exercise the Option on or before the Option Expiration Date (or the Option is not exercisable by the Option Expiration Date), then (a) the Option shall be automatically terminated, and (b) within forty-five (45) days following the Option Expiration Date, County and Lessee shall execute and deliver an amendment to the Existing Lease (the "Non-Exercise Amendment"), which amendment shall:

(i) amend and restate Sections 11 through 15 of the Existing Lease in accordance with all of the terms and provisions of Sections 4.1 through 4.5 of the Restated Lease, excepting Section 4.3 of the Restated Lease;

(ii) add Article 16 of the Restated Lease to the Existing Lease;

(iii) amend and restate Section 7 of the Existing Lease in accordance with Article 7 of the Restated Lease;

(iv) amend and restate Sections 8 and 10 of the Existing Lease in accordance with Sections 5.3 through 5.8 of the Restated Lease;

(v) amend and restate Section 18 of the Existing Lease in accordance with Sections 2.3 and 2.4 of the Restated Lease;

(vi) amend and restate Sections 22A and 22C of the Existing Lease in accordance with Sections 11.1, 11.2 (excepting subsections 11.2.4 and 11.2.5) and 11.3 of the Restated Lease;

(vii) amend Section 26 of the Existing Lease to adjust the amount of commercial general liability insurance coverage required to be carried by Lessee to equal the amount set forth in the first paragraph of Section 9.3 of the Restated Lease and to add to Section 26 of the Existing Lease the third (3rd) paragraph of Section 9.3 of the Restated Lease;

(viii) amend and restate Sections 30, 31 and 32 of the Existing Lease in accordance with Article 14 of the Restated Lease; and

(ix) incorporate into the Existing Lease the definitions of capitalized terms used in the Restated Lease to the extent such terms are used in the Non-Exercise Amendment pursuant to clauses (i) through (viii) above.

For purposes of the Non-Exercise Amendment, all references in the Restated Lease to the "Effective Date" shall mean and refer to the date of the execution and delivery of the Non-Exercise Amendment, but not later than forty-five (45) days following the Option Expiration Date.

8. County Costs. Regardless of whether Lessee exercises the Option, Lessee shall promptly reimburse County for the Actual Costs (as defined in the Restated Lease) incurred by County in the review, negotiation, preparation and documentation of the Restated Lease, the Non-Exercise Amendment, this Agreement and the term sheets and memoranda that preceded the foregoing. The parties acknowledge that Lessee has deposited the sum of _____Dollars ($_____) toward those costs. County shall deliver to Lessee an initial report detailing such expenditures within ninety (90) days after the date of this Agreement. County shall thereafter deliver supplemental reports to Lessee for costs, if any, incurred subsequent to the initial report.

9. Miscellaneous.

9.1 Time is of the Essence. Time is of the essence of this Agreement, including, without limitation, with respect to all times, restrictions, conditions and limitations set forth herein.

9.2 Waivers. Except as stated in writing by the waiving party, any waiver by either party of any breach of any one or more of the covenants, conditions, terms or provisions of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or provision of this Agreement, nor shall failure on the part of either party to require exact, full and complete compliance with any of the covenants, conditions, terms or provisions of this Agreement be construed to in any manner change the terms hereof or estop that party from enforcing the full provisions hereof.

9.3 Notices. All notices required or permitted to be given under this Agreement shall be given in accordance with the terms and provisions of Section 15.10 of the Restated Lease.

9.4 Captions. The captions contained in this Agreement are for informational purposes only, and are not to be used to interpret or explain the particular provisions of this Agreement.

9.5 Attorneys' Fees. In the event of any action, proceeding or arbitration arising out of or in connection with this Agreement, whether or not pursued to judgment, the prevailing party shall be entitled, in addition to all other relief, to recover its costs and reasonable attorneys' fees, including without limitation, attorneys' fees for County Counsel's services where County is represented by the County Counsel and is the prevailing party.

9.6 No Assignment. Lessee shall have no right to assign or transfer its rights or obligations under this Agreement to any other person or entity, without the express written consent of County, which consent may be withheld by County in its sole and absolute discretion.

9.7 Entire Agreement. This Agreement sets forth the full and complete understanding of the parties relating to the subject matter hereof, and supercedes any

and all agreements, understandings and representations made prior hereto with respect to such matters.

9.8 Joint Effort. Preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not be construed more severely against one of the parties than against the other.

9.9 Applicable Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

9.10 Counterparts. This Agreement may be signed in any number of counterparts. Each counterpart shall represent an original of this Agreement and all such counterparts shall collectively constitute one fully-executed document.

9.11 Successors and Assigns. Subject to Section 9.6 above, the rights and obligations of the parties under this Agreement shall be binding upon the parties' respective successors and assigns.

9.12 Exhibits. Exhibit A attached to this Agreement is hereby expressly incorporated herein by reference.

IN WITNESS WHEREOF, County and Lessee have entered into this Agreement as of the day and year first written above.

APPROVED AS TO FORM:

LLOYD W. PELLMAN
COUNTY COUNSEL

By: _____
Deputy

THE COUNTY OF LOS ANGELES

By: _____
Mayor, Board of Supervisors

GOLD COAST WEST, LLC, a Delaware limited liability company

By: _____
Its: _____

By: _____
Its: _____

ATTEST:

VIOLET VARONA-LUKENS,
Executive Officer of the Board
of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

RESTATED LEASE

EXHIBIT B

AMENDED AND RESTATED LEASE AGREEMENT

by and between

County of Los Angeles

and

Gold Coast West, LLC

(Parcels 95S and LLS — Lease No. ___)

Dated as of _____, _____

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EXHIBIT B

AMENDED AND RESTATED LEASE AGREEMENT
PARCELS 95S AND LLS— MARINA DEL REY

THIS AMENDED AND RESTATED LEASE AGREEMENT ("Lease") is made and entered into as of the _____ day of _____, ____ ("Effective Date"), by and between the COUNTY OF LOS ANGELES ("County"), as lessor, and GOLD COAST WEST, LLC, a Delaware limited liability company (together with its permitted successors and assigns, "Lessee"), as lessee.

WITNESSETH

WHEREAS, County and Interstate Properties, a limited partnership (the "Original Lessee"), entered into Lease No. 13508 dated June 5, 1968 (as amended prior hereto, the "Existing Lease") whereby prior to the Effective Date Lessee has leased from County that certain real property in the Marina del Rey Small Craft Harbor now commonly known as Parcel No. 95S and which is more specifically described on Exhibit A attached hereto and incorporated herein by this reference (the "Parcel 95S Premises"), the term of which commenced on June 1, 1968 and currently extends through May 31, 2028 (the "Existing Expiration Date"); and

WHEREAS, Lessee has succeeded to the Original Lessee's right, title and interest as lessee under the Existing Lease; and

WHEREAS, County and Lessee have entered into that certain Option to Amend Lease Agreement dated _____, 2003 (the "Option Agreement"), pursuant to which County has granted Lessee an option (the "Option") to amend and restate the Existing Lease in its entirety, upon the terms and conditions more specifically provided herein, including, without limitation, (i) the addition to the premises under the Existing Lease of that certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel LLS and which is more specifically described as Parcel LLS on Exhibit A attached hereto (the "Parcel LLS Premises"), (ii) the extension of the term of the Existing Lease through May 31, 2067, and (iii) the commercial redevelopment of the Parcel 95S Premises and the development of a public park on Parcel LLS, all in accordance with the terms and provisions hereof; and

WHEREAS, Lessee has exercised the Option in accordance with the terms and provisions of the Option Agreement.

NOW, THEREFORE, in reliance on the foregoing and in consideration of the mutual covenants, agreements and conditions set forth herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto and each of them do agree that the Existing Lease is hereby amended and restated in its entirety, as follows:

1. BACKGROUND AND GENERAL.

1.1 Definitions. The defined terms in this Lease shall have the following meanings:

1.1.1 "ACCOUNTING YEAR" shall have the meaning set forth in Section 14.7.

1.1.2 "ACTUAL COST" shall mean the reasonable cost and expenses incurred by County with respect to a particular activity or procedure, including without limitation (i) expenditures to third party legal counsel, financial consultants and advisors, (ii) costs incurred in connection with appraisals, and (iii) County's appropriate internal overhead and administrative costs, which include without limitation, the value of services provided by County's in-house counsel, lease administrators and/or lease auditors and other County administrative staff below the level of deputy director (the administrative level which is two levels below the County department head).

1.1.3 "ADA" shall have the meaning set forth in Section 1.2.

1.1.4 "ADJUSTMENT DATES" shall have the meaning set forth in subsection 4.2.3.

1.1.5 "ADMINISTRATIVE CHARGE" shall have the meaning set forth in Section 4.6.

1.1.6 "AGGREGATE TRANSFER" shall have the meaning set forth in subsection 4.6.3.

1.1.7 "ALTERATIONS" shall have the meaning set forth in Section 5.2.

1.1.8 "ANNUAL MINIMUM RENT" shall have the meaning set forth in subsection 4.2.1.

1.1.9 "APPLICABLE LAWS" shall have the meaning set forth in subsection 1.2.1.

1.1.10 "APPLICABLE RATE" shall mean an annually compounded rate of interest equal to the lesser of (a) ten percent (10%) per annum or (b) the Prime Rate, as defined in subsection 4.4.5, plus three percent (3%) per annum; however, the Applicable Rate shall in no event exceed the maximum rate of interest which may be charged pursuant to Applicable Laws. In the event that the Applicable Rate as determined by the first sentence of this definition exceeds such maximum rate of interest, then the Applicable Rate shall be deemed the maximum rate permissible under Applicable Laws notwithstanding the first sentence of this definition.

1.1.11 "ASSIGNMENT STANDARDS" shall have the meaning set forth in Section 11.2.

1.1.12 "AUDITOR-CONTROLLER" shall mean the Auditor-Controller of the County of Los Angeles, California.

1.1.13 "AWARD" shall have the meaning set forth in subsection 6.1.3.

1.1.14 "BASE RENT AMOUNT" shall have the meaning set forth in subsection 4.2.1.

1.1.15 "BASE VALUE" shall have the meaning set forth in subsection 4.8.1.1.

1.1.16 "BENEFICIAL INTEREST" shall have the meaning set forth in subsection 4.6.4.

1.1.17 "BOARD" shall mean the Board of Supervisors for the County of Los Angeles.

1.1.18 "BUSINESS DAY" shall have the meaning set forth in Section 17.3.

1.1.19 "CALCULATION NOTICE" shall have the meaning set forth in Section 4.7.

1.1.20 "CAPITAL IMPROVEMENT FUND" shall have the meaning set forth in Section 5.11.

1.1.21 "CHANGE OF OWNERSHIP" shall have the meaning set forth in subsection 4.6.1.

1.1.22 "CHANGE OF CONTROL" shall have the meaning set forth in subsection 4.6.1.

1.1.23 "CITY" shall mean the City of Los Angeles, California.

1.1.24 "COMPLETION DATE" shall have the meaning set forth in subsection 4.2.1.

1.1.25 "CONDEMNATION" shall have the meaning set forth in subsection 6.1.1.

1.1.26 "CONDEMNOR" shall have the meaning set forth in subsection 6.1.4.

1.1.27 "CONSUMER PRICE INDEX" shall mean the Consumer Price Index--All Urban Consumers for Los Angeles-Riverside-Orange County, as published from time to time by the United States Department of Labor or, in the event such index is no longer published or otherwise available, such replacement index as may be agreed upon by County and Lessee.

1.1.28 "COUNTY" shall have the meaning set forth in the first paragraph of this Lease.

1.1.29 "COUNTY OPTION" shall have the meaning set forth in subsection 11.2.4.

1.1.30 "COUNTY OPTION PRICE" shall have the meaning set forth in subsection 11.2.4.

1.1.31 "COUNTY POOL RATE" shall have the meaning set forth in subsection 4.4.5 of this Lease.

1.1.32 "DATE OF TAKING" shall have the meaning set forth in subsection 6.1.2.

1.1.33 "DEPARTMENT" shall mean the Department of Beaches and Harbors of the County of Los Angeles.

1.1.34 "DEVELOPMENT PLAN" shall have the meaning set forth in Section 5.1.

1.1.35 "DIRECTOR" shall mean the Director of the Department of Beaches and Harbors of the County of Los Angeles or any successor County officer responsible for the administration of this Lease.

1.1.36 "DISQUALIFICATION JUDGMENT" shall have the meaning set forth in subsection 16.15.1.

1.1.37 "DOCUMENTED TRANSACTION COSTS" shall have the meaning set forth in subsection 4.8.1.2.

1.1.38 "EFFECTIVE DATE" shall mean the date set forth in the first preamble paragraph of this Lease.

1.1.39 "ENCUMBRANCE" shall have the meaning set forth in subsection 12.1.1.

1.1.40 "ENCUMBRANCE HOLDER" shall have the meaning set forth in subsection 12.1.1.

1.1.41 "ENR INDEX" shall mean the Engineering News Record (ENR) Construction Cost Index for the Los Angeles Area, or such substitute index as the parties may mutually agree upon if such index is no longer published or otherwise available.

1.1.42 "EVENTS OF DEFAULT" shall have the meaning set forth in Section 13.1.

1.1.43 "EXCLUDED TRANSFERS" shall have the meaning set forth in subsection 4.6.2.

1.1.44 "EXISTING EXPIRATION DATE" shall have the meaning set forth in the preamble to this Lease.

1.1.45 "EXISTING LEASE" shall have the meaning set forth in the preamble to this Lease.

1.1.46 "EXTENDED TIME" shall have the meaning set forth in Section 15.15.

1.1.47 "FAIR MARKET RENTAL VALUE" shall have the meaning set forth in subsection 4.4.1.

1.1.48 "FINAL PLANS AND SPECIFICATIONS" shall have the meaning set forth in subsection 5.3.3.

1.1.49 "FINANCING EVENT" shall have the meaning set forth in Section 12.1.

1.1.50 "FIRST SUBSEQUENT RENOVATION" shall have the meaning set forth in Section 5.9.

1.1.51 "FORCE MAJEURE" shall mean any inability of a party to perform any non-monetary obligations under this Lease due to fire or other casualty, acts of God, civil riots, embargo, governmental order, industry wide strikes or other similar causes beyond the reasonable control of the party required to perform the subject obligation.

1.1.52 "GROSS ERROR" shall have the meaning set forth in subsection 16.15.4.

1.1.53 "GROSS RECEIPTS" shall have the meaning set forth in subsection 4.2.2.3.

1.1.54 "IMPROVEMENTS" means all buildings, structures, fixtures, fences, fountains, walls, paving, parking areas, driveways, walkways, plazas, landscaping, permanently affixed utility systems and other improvements now or hereafter located on the Premises.

1.1.55 "IMPROVEMENT COSTS" shall have the meaning set forth in subsection 4.8.1.1.

1.1.56 "INCOME APPROACH" shall have the meaning set forth in Section 6.5.

1.1.57 "INITIATING PARTY" shall have the meaning set forth in the first paragraph of Article 16.

1.1.58 "INSTITUTIONAL LENDER" shall have the meaning set forth in subsection 12.1.3.1

1.1.59 "INSURANCE RENEGOTIATION DATE" shall have the meaning set forth in Section 9.3.

1.1.60 "LATE FEE" shall have the meaning set forth in Section 4.5.

1.1.61 "LEASE" shall mean this Amended and Restated Lease Agreement.

1.1.62 "LEASE YEAR" shall have the meaning set forth in Section 2.1.

1.1.63 "LESSEE" shall have the meaning set forth in the first paragraph of this Lease.

1.1.64 "LESSEE SALE PRICE" shall have the meaning set forth in subsection 11.2.4.

1.1.65 "MAJOR SUBLEASE" shall have the meaning set forth in subsection 11.1.1.

1.1.66 "MAJOR SUBLESSEE" shall have the meaning set forth in subsection 11.1.1.

1.1.67 "MONTHLY MINIMUM RENT" shall have the meaning set forth in subsection 4.2.1.

1.1.68 "NET AWARDS AND PAYMENTS" shall have the meaning set forth in Section 6.7.

1.1.69 "NET PROCEEDS SHARE" shall have the meaning set forth in Section 4.6.

1.1.70 "NET REFINANCING PROCEEDS" shall have the meaning set forth in subsection 4.8.5.

1.1.71 "NET TRANSFER PROCEEDS" shall have the meanings set forth in subsections 4.8.1 and 4.8.2.

1.1.72 "NOTICE OF COMPLETION" shall have the meaning set forth in subsection 5.5.7.

1.1.73 "OPTION AGREEMENT" shall have the meaning set forth in the preamble to this Lease.

1.1.74 "PARTIAL TAKING" shall have the meaning set forth in Section 6.5.

1.1.75 "PAYMENT BOND" shall have the meaning set forth in subsection 5.4.3.2.

1.1.76 "PERCENTAGE RENT" shall have the meaning set forth in subsection 4.2.2.

1.1.77 "PERFORMANCE BOND" shall have the meaning set forth in subsection 5.4.3.1.

1.1.78 "PERMITTED CAPITAL EXPENDITURES" shall have the meaning set forth in Section 5.11.

1.1.79 "PERMITTED USES" shall have the meaning set forth in Section 3.1.

1.1.80 "PREMISES" shall mean the Parcel 95S Premises and the Parcel LLS Premises, collectively.

1.1.81 "PRIME RATE" shall have the meaning set forth in subsection 4.4.5.

1.1.82 "PROPOSED TRANSFER" shall have the meaning set forth in subsection 11.2.4.

1.1.83 "PUBLIC WORKS DIRECTOR" shall mean the Director of the Department of Public Works of the County of Los Angeles.

1.1.84 "PURCHASE MONEY NOTE" shall have the meaning set forth in subsection 4.7.2.

1.1.85 "REDEVELOPMENT WORK" shall have the meaning set forth in Section 5.1.

1.1.86 "RENEGOTIATION DATES" shall have the meaning set forth in Section 4.4.

1.1.87 "REPLY" shall have the meaning set forth in Section 16.5.

1.1.88 "REQUIRED COMPLETION DATE" shall have the meaning set forth in Section 5.1.

1.1.89 "RESPONDING PARTY" shall have the meaning set forth in the first paragraph of Article 16.

1.1.90 "REVERSION AMENDMENT" shall have the meaning set forth in Section 5.1.

1.1.91 "SECOND SUBSEQUENT RENOVATION" shall have the meaning set forth in Section 5.9.

1.1.92 "SECTION" shall mean a section of this Lease.

1.1.93 "SECURITY DEPOSIT" shall have the meaning set forth in Section 7.1.

1.1.94 "SHALL" and "WILL" are mandatory and the word "MAY" is permissive.

1.1.95 "STATE" shall mean the State of California.

1.1.96 "STATEMENT OF POSITION" shall have the meaning set forth in subsection 16.6.

1.1.97 "SUBLEASE" shall have the meaning set forth in subsection 11.1.1.

1.1.98 "SUBLESSEE" shall have the meaning set forth in subsection 11.1.1.

1.1.99 "SUBSECTION" shall mean a subsection of a Section of this Lease.

1.1.100 "SUBSEQUENT RENOVATION" shall have the meaning set forth in Section 5.9.

1.1.101 "SUBSEQUENT RENOVATIONS FUND" shall have the meaning set forth in Section 5.10.

1.1.102 "SUBSEQUENT RENOVATION PLAN" shall have the meaning set forth in Section 5.9.

1.1.103 "TERM" shall have the meaning set forth in Section 2.1.

1.1.104 "THIRD SUBSEQUENT RENOVATION" shall have the meaning set forth in Section 5.9.

1.1.105 "TIME OF THE ESSENCE" shall have the meaning set forth in Section 15.2.

1.1.106 "UNINSURED LOSS" shall have the meaning set forth in Section 10.2.

1.1.107 "WRITTEN APPRAISAL EVIDENCE" shall have the meaning set forth in subsection 16.7.

1.2 Lease. For and in consideration of the payment of rentals and the performance of all the covenants and conditions of this Lease, County hereby leases to Lessee, and Lessee hereby leases and hires from County, an exclusive right to possess and use, as tenant, the Premises for the Term (as hereinafter defined) and upon the terms and conditions and subject to the requirements set forth herein. This Lease fully amends, restates and supercedes the Existing Lease.

1.2.1 As-Is. Lessee acknowledges that (1) it is currently in possession of the Parcel 95S Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Parcel 95S Premises since 1968, and (3) the Improvements now existing on the Parcel 95S Premises were constructed by Lessee or its predecessors with contractors selected by them. Except as provided in subsection 1.2.2, Lessee accepts the Premises in their present condition notwithstanding the fact that there may be certain defects in the Premises, whether or not known to either party to this Lease, at the time of the Effective Date and Lessee hereby represents that it has performed all investigations necessary, including without limitation soils and engineering inspections, in connection with its acceptance of the Premises "AS IS WITH ALL FAULTS". Lessee hereby accepts the Premises on an "AS IS WITH ALL FAULTS" basis and, except as expressly set forth in this Lease, Lessee is not relying on any representation or warranty of any kind whatsoever, express or implied, from County or any other governmental authority or public agency, or their respective agents or employees, as to any matters concerning the Premises and/or any Improvements located

thereon, including without limitation: (i) the quality, nature, adequacy and physical condition and aspects of the Premises and/or any Improvements located thereon, including, but not limited to, the structural elements, foundation, roof, protections against ocean damage, erosion, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage and utility systems, facilities and appliances, and the square footage of the land and within the Improvements and within each space therein, (ii) the quality, nature, adequacy and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Premises and/or any Improvements located thereon, (iv) the development potential of the Premises, and the use, habitability, merchantability or fitness, or the suitability, value or adequacy of the Premises and/or any Improvements located thereon for any particular purpose, (v) the zoning or other legal status or entitlement or lack thereof of the Premises or any other public or private restrictions on use of the Premises, (vi) the compliance of the Premises and/or any Improvements located thereon with any applicable codes, laws, rules, regulations, statutes, resolutions, ordinances, covenants, conditions and restrictions of the County, State, the United States of America, the California Coastal Commission and/or any other governmental or quasi-governmental entity ("Applicable Laws") or of any other person or entity (including, without limitation, relevant provisions of the Americans with Disabilities Act ("ADA"), (vii) the presence of any underground storage tank or hazardous materials on, under or about the Premises or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any Improvements, (ix) the condition of title to the Premises, and (x) the economics of the operation of the Premises and/or any Improvements located thereon.

1.2.2 Title. County represents that County owns fee title to the Premises and that County has authority to enter into this Lease. Lessee hereby acknowledges the title of County and/or any other public entity or agency having jurisdiction thereover, in and to the Premises, and covenants and agrees never to contest or challenge the extent of said title, except as is necessary to ensure that Lessee may occupy the Premises pursuant to the terms and conditions of this Lease.

2. TERM.

2.1 Term. The term of the Lease ("Term") for the Parcel 95S Premises commenced on June 1, 1968. The Term for the Parcel LLS Premises shall commence on the Effective Date set forth herein. Unless terminated sooner in accordance with the provisions of this Lease, the Term shall expire at 11:59 p.m. on May 31, 2067. Each twelve (12) month period during the Term from June 1 through May 31 of the succeeding calendar year is referred to herein as a "Lease Year."

2.2 Appraisal of Extension of Original Term. The parties hereto agree and acknowledge that prior to the Effective Date, County has conducted an appraisal of the thirty-nine (39) year extension of the Term from June 1, 2028 to May 31, 2067 as provided herein, and that the Extension Fee payable under the Option Agreement is not less than the appraised value of the Lease extension provided herein.

2.3 Ownership of Improvements During Term. Until the expiration of the Term or sooner termination of this Lease and except as specifically provided herein, Lessee shall own all Improvements now existing and constructed by Lessee or its predecessors or hereafter constructed by Lessee upon the Premises, and all alterations, additions, or betterments made thereto by Lessee.

2.4 Reversion of Improvements. Upon the expiration of the Term or sooner termination of this Lease, whether by cancellation, forfeiture or otherwise:

2.4.1 County's Election to Receive Improvements. At the election of County, all structures, buildings, Improvements and all alterations, additions, and betterments thereto, and all other Improvements made to or upon the Premises shall remain upon and be surrendered with the Premises as part thereof and title thereto shall vest in County without compensation therefor to Lessee. Nothing contained herein shall be construed to deny or abrogate the right of Lessee, prior to the expiration of the Term or termination of this Lease, to receive any and all proceeds which are attributable to the Condemnation of business installations, Improvements, structures and buildings belonging to Lessee immediately prior to the taking of possession by the Condemnor as said rights are set forth in Article 6 of this Lease, or to remove any furniture or equipment not intended to be permanently affixed to, or reasonably necessary for the operation of, the Premises, any signage identifying Lessee (as opposed to other signage used in the operation of the Premises and associated Improvements), or any personal property, upon the expiration of the Term or earlier termination of this Lease or at any time during the Term, subject to Lessee's obligations under this Lease to use the Premises for the Permitted Uses.

2.4.2 Duty to Remove. No earlier than eight (8) years, and no later than seven (7) years prior to the expiration of the Term, Lessee shall deliver to County a report prepared by a construction and demolition expert approved by County, such approval not to be unreasonably withheld or delayed, which report details and estimates the cost of removing all Improvements on the Premises at the expiration of the Term. County may give written notice at any time, no later than five (5) years prior to the expiration of the Term or concurrently upon any earlier termination, of County's election to require Lessee to remove, at the sole cost and expense of Lessee, not later than the expiration of the Term or earlier termination of this Lease, all or any portion of the at grade, above grade and below grade structures, buildings and Improvements of any kind whatsoever placed or maintained on the Premises, whether placed thereon or maintained by Lessee or others, including, but not limited to, concrete foundations, pilings, structures and buildings; and if such structures are required to be removed by Lessee, then Lessee shall, upon the expiration or termination of this Lease, immediately restore, and quit, and peacefully surrender possession of, the Premises to County in good, usable and buildable condition, consisting of a level, graded buildable pad with no excavations, hollows, hills or humps. If Lessee has received written notice of County's election to require Lessee to remove Improvements hereunder, Lessee shall, no later than the date which is ninety (90) days after the date upon which Lessee received such notice from County, provide County with a letter of credit, bond or other security or deposit of funds, in form, issuer and amount satisfactory to County, to secure the discharge of Lessee's removal and restoration obligations pursuant to this subsection. The amount of the letter of credit, bond or other

security or deposit shall be equal to the greatest of (i) one hundred fifty percent (150%) of the estimated cost to remove the Improvements as set forth in the report described above (the "Estimated Costs"), (ii) the Estimated Costs adjusted to reflect the percentage change in the ENR Index over the five (5) year period immediately preceding the date of Lessee's delivery of the letter of credit, bond, or other security or deposit, or (iii) the Estimated Costs adjusted to reflect the percentage change in the CPI Index over the five (5) year period immediately preceding the date of Lessee's delivery of the letter of credit, bond, or other security or deposit. If County fails to elect to require Lessee to remove the buildings, structures and Improvements on the Premises as provided above, then upon the expiration of the Term, or earlier termination of the Lease, Lessee shall turn over the Premises to County in good and workmanlike condition, consistent with the condition of other buildings, structures and Improvements of comparable age and construction quality.

2.4.3 County's Right to Remove Improvements. If County elects to have Lessee remove Improvements and Lessee fails to do so in accordance with this Lease, County may, at its election, sell, remove or demolish such Improvements. In the event of any such sale, removal or demolition, Lessee shall reimburse County for any cost or expense thereof in excess of any funds received by County through the security above provided and any consideration received by County as a result of such sale, removal or demolition.

2.4.4 Duty to Remove Equipment, Etc. No later than the expiration of the Term or sooner termination of this Lease, Lessee shall in any event remove at its cost and expense such furniture, equipment and personal property as are not firmly affixed to said structures, buildings and Improvements or reasonably necessary for the orderly operation of the Premises. Should Lessee fail to so remove said furniture, equipment and personal property within said period, and said failure continues for ten (10) days after written notice from County to Lessee, Lessee shall lose all right, title and interest in and thereto, and County may elect to keep the same upon the Premises or to sell, remove, or demolish the same, in event of which sale, removal, or demolition Lessee shall reimburse County for its Actual Costs incurred in connection with such sale, removal or demolition in excess of any consideration received by County as a result of said sale, removal or demolition.

2.4.5 Title to Certain Improvements Passes to County; Lessee to Maintain. As between County and Lessee, title to all utility lines, transformer vaults and all other utility facilities constructed or installed by Lessee upon the Premises shall vest in County upon construction or installation to the extent that they are not owned by a utility. Notwithstanding the foregoing sentence, such utility lines, transformer vaults and all other utility facilities, shall be maintained, repaired, and replaced, if and as needed, by Lessee during the Term.

3. USE OF PREMISES.

3.1 Specific Primary Use. The Premises shall be used by Lessee for the operation and management of (i) with respect to the Parcel 95S Premises, a commercial center, including retail and restaurant areas and office uses, (ii) with respect to the Parcel LLS Premises, a public park,

and (iii) such other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the "Permitted Uses"). Except as specifically provided herein, the Premises shall not be used for any purpose other than the Permitted Uses, without the prior written consent of County. County makes no representation or warranty regarding the continued legality of the Permitted Uses or any of them, and Lessee bears all risk of an adverse change in Applicable Laws.

3.2 Prohibited Uses. Notwithstanding the foregoing:

3.2.1 Nuisance. Lessee shall not conduct or permit to be conducted any private or public nuisance on or about the Premises, nor commit any waste thereon. No rubbish, trash, waste, residue, brush, weeds or undergrowth or debris of any kind or character shall ever be placed or permitted to accumulate upon any portion of the Premises, except in appropriate receptacles intended for such purposes, nor shall any portion of the Premises be maintained so as to render said Premises a fire hazard or unsanitary, unsightly, offensive, or detrimental nor shall any similar activity be permitted on any other portion of the Premises or on any adjacent public street or adjacent property.

3.2.2 Restrictions and Prohibited Uses. Without expanding upon or enlarging the Permitted Uses of the Premises as set forth in this Lease, the following uses of the Premises are expressly prohibited:

3.2.2.1 The Premises shall not be used or developed in any way which is inconsistent with any Applicable Laws;

3.2.2.2 The Premises shall not be used or developed in any way in a manner inconsistent with the Permitted Uses. Without limiting the foregoing, no part of the Premises shall be used by any person for any adult entertainment purposes, as such term refers to graphic, explicit and/or obscene depictions of sexual activity;

3.2.2.3 No improvement on the Premises shall be permitted to fall into disrepair and all Improvements shall at all times be kept in good condition and repair consistent with the requirements of Section 10.1 of this Lease;

3.2.2.4 No condition shall be permitted to exist upon the Premises which shall induce, breed or harbor infectious plant diseases, rodents, or noxious insects and Lessee shall take such measures as are appropriate to prevent any conditions from existing on the Premises which create a danger to the health or safety of any persons residing or working at, or persons patronizing, the Premises;

3.2.2.5 Without the prior written approval of Director, no antennae or other device for the transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained by Lessee outdoors above ground on any portion of the Premises, whether attached to an improvement or otherwise;

3.2.2.6 No tools, equipment, or other structure designed for use in boring for water, oil, gas or other subterranean minerals or other substances, or

designed for use in any mining operation or exploration, shall hereafter be erected or placed upon or adjacent to the Premises, except as is necessary to allow Lessee to perform its maintenance and repair obligations pursuant to this Lease;

3.2.2.7 No adverse environmental condition in violation of Applicable Laws shall be permitted to exist on any portion of the Premises, nor shall any toxic or hazardous wastes be permitted to be generated, treated, stored, disposed of, or otherwise deposited in or on or allowed to emanate from the Premises or any portion thereof, including, without limitation, into the subsurface waters thereof; provided, however, that toxic or hazardous substances may be stored or used, so long as such storage and use is (a) ancillary to the ordinary course of business of an otherwise Permitted Use with the intent that such substances will be used in the ordinary course of business, and (b) conducted in compliance with all Applicable Laws; and

3.3 Active Public Use. The parties acknowledge that the ultimate objective of this Lease is the complete and continuous use of the facilities and amenities located in Marina del Rey by and for the benefit of the public, without discrimination as to race, gender or religion, along with the generation and realization of revenue therefrom. Accordingly, Lessee agrees and covenants that it will operate the Premises fully and continuously in light of these objectives, consistent with the operation of comparable retail, restaurant, office and public park facilities, and that, subject to Lessee's use of the LLS Premises for public park purposes, it will use commercially reasonable efforts so that County may obtain maximum revenue therefrom as contemplated by this Lease. In the event of any dispute or controversy relating hereto, this Lease shall be construed with due regard to the aforementioned objectives.

3.4 Days of Operation. The Improvements on the Premises shall be open every day of the year, except with respect to the Parcel 95S Premises for such holidays during which similar businesses in Marina del Rey are customarily closed. Any changes in the days and/or hours of operation of the Improvements on the Premises shall be subject to the written approval of County.

3.5 Signs and Awnings. Any and all art, displays, identifications, monuments, awnings, advertising signs and banners which are placed on, or are visible from, the exterior of the Premises shall be only of such size, design, wording of signs and color as shall have been specifically submitted to and approved by Director (and to the extent required under then applicable Law, the Design Control Board), whether pursuant to Article 5 of this Lease or otherwise, in writing, prior to the erection or installation of said art, sign, display, identification, monument, awning or advertising sign.

3.6 Compliance with Regulations. Lessee shall comply with all Applicable Laws and shall pay for and maintain any and all licenses and permits related to or affecting the use, operation, maintenance, repair or improvement of the Premises. Without limitation of the foregoing, Lessee shall comply with (i) all conditions and requirements of Coastal Development Permit No(s). _____ **[PRIOR TO LEASE EXECUTION INSERT COASTAL DEVELOPMENT PERMIT NO(S). ISSUED FOR REDEVELOPMENT WORK]**, which conditions and requirements are attached to this Lease as Exhibit D and incorporated herein by

this reference, and (ii) all public access requirements of the Marina del Rey Local Coastal Program, as amended.

3.7 Rules and Regulations. Lessee agrees to comply with such other reasonable rules and regulations governing the use and occupancy of the Premises as may be promulgated by County from time to time for general applicability on a non-discriminatory basis to other retail, restaurant, office and public park facilities in Marina del Rey, and delivered in writing to Lessee.

3.8 Reservations. Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all prior encumbrances, reservations, licenses, easements and rights of way existing as of the date hereof or otherwise referenced in this Lease in, to, over or affecting the Premises for any purpose whatsoever.

Without limiting the foregoing, Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all prior matters of record and the right of County existing as of the Effective Date or otherwise disclosed to or known to Lessee, as its interest may appear, to install, construct, maintain, service and operate sanitary sewers, public roads and sidewalks, fire access roads, storm drains, drainage facilities, electric power lines, telephone lines and access and utility easements across, upon or under the Premises, together with the right of County to convey such easements and transfer such rights to others.

3.9 Parcel LLS Premises. The Parcel LLS Premises shall be used as a public park and for no other purpose. County hereby reserves a public easement for use of the Parcel LLS Premises for public park purposes in accordance with such rules and regulations as are promulgated from time to time by County regulating such public park use. Lessee shall be responsible for the maintenance and repair of the Parcel LLS Premises in accordance with the terms of this Lease.

4. PAYMENTS TO COUNTY.

4.1 Net Lease. The parties acknowledge that the payments to be made by Lessee under this Lease are intended to be absolutely net to County. The rent and other sums to be paid to County hereunder are not subject to any demand, set-off or other withholding. Except as specifically set forth herein, Lessee shall be solely responsible for all capital costs (including, without limitation, all structural and roof repairs or replacements) and operating expenses attributable to the operation and maintenance of the Premises, including without limitation the parking areas included within the Premises.

4.1.1 Utilities. In addition to the rental charges as herein provided, Lessee shall pay all utility and service charges for furnishing water, power, sewage disposal, light, telephone service, garbage and trash collection and all other utilities and services, to said Premises.

4.1.2 Taxes and Assessments. Lessee agrees to pay before delinquency all lawful taxes, assessments, fees, or charges which at any time may be levied by the State, County, City or any tax or assessment levying body upon any interest in this Lease or any possessory right which Lessee may have in or to the Premises covered hereby or to the Improvements thereon for any reason, as well as all taxes, assessments, fees, and charges

on goods, merchandise, fixtures, appliances, equipment, and property owned by it in, on or about the Premises. Lessee's obligation to pay taxes and assessments hereunder shall include but is not limited to the obligation to pay any taxes and/or assessments, or increases in taxes and/or assessments arising as a result of the grant to Lessee of the Option or Lessee's exercise thereof. Lessee shall have the right to contest the amount of any assessment imposed against the Premises or the possessory interest therein; provided, however, the entire expense of any such contest (including interest and penalties which may accrue in respect of such taxes) shall be the responsibility of Lessee.

The parties acknowledge that the Premises are and shall continue to be subject to possessory interest taxes, and that such taxes shall be paid by Lessee. This statement is intended to comply with Section 107.6 of the Revenue and Taxation Code. Lessee shall include a statement in all Subleases to the effect that the interests created therein may also be subject to possessory interest taxes, and that the Sublessee shall be responsible for any and all possessory interest taxes on the Sublessee's interest; however, Lessee acknowledges that the payment of such possessory interest taxes is the ultimate responsibility of Lessee.

4.2 Rental Payments. Throughout the Term, for the possession and use of the Premises granted herein, Lessee shall pay County a monthly amount equal to the greater of (a) Monthly Minimum Rent or (b) Percentage Rent.

4.2.1 Annual Minimum Rent and Monthly Minimum Rent. Lessee shall pay to County the minimum rent described in this subsection 4.2.1 (subject to adjustment pursuant to Sections 4.2.3 and 4.4 below) during each year of the Term (the "Annual Minimum Rent"). Annual Minimum Rent shall be payable by Lessee to County on a monthly basis in equal installments of one-twelfth (1/12th) of the Annual Minimum Rent (the "Monthly Minimum Rent").

During the period from the Effective Date through the earlier of the Completion Date (as defined below) or the Required Completion Date (as defined in Section 5.1), the Annual Minimum Rent shall be equal to seventy-five percent (75%) of the average total annual square foot rental and percentage rentals which were payable by Lessee under the Existing Lease during the three (3) year period immediately preceding the Effective Date. For purposes of this Article 4, the "Completion Date" shall mean the date upon which Lessee receives a certificate of occupancy (or temporary certificate of occupancy, if applicable) that permits any portion of the Redevelopment Work to be occupied.

Commencing upon the earlier of the Completion Date or the Required Completion Date, and continuing for the three (3) year period thereafter, the Annual Minimum Rent shall be equal to seventy-five percent (75%) of the average total Annual Minimum Rent and Percentage Rents projected to be paid by Lessee during such three (3) year period based on Lessee's projected Gross Receipts for such three (3) year period, as reasonably agreed upon by Lessee and County. Not later than three (3) months prior to the earlier of the Completion Date or the Required Completion Date, Lessee shall deliver to County a written statement of its projected Gross Receipts for the three (3) year period following the Completion Date. If Lessee and County are unable to agree upon the amount of

Annual Minimum Rent payable by Lessee under this paragraph by the date for the commencement of such Annual Minimum Rent amount, then the Annual Minimum Rent payable by Lessee under this paragraph shall be equal to the Base Rent Amount (as defined below), increased (but not decreased) by the percentage change in the Consumer Price Index from January, 2002 through the month during which the earlier of the Completion Date or the Required Completion Date occurs. The "Base Rent Amount" shall mean the product of (i) .75, multiplied by (ii) the total annual square foot rental and percentage rentals which were payable by Lessee under the Existing Lease for calendar year 2001, multiplied by (iii) 1.93 (i.e., the proposed number of square feet of floor area of commercial space that will exist on the Premises after the completion of the Redevelopment Work (40,763 square feet), divided by the number of square feet of floor area of commercial space existing on the Premises as of the Effective Date (21,119 square feet). If based on actual construction the total number of square feet of floor area of commercial space existing on the Premises is increased to more than the 40,763 square feet described above, then the 1.93 multiplier in clause (iii) of the immediately preceding sentence shall be adjusted to reflect the actual number of square feet of floor area of such Improvements.

Commencing on the day after the third (3rd) anniversary of the earlier of the Completion Date or the Required Completion Date (the "First Adjustment Date"), and continuing every three (3) years thereafter, the Annual Minimum Rent shall be as set forth in Section 4.2.3 and 4.4 below.

4.2.2 Percentage Rent. For the purposes of this Lease, "Percentage Rent" for any given month or year shall be defined as the sum of the following amounts:

I. TWO PERCENT (2%) of Gross Receipts (as defined in subsection 4.2.2.3 below) derived by Lessee from the operation of retail stores (not including any banking or other financial or investment service or brokerage operations included in category II below and not including a restaurant use as described in category III below), including, without limitation, specialty and other service shops;

II. TWELVE PERCENT (12%) of Gross Receipts derived from the lease or other occupancy of all office space (including, without limitation, any banking or other financial or investment service or brokerage operations), guest rooms, meeting rooms and other similar non-retail, non-restaurant areas;

III. THREE AND ONE-HALF PERCENT (3.5%) of Gross Receipts from the operation of a restaurant; for purposes hereof, the operation of a restaurant shall include any business in which the primary use or operation is the sale of food, food products, alcoholic beverages and/or non-alcoholic beverages that are served on the Premises, or prepared or sold on the Premises and served off the Premises; provided, however, that the operation of a supermarket, grocery store, speciality food market, convenience food store, or beverage store shall not be considered to be a restaurant, but instead shall be treated as a retail store under category I above); and provided, further, any Gross Receipts from the incidental use of a restaurant for the purposes described in

categories I, II, IV or V of this subsection 4.2.2 shall be included in the calculation of Percentage Rent under such categories;

IV. TWENTY FIVE PERCENT (25%) of any commissions or other compensation paid to Lessee or a sublessee by a third party for the right to install or operate vending or service machines or devices, including, without limitation, pay telephones, or for the right to supply cable, internet, satellite, telecommunication or other non-parking services ("Other Services"), or FIVE PERCENT (5%) of any Gross Receipts generated by the operation of such vending or service machines or devices that are owned by Lessee or a Sublessee, or for Gross Receipts received by Lessee or a Sublessee for the supply of such Other Services;

V. TWENTY PERCENT (20%) of any commissions or other compensation paid to Lessee or a Sublessee by a third party for the right to supply parking, including valet parking services, or FIVE PERCENT (5%) of any Gross Receipts received by Lessee or a Sublessee for the supply of such parking, including valet parking services; and

VI. FIVE PERCENT (5%) of Gross Receipts from all other activities on the Premises not described in categories I, II, III, IV or V above.

4.2.2.1 Payment of Percentage Rent. Within fifteen (15) days after the close of each and every calendar month of the Term hereof, Lessee shall file with County a report of Gross Receipts by category for such previous month, and the amount of Percentage Rent resulting therefrom. Lessee shall include with such report a payment to County of the amount by which the Percentage Rent for such previous month exceeds the Monthly Minimum Rent paid by Lessee for such previous month.

4.2.2.2 Accounting Records and Procedures. Lessee agrees to and shall comply with, and shall cause all of its sublessees, licensees, permittees and concessionaires to agree to and comply with, the recordkeeping and accounting procedures, as well as the inspection and audit rights granted to County, set forth in Article 14 of this Lease.

4.2.2.3 Gross Receipts. Except as herein otherwise provided, the term "Gross Receipts" as used in this Lease means the gross amount of all money, receipts, compensation, or other things of value, including but not limited to charges, sales price, rentals, payments, reimbursements (including, without limitation, common area maintenance or other expenses, taxes, utilities, insurance and other payments or reimbursements), fees and commissions made or earned by Lessee and/or all its assignees, Sublessees, licensees, permittees or concessionaires, whether collected or accrued from any business, use, occupation or any combination thereof, originating, transacted, or performed in whole or in part, on the Premises, including but not limited to rentals, the rendering or supplying of services and the sale of goods, wares, food, beverages or merchandise.

(1) Except as otherwise set forth herein, there shall be no deduction from Gross Receipts for any overhead or cost or expense of operation, such as, without limitation, salaries, wages, costs of goods, interest, debt amortization, rent credit, collection costs, discounts from credit card operations, insurance and taxes.

(2) Gross Receipts shall not include direct taxes imposed upon the consumer and collected therefrom by Lessee such as, without limitation, retail sales taxes, excise taxes, or related direct taxes paid periodically by Lessee to a governmental agency accompanied by a tax return statement.

(3) Gross Receipts reported by Lessee and its Sublessees, assignees, licensees, Lessees and permittees must include the usual charges for any services, goods, rentals or facilities provided by Lessee or its Sublessees, assignees, licensees, concessionaires or permittees. Bona fide bad debts actually accrued for amounts owed by customers or patrons may be deducted from Gross Receipts to the extent that such amounts have been previously reported as Gross Receipts; however, there shall be no deduction for bad debts based on past experience or transfer to a bad debt reserve. Subsequent collection of bad debts previously not reported as Gross Receipts shall be included in Gross Receipts at the time they are collected.

(4) Gross Receipts shall not include any of the following items:

a. goods returned to suppliers or which are delivered for resale (as opposed to delivery) to another retail location or to a warehouse or to any retailers without profit to Lessee, where such returns or deliveries are made solely for the convenient operation of the business of Lessee or sublessee and not for the purpose of consummating a sale made in, about or from the Premises;

b. an amount equal to the cash refunded or credit allowed on merchandise returned by customers and accepted by Lessee, or the amount of cash refunded or credit allowed thereon in lieu of Lessee's acceptance thereof, but only to the extent that the sales relating to such merchandise were made in, about or from the Premises; provided that whenever Lessee accepts a credit slip as payment for goods or services, the amount of credit shall be included in Gross Receipts;

c. sales of fixtures, equipment or property which are not Lessee's stock in trade;

d. receipts from insurance claims other than rental interruption or business interruption insurance;

e. interest earned by Lessee on funds arising from the Premises or the use thereof, deposited or maintained by Lessee in banks or similar financial institutions;

4.2.2.4 <u>Excess Payments Credit</u>. If rent payments actually made by Lessee in a particular Lease Year exceed the total rentals that would have been due

for that year if computed on an annual basis at the end of such Lease Year, Lessee shall be permitted to credit that excess amount ("Excess Percentage Rent Payment") against the succeeding monthly installments of Percentage Rent otherwise due under this Section 4.2.2 until such time as the entire Excess Percentage Rent Payment has been recouped. If Lessee makes an Excess Percentage Rent Payment in the final Lease Year of the Term, County shall refund such amount to Lessee within thirty (30) days of its discovery and verification of such overpayment.

4.2.2.5 Effect of Sublessee, etc. Doing Business. Except as specifically provided to the contrary in this Lease, where a Sublessee, licensee, or permittee is conducting a business or engaged in any use or occupation or any combination thereof on Lessee's leasehold, for purposes of determining Percentage Rent Lessee shall report whichever of the following results in the greater Percentage Rent: (1) the Gross Receipts received by each Sublessee under one or more of categories I through VI of this Section 4.2.2; or (2) the Gross Receipts received by Lessee from such Sublessee.

4.2.2.6 Interest; Etc. Interest, service or late charges collected in conjunction with a transaction, sale or activity of Lessee or Sublessee shall be reported in the same percentage category as the transaction, sale or activity is reported.

4.2.2.7 Percentage Rent Does Not Affect Permitted Uses. It is understood and acknowledged by Lessee that Section 3.1 of this Lease sets forth the Permitted Uses of the Premises by Lessee; thus, the Percentage Rent categories listed in subsection 4.2.2 are not all necessarily applicable to this Lease and are in no way intended to expand the Permitted Uses.

4.2.2.8 Policy Statements. Director, by Policy Statement and with the approval of Lessee, Auditor-Controller and County Counsel may further interpret the definition of Gross Receipts, with such interpretations to be a guideline in implementing the foregoing subsections of this Lease.

4.2.3 Adjustments to Annual Minimum Rent. As of the First Adjustment Date and every three (3) years thereafter until the first Renegotiation Date, and thereafter each third (3rd), sixth (6th) and ninth (9th) anniversaries of each Renegotiation Date (each an "Adjustment Date" and collectively the "Adjustment Dates"), the Annual Minimum Rent shall be adjusted as provided in this subsection 4.2.3. The Annual Minimum Rent shall be adjusted as of each Adjustment Date to the amount which equals seventy five percent (75%) of the average of the total annual rent (i.e., the total Monthly Minimum Rent and Percentage Rent), payable by Lessee to County under Section 4.2 of this Lease during the thirty six (36) month period immediately preceding the Adjustment Date.

4.3 Extension Fee Installment Payments. In consideration of the extension of the Term as provided herein, Lessee shall be required to pay to County the Extension Fee

Installment Payments described in Section 4.2 of the Option Agreement. The Extension Fee Installment Payments shall be considered as additional rent payable by Lessee under this lease.

4.4 Renegotiation of Annual Minimum and Percentage Rents. Effective on the tenth (10th) anniversary of the Effective Date, and each subsequent tenth (10th) anniversary thereafter (each a "Renegotiation Date" and collectively, the "Renegotiation Dates"), the Annual Minimum Rent and Percentage Rent shall be readjusted to the Fair Market Rental Value (as defined below) of the Premises.

4.4.1 Fair Market Rental Value. As used herein, "Fair Market Rental Value" shall mean, as of each Renegotiation Date, the fair market rent (including an annual minimum rent), expressed as respective percentages of Gross Receipts in accordance with the categories enumerated in subsection 4.2.2, which the Premises (with any and all Improvements existing thereon deemed to be owned by County as of the Renegotiation Date) would bring, on an absolute net basis, taking into account the Permitted Uses, all relevant and applicable County policies and all of the other terms, conditions and covenants contained in the Lease, if the Premises were exposed for lease for a reasonable time on an open and competitive market to a lessee for the purpose of the Permitted Uses, where County and the respective tenant are dealing at arms length and neither is under abnormal pressure to consummate the transaction, together with all restrictions, franchise value, earning power and all other factors and data taken into account in accordance with California law applicable from time to time to eminent domain proceedings.

4.4.2 Renegotiation Period. Not more than one (1) year nor less than nine (9) months prior to the Renegotiation Date, Lessee shall deliver to County written notice setting forth Lessee's determination of the Fair Market Rental Value of the Premises. Lessee's notice shall include a list of comparable properties and/or complete copies of any appraisals which it has utilized in its determination, together with such other information regarding such comparable properties or the Premises as Lessee deems relevant or as may be reasonably requested by County. Within one hundred twenty (120) days after receipt of Lessee's notice, if County disagrees with Lessee's determination, County shall deliver to Lessee written notice of such disagreement, together with County's determination of Fair Market Rental Value and a list of comparable properties and/or complete copies of any appraisals which it has utilized in its determination, together with such other information regarding such comparable properties or the Premises as County deems relevant or as may be reasonably requested by Lessee, to the extent available to County. If County fails to deliver to Lessee notice of its disagreement within the aforementioned period and such failure continues for fifteen (15) days after receipt of written notice from Lessee, then Lessee's determination of Fair Market Rental Value shall be binding on County as of the Renegotiation Date; provided, however, that Lessee's notice to County shall conspicuously state in bold faced type that such determination of Fair Market Rental Value shall be binding on County unless County delivers notice of its disagreement within such fifteen (15) day period.

If Lessee fails to deliver the notice described in the first sentence of this subsection, setting forth Lessee's determination of Fair Market Rental Value, and such failure continues for fifteen (15) days after receipt of written notice from County, then

County shall submit its determination of Fair Market Rental Value to Lessee, and Lessee shall have fifteen (15) days to deliver to County written notice of Lessee's agreement or disagreement with County's determination. If Lessee fails to deliver notice of such disagreement, then County's determination of Fair Market Rental Value shall be binding on Lessee as of the Renegotiation Date.

4.4.3 Negotiation of Fair Market Rental Value. If County (or Lessee, as the case may be) does so notify Lessee (or County, as the case may be) of its disagreement as provided in subsection 4.4.2, County and Lessee shall have sixty (60) days from the end of the applicable response period in which to agree upon the Fair Market Rental Value for the Premises. County and Lessee shall negotiate in good faith during said sixty (60) day period. If the parties do so agree, they shall promptly execute an amendment to this Lease setting forth the Fair Market Rental Value so jointly determined, to be effective upon the Renegotiation Date. Director shall be authorized to execute any such amendment on behalf of County. During the period of negotiation, Lessee shall abide by all of the terms and conditions of this Lease, including but not limited to the obligation to pay to County Annual Minimum Rent and Percentage Rent at the level existing for the last year of the ten (10) year period then completed.

4.4.4 Arbitration. If County and Lessee fail to reach agreement during the sixty (60) day period set forth in subsection 4.4.3, then, unless the parties agree otherwise, the Fair Market Rental Value of the Premises shall be determined by arbitration as set forth in Article 16 of this Lease and the parties shall execute an amendment to this Lease setting forth the Fair Market Rental Value as determined by arbitration. In order to determine the Fair Market Rental Value of the Premises, the arbitrator shall take into consideration all of the terms, conditions and covenants of this Lease, the earning power and all of the factors and data relating to such value required or proper to be considered in determining the fair rental value of leaseholds under the laws of eminent domain in the State of California. During the period of arbitration, County and Lessee shall abide by all of the terms and conditions of this Lease, including but not limited to Lessee's obligation to pay to County Annual Minimum Rent and Percentage Rent at then existing levels.

4.4.5 Retroactivity. In the event that, pursuant to subsections 4.4.3 or 4.4.4 hereof, the parties execute an amendment to this Lease setting forth the Fair Market Rental Value and the Annual Minimum Rent, such amendment, if executed prior to the Renegotiation Date, shall be effective as of the Renegotiation Date; if executed after the Renegotiation Date, such amendment shall be retroactive to the Renegotiation Date. In the event that such amendment is executed after the Renegotiation Date, then, within seven (7) days after such execution, Lessee shall pay to County, or County shall at its election pay or credit to Lessee, the difference, if any, between (a) such Fair Market Rental Value for the Premises and (b) the actual Annual Minimum Rent and Percentage Rent paid by Lessee to County, for the period of time from the Renegotiation Date until the date of such payment. Lessee (with respect to overpayments) or County (with respect to underpayments) shall further be entitled to interest on each portion of such payment from each date on which the applicable rental payments were payable under this Lease to the date paid or credited, whichever is applicable, at the following rates:

(1) the interest rate applicable to the first six (6) months following the Renegotiation Date shall be equal to the average daily rate for the non-restricted funds held and invested by the Treasurer and Tax Collector of Los Angeles County during that period, computed by the Auditor-Controller ("County Pool Rate"); and,

(2) the interest rate applicable to any period of time in excess of six (6) months following the Renegotiation Date shall be the average prime rate of interest published in the Wall Street Journal (the "Prime Rate") plus one percent (1%) for the period between the date which is six (6) months after the Renegotiation Date and the date of payment.

No late fee shall be payable under Section 4.5 with respect to any underpayment of rent retroactively readjusted pursuant to this subsection 4.4.5 as long as Lessee pays to County any such rent underpayment and accrued interest within the seven (7) day period prescribed in this subsection 4.4.5.

4.5 Payment and Late Fees. Monthly Minimum Rent shall be paid by Lessee in advance. Payments of Minimum Monthly Rent shall be received by County on or before the first day of each calendar month of the Term. Percentage Rent shall be paid by Lessee in arrears. Percentage Rent due, if any, for a given month of the Term shall be received by County on or before the fifteenth day of the calendar month following each month of the Term, calculated as follows: the Lessee shall calculate the total Percentage Rent owed to County for the relevant month of the Term; it shall deduct from said amount the total Monthly Minimum Rent paid to County for that same month; if the resulting amount is a positive number, Lessee shall pay that amount to County; if that amount is a negative number, no Percentage Rent shall be paid to County for that month but nevertheless the Monthly Minimum Rent shall be paid every month of the Term hereof. Percentage Rent payments shall be reconciled annually at the end of each Lease Year, with any Excess Percentage Rent Payments credited as provided in subsection 4.2.2.5. Payment may be made by check or draft issued and payable to The County of Los Angeles, and mailed or otherwise delivered to the Department of Beaches and Harbors, Los Angeles County, 13483 Fiji Way, Trailer No. 2, Marina del Rey, California 90292, or such other address as may be provided to Lessee by County. Lessee acknowledges that County shall have no obligation to issue monthly rental statements, invoices or other demands for payment, and that the rental payments required herein shall be payable notwithstanding the fact that Lessee has received no such statement, invoice or demand. In the event any payment is not received by County by the date due, Lessee acknowledges that County will experience additional management, administrative and other costs that are impracticable or extremely difficult to determine. Therefore, a fee ("Late Fee") of six percent (6%) of the unpaid amount shall be added to any amount that remains unpaid five (5) days after such amount was due and payable. In addition to any Late Fee, any unpaid rent due shall additionally bear interest at an annual rate equal to the Prime Rate plus three percent (3%), computed from the date when such amounts were due and payable, compounded monthly, until paid. Lessee acknowledges that such Late Fee and interest shall be applicable to all identified monetary deficiencies under this Lease, whether identified by audit or otherwise, and that interest on such amounts shall accrue from and after the date when such amounts were due and payable as provided herein (as opposed to the date when such deficiencies are identified by County).

4.6 Changes of Ownership and Financing Events. Except as otherwise provided in this Section 4.6, each time Lessee proposes either (a) a Change of Ownership or (b) a Financing Event, County shall be paid (1) an Administrative Charge equal to the Actual Cost incurred by County in connection with its review and processing of said Change of Ownership or Financing Event ("Administrative Charge") and (2) a Net Proceeds Share, in the event County approves such proposed Change of Ownership or Financing Event and such transaction is consummated. "Net Proceeds Share" shall mean the applicable amount determined pursuant to Section 4.8 of this Lease. Changes of Ownership and Financing Events are further subject to County approval as provided in Articles 12 and 13 of this Lease.

4.6.1 Change of Ownership. "Change of Ownership" shall mean (a) any transfer by Lessee of a five percent (5%) or greater direct ownership interest in this Lease or in any Major Sublease (i.e., not a transfer of beneficial ownership interests in Lessee, but instead a transfer of a divided or undivided leasehold title interest, such as a tenancy in common interest), (b) Lessee's granting of a Major Sublease or (c) any transaction or series of related transactions not described in clauses (a) or (b) of this subsection 4.6.1 which constitute an Aggregate Transfer of fifty percent (50%) or more of the beneficial interests in, or a Change of Control of, Lessee, this Lease or a Major Sublease. For the purposes of this Lease, "Change of Control" shall refer to a transaction whereby the transferee acquires a beneficial interest in Lessee, this Lease or a Major Sublease which brings its cumulative beneficial interest in Lessee, this Lease or a Major Sublease, as appropriate, to over fifty percent (50%).

4.6.2 Excluded Transfers. Notwithstanding anything to the contrary contained in this Lease, Changes of Ownership resulting from the following transfers ("Excluded Transfers") shall not be deemed to create an obligation to pay County a Net Proceeds Share:

4.6.2.1 a transfer by a member or partner of Lessee, as of the Effective Date, to any other member or partner of Lessee on the Effective Date;

4.6.2.2 a transfer to a spouse in connection with a property settlement agreement or decree of dissolution of marriage or legal separation, as long as such transfer does not result in a Change of Control of Lessee or a change in the managing general partner of Lessee;

4.6.2.3 a transfer by reason of gift, death or disability, or for estate planning purposes, of ownership interests in Lessee, or in constituent entities of Lessee, to a member of the immediate family of the transferor (which for purposes of this Lease shall be limited to the transferor's spouse, children, parents, siblings and grandchildren), or to a trust for the benefit of a member of the immediate family of the transferor, whether such transfer is the result of gift, devise, intestate succession or operation of law;

4.6.2.4 a transfer of a beneficial interest resulting from public trading in the stock or securities of an entity, where such entity is a corporation whose stock is traded publicly on a national stock exchange or is traded in the over-the-counter

market and whose price is regularly quoted in recognized national quotation services; provided, however, that this exclusion shall not apply to a single transaction or series of related transactions whereby fifty percent (50%) or more of the beneficial interests in such entity are transferred, or which otherwise effects a Change of Control in such entity;

4.6.2.5 a mere change in the form, method or status of ownership, as long as there is no change in the actual beneficial ownership of this Lease, Lessee or a Major Sublease, and such transfer does not involve an intent to avoid Lessee's obligations under this Lease with respect to a Change of Ownership; or

4.6.2.6 any transfer resulting from a Condemnation by County.

4.6.3 Aggregate Transfer. "Aggregate Transfer" shall refer to the total percentage of the shares of stock, partnership interests, membership interests or any other equity interests (which constitute beneficial interests in Lessee, this Lease or a Major Sublease, as appropriate) transferred in all transactions (other than those enumerated in subsection 4.6.2) occurring since the later of (a) the Effective Date, (b) the execution by Lessee of this Lease or a Major Sublease, as appropriate, or (c) the most recent Change of Ownership upon which an Administrative Charge was paid to County.

4.6.4 Beneficial Interest. As used in this Lease, the "beneficial interest," "beneficial interest in this Lease," or "beneficial interest in a Major Sublease" shall refer to the interests of the natural persons who comprise the ultimate owner or owners of Lessee's interest in this Lease or a Major Sublease, or a Major Sublessee's interest in a Major Sublease, whichever is appropriate, regardless of the form of such ownership and regardless of whether such interests are owned through corporations, trusts, partnerships, limited liability companies or layers thereof; provided, however, that if an entity with an ownership interest in the Lease or a Major Sublease is a partnership, corporation or limited liability entity (a) whose beneficial interest in this Lease or a Major Sublease, whichever is appropriate, comprises less than fifteen percent (15%) of its total assets or (b) in which no ten (10) shareholders, partners or members together own more than thirty percent (30%) of the partnership interests, shares, membership interests or other equity interests in the entity, then for the purposes of Sections 4.6 through 4.8 hereof, the entity itself shall be deemed to be the ultimate owner of the beneficial interest in this Lease or a Major Sublease, as appropriate, and the owners of such entity shall not be treated as the ultimate owners of such beneficial interest.

4.6.4.1 Interests Held By Entities. Except as otherwise provided herein, an interest in Lessee, this Lease or a Major Sublease held or owned by a partnership, limited liability company, corporation or other entity shall be treated as owned by the partners, members, shareholders or other equity holders of such entity in proportion to their respective equity interests, determined by reference to the relative values of the interests of all partners, members, shareholders or other equity holders in such entity. Where more than one layer of entities exists between Lessee or a Major Sublessee, as appropriate, and the ultimate owners, then the foregoing sentence shall be applied successively to each such entity in order to determine the

ownership of the beneficial interests in Lessee, this Lease or a Major Sublease, as appropriate, and any transfers thereof.

4.6.4.2 Ownership of Multiple Assets. The proceeds of any event constituting or giving rise to a Change of Ownership shall be apportioned to this Lease or a Major Sublease, whichever is appropriate, and to any other assets transferred in the same transaction in proportion to the relative fair market values of the respective assets transferred. The Net Proceeds Share shall be calculated only by reference to the amount of such proceeds apportioned to this Lease, a Major Sublease or the beneficial interests therein, whichever is appropriate.

4.7 Calculation and Payment. A deposit of Fifteen Thousand and 00/100 Dollars ($15,000) toward the Administrative Charge shall be due and payable upon Lessee's notification to County of the proposed Change of Ownership or Financing Event and request for County's approval thereof. If the transaction is approved, the balance of the Administrative Charge, if any, and the Net Proceeds Share shall be due and payable concurrently with the consummation of the transaction constituting the Change of Ownership or Financing Event giving rise to the obligation to pay such fee, regardless of whether or not money is transferred by the parties in connection with such consummation. If County disapproves the proposed transaction then, within thirty (30) days after notice of its disapproval, County shall deliver to Lessee a written notice setting forth the Administrative Charge, together with a refund of the amount, if any, of the deposit in excess of the Administrative Charge otherwise allowable under Section 4.6. In the event that the Administrative Charge exceeds the deposit, then Lessee shall pay County the balance of the Administrative Charge otherwise allowable under Section 4.6. within thirty (30) days after receipt of the notice from County setting forth the Administrative Charge and any supporting documentation reasonably requested by Lessee within five (5) business days after its receipt of such notice. Together with its request for County approval of the proposed transaction, Lessee, a Major Sublessee or the holder of a beneficial interest in this Lease or a Major Sublease, whichever is appropriate, shall present to County its calculation of the Net Proceeds Share (if any) anticipated to be derived therefrom, which shall include the adjustment to Improvement Costs, if any, which may result from the payment of such Net Proceeds Share ("Calculation Notice"). Each Calculation Notice shall contain such detail as may be reasonably requested by County to verify the calculation of the Net Proceeds Share. Within thirty (30) days after the receipt of the Calculation Notice and all information or data reasonably necessary for County to verify the calculations within the Calculation Notice, County shall notify the party giving the Calculation Notice as to County's agreement or disagreement with the amount of the Net Proceeds Share set forth therein or the related adjustment of Improvement Costs, if any. If County disagrees with the amounts set forth in the Calculation Notice, County shall provide Lessee with the reason or reasons for such disagreement. Failing mutual agreement within thirty (30) days after the expiration of County's thirty (30) day review period, the dispute shall be resolved by arbitration as set forth in Article 16 of this Lease in the manner prescribed herein for the resolution of disputes concerning Fair Market Rental Value. In the event County approves a Change of Ownership or Financing Event but a dispute exists as to the Net Proceeds Share in respect thereof or the related adjustment, if any, in Improvement Costs, then the transaction may be consummated after County has disapproved Lessee's Calculation Notice; provided, however, that (i) Lessee shall remit to County as otherwise required hereunder the undisputed portion of the Net Proceeds Share and (ii) Lessee shall deposit the disputed portion of the Net Proceeds

Share into an interest bearing escrow account at the closing of the transaction, which portion shall be distributed in accordance with the arbitration of the dispute pursuant to Article 16 of this Lease, in the manner prescribed herein for the resolution of disputes concerning Fair Market Rental Value.

4.7.1 Transfer of Less Than Entire Interest. Where a Change of Ownership has occurred by reason of the transfer of less than all of an owner's beneficial interest in Lessee, this Lease or a Major Sublease, the Net Proceeds Share shall be due and payable with respect to those portions of such beneficial interest that have been acquired by the transferee since the latest of (a) the Effective Date, (b) the date of the execution of this Lease (or a Major Sublease) by Lessee, (c) the most recent event creating Lessee's obligation to pay a Net Proceeds Share (including without limitation an approval by County of a transfer at a price which falls below the threshold for paying a Net Proceeds Share) with respect to this Lease (or a Major Sublease), or (d) the date which is twelve (12) months prior to the transfer which constitutes the Change of Ownership.

4.7.2 Purchase Money Notes/Stock Consideration. If the transferor of an interest accepts a note made by the transferee of such interest in payment of all or a portion of the acquisition cost (a "Purchase Money Note"), the Net Proceeds Share shall be payable by Lessee in cash at the time of the consummation of the transaction notwithstanding the deferred nature of the consideration. In such case, the face amount of the Purchase Money Note shall be treated as sale proceeds; provided that if the interest rate on such Purchase Money Note is in excess of a market rate, then the value of such note shall be increased to reflect such above-market rate. If the transferor of an interest accepts stock or other non-cash consideration in payment of all or a portion of the acquisition cost, the fair market value of the stock or other non-cash consideration shall be treated as having been received in the form of cash.

4.7.3 Obligation to Pay Net Proceeds Share and Administrative Charge. With respect to a Change of Ownership giving rise to the Administrative Charge and Net Proceeds Share, the obligation to pay the Administrative Charge and Net Proceeds Share shall be the joint and several obligation of the transferor and transferee. In the event that the Administrative Charge or Net Proceeds Share is not paid when due with respect to the beneficial interest in this Lease, then County shall have the remedies set forth in Section 13.3 hereof.

4.8 Net Proceeds Share. In the event of a Change of Ownership, the Net Proceeds Share shall be a sum equal to the greater of (a) five percent (5%) of the gross sale or transfer proceeds or other consideration given for the interests transferred (but in the case of a transfer to a party affiliated with or otherwise related to the transferor, such consideration shall in no event be deemed to be less than the fair value of the interests transferred), or (b) twenty percent (20%) of the Net Transfer Proceeds from such transfer. With respect to a Financing Event, the Net Proceeds Share (if any) shall be equal to twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event. Notwithstanding any contrary provision of this Section 4.8, in the calculation of Net Transfer Proceeds and Net Refinancing Proceeds derived from a Change of Ownership or Financing Event, as applicable, pursuant to the remaining provisions of Section 4.8 below, there shall be no duplication of any amounts to be subtracted from the total consideration

received in connection with such transaction, even if a particular amount qualifies for subtraction under more than one category.

4.8.1 Transaction by Original Lessee. In the case of a transfer by Lessee (but not a successor or assignee of Lessee) constituting a Change of Ownership, "Net Transfer Proceeds" shall mean the total cash and other consideration received (but in the case of a transfer to a party affiliated with or otherwise related to the transferor, such consideration shall in no event be deemed to be less than the fair value of the interests transferred), less the following costs with respect to Lessee (but not its successors or assignees):

4.8.1.1 **[Insert value of leasehold, as extended as of the Effective Date, as determined prior to the execution and delivery of the Lease either by agreement of the parties or, if the parties are unable to agree, then pursuant to the arbitration procedures set forth in Article 16]** (the "Base Value"), together with the final actual construction costs paid by Lessee in connection with the construction of the Redevelopment Work or other physical Improvements to the Premises in accordance with Article 5 herein, whose costs have been submitted to County within thirty (30) days after the completion of such Improvements and which costs shall have been approved in writing by County ("Improvement Costs").

4.8.1.2 Commissions, title and escrow costs, other bona fide closing costs actually paid to third parties and documented to the satisfaction of County, which costs were directly attributable to the consummation of the particular transaction giving rise to the obligation to pay County a Net Proceeds Share, and the Administrative Charge paid by Lessee to County in connection with the transaction (collectively, "Documented Transaction Costs").

4.8.2 Transfer by Lessee's Successor. In the case of a transfer by a Lessee other than the original Lessee, "Net Transfer Proceeds" shall mean the total cash and other consideration received by that successor Lessee (but in the case of a transfer to a party affiliated with or otherwise related to the transferor, such consideration shall in no event be deemed to be less than the fair value of the interests transferred), minus the following costs with respect to such successor Lessee:

4.8.2.1 The greatest of (a) the Base Value, (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired or (c) the principal amount of any subsequent refinancing by Lessee in connection with which County was paid a Net Proceeds Share;

4.8.2.2 Improvement Costs actually paid by such successor Lessee after such successor Lessee's acquisition of its leasehold interest in the Premises, and not subsequently repaid with Net Refinancing Proceeds, provided that such costs have been submitted to and approved by County to the extent provided in subsection 4.8.1.1 with respect to Lessee; and,

4.8.2.3 Documented Transaction Costs with respect to the transfer of the interest by the successor.

4.8.3 Transfers of Major Sublessee's Interest. With respect to any Change of Ownership described in subsection 4.6.1(b), subsections 4.8.1 and 4.8.2 shall apply, except that any rents or other amounts received by Lessee from the Major Sublessee and with respect to which a percentage is passed through to County under any provision of this Lease (other than payment of Net Proceeds Share) shall be disregarded in the computation of Net Transfer Proceeds.

4.8.4 Other Transfers. With respect to any Change of Ownership not described in subsections 4.8.1 through 4.8.3 (i.e., a transfer of an interest in an entity holding a direct or indirect ownership interest in this Lease or in a Major Sublease), subsections 4.8.1 and 4.8.2 shall apply to such Change of Ownership, except that in lieu of deducting the amounts described in either subsection 4.8.1.1 or subsections 4.8.2.1 and 4.8.2.2, as applicable, in determining Net Transfer Proceeds, the cost to the transferor of the interest being transferred (which shall in no event be deemed to be less than the fair market value of the interest based on the amounts described in subsection 4.8.1.1 or subsections 4.8.2.1 and 4.8.2.2, as applicable) shall be deducted. Furthermore, in the event that any such Change of Ownership produces a Net Proceeds Share, the then existing Improvement Costs shall be increased by an appropriate amount to reflect the gross amount on which such Net Proceeds Share was calculated, as if it had been realized by Lessee upon a transfer of a comparable interest in this Lease or in a Major Sublease, as appropriate.

4.8.5 Net Refinancing Proceeds. "Net Refinancing Proceeds" shall mean the gross principal amount of any Financing Event after the Effective Date, minus (i) the greatest of (a) the Base Value, (b) the principal amount of Lessee's existing financing as of the Effective Date or (c) the principal amount of any subsequent refinancing by Lessee in connection with which County was paid a Net Proceeds Share, (ii) any portion of the proceeds of the Financing Event which shall be used for Improvement Costs, (iii) other Improvement Costs incurred by Lessee and not paid for or repaid with the proceeds of any Financing Event, and (iv) Documented Transaction Costs with respect to such Financing Event.

4.8.6 Transfers to which Sections 4.6 through 4.8 Apply. The provisions of Sections 4.6 through 4.8 hereof shall apply to all transfers of beneficial interests in this Lease or a Major Sublease which constitute a Change of Ownership, unless such transfers are otherwise excluded pursuant to this Lease. Furthermore, the provisions of Sections 4.6 through 4.8 of this Lease, and the principles set forth therein, shall apply to any transfer or series of transfers which County can demonstrate was primarily structured for the purpose of avoiding the obligation to pay Net Proceeds Share set forth in Sections 4.6 through 4.8 of this Lease and which, viewed together, would otherwise constitute a Change of Ownership.

4.8.7 Payment. Net Proceeds Share shall be due and payable concurrently with the transfer giving rise to the obligation to pay such fees and shall be the joint and several obligation of the transferee and transferor. Net Proceeds Share not paid when due shall be subject to a late fee of six percent (6%) of the amount due, together with interest on such Net Proceeds Share at the Applicable Rate from the date due until paid. In the

event that the proceeds of the transaction giving rise to the obligation to pay Net Proceeds Share are comprised, in whole or in part, of assets other than cash, then the cash payment of the Net Proceeds Share shall reflect the fair market value of such non-cash assets as of the date of the Change of Ownership, which shall be set forth in the Calculation Notice. Notwithstanding the foregoing, in the case of a Change of Ownership described in subsection 4.6.1(b), the Net Proceeds Share shall be payable to County as and when the Net Transfer Proceeds are received, with the Net Proceeds Share being equitably apportioned to the payments derived by Lessee from said Change of Ownership (other than any payments passed through to County under this Lease).

4.8.8 Shareholder, Partner, Member, Trustee and Beneficiary List. Prior to the Effective Date, as part of the submission for approval of a Change of Ownership or Financing Event, and upon the request of County (which requests shall be no more frequent than once per year), Lessee shall provide County with an updated schedule listing the names and mailing addresses of (i) all shareholders, partners, members and other holders of equity or beneficial interests in Lessee, this Lease or the Major Sublessee under any Major Sublease, and (ii) all shareholders, partners, members and other holders of equity or beneficial interests in any of the constituent shareholders, partners, members or other holders of equity or beneficial interests in Lessee or any Major Sublessee under any Major Sublease, if such interest exceeds a five percent (5%) or greater beneficial interest in Lessee, its constituent shareholders, partners, members or other interest holders, or the Major Sublessee under a Major Sublease. In the event that such shareholder, partner, member or other interest holder is a trust, Lessee shall include in such schedule the name and mailing address of each trustee of said trust, together with the names and mailing addresses of each beneficiary of said trust with greater than a five percent (5%) actuarial interest in distributions from, or the corpus of, said trust; provided, however, that to the extent that Lessee is prevented by Applicable Laws from obtaining such information regarding the beneficiaries of said trust(s), Lessee shall have complied with this provision if Lessee uses its best efforts to obtain such information voluntarily and provides County with the opportunity to review any such information so obtained. Lessee agrees to use its best efforts to provide County with any additional information reasonably requested by County in order to determine the identities of the holders of five percent (5%) or greater beneficial interests in Lessee or its constituent shareholders, partners, members or other interest holders, this Lease or a Major Sublease.

5. REDEVELOPMENT WORK; ALTERATIONS.

5.1 Redevelopment Work. Promptly following the Effective Date Lessee shall demolish the existing Improvements located on the Premises (other than the existing Islands Restaurant) and perform the redevelopment work on the Premises described in the development plan attached to this Lease as Exhibit B (the "Development Plan"). The demolition and construction work described in the Development Plan, along with all associated improvements, hardscape, landscape and other site work approved by County and to be performed in connection with the work described in such Development Plan is referred to herein as the "Redevelopment Work." The Redevelopment Work shall include, without limitation, (i) the construction of a new 2-story commercial building on the Parcel 95S Premises containing approximately 4,250 square feet of bank space and 6,512 square feet of restaurant space on the first floor, and approximately

7,888 square feet of office space on the second floor; (ii) the construction of a new 1-story retail building on the Parcel 95S Premises containing approximately 16,400 square feet of space; (iii) the renovation of the existing Islands Restaurant building to "like-new" condition; (iv) the construction of 238 parking spaces on the Parcel 95S Premises, consisting of 70 surface spaces, 28 intermediate level spaces, and 140 spaces above the retail building described in clause (ii) above; and (v) the construction of a new public park on the LLS Premises. There shall be no changes, modifications or exceptions to the Development Plan, except as expressly approved in advance in writing by the Director. The design, density, site coverage, layout and open space, view corridors, building heights, construction materials, landscaping, hardscaping and other improvement specifications pertaining to the Redevelopment Work shall be subject to County's approval as set forth in this Section 5, and shall be subject to the receipt by Lessee of all required governmental (including, without limitation, County, Coastal Commission and Design Control Board) planning and entitlement approvals. Lessee shall be solely responsible for all costs and expenses incurred in connection with the design, entitlement and construction of the Redevelopment Work. Lessee shall expend not less than $8,065,000 for the cost of the Redevelopment Work, which expenditures shall be subject to the verification and reasonable approval by County. Lessee shall comply with all time deadlines and schedules described in this Section 5 relating to the completion of the design of the Redevelopment Work. Lessee's failure to do so shall, if not cured within the applicable cure period set forth in subsection 13.1.2, constitute an Event of Default. All of the Redevelopment Work shall be completed in accordance with the Final Plans and Specifications for the Redevelopment Work on or before that date (the "Required Completion Date") which is two (2) years following the date of Lessee's exercise of the Option pursuant to the Option Agreement. Lessee acknowledges that the principal inducement to County to enter into this Amended and Restated Lease Agreement and to extend the Term as provided herein is the timely completion of the Redevelopment Work. In the event that Lessee fails to substantially complete the Redevelopment Work on or before the Required Completion Date, then in addition to any other right or remedy which County may have in connection therewith, this Lease shall be automatically amended such that the terms and provisions of this Lease revert back to the terms and provisions of the Existing Lease (including, without limitation, the Existing Expiration Date), as modified by the "Non-Exercise Amendment" described in the Option Agreement (the "Reversion Amendment"). Notwithstanding any contrary provision of this Section 5.1, if Lessee is delayed in the completion of the Redevelopment Work due to Force Majeure, then the Required Completion Date shall be extended by the period of such Force Majeure delay; provided, however, that any such extension shall be limited to the period of the Force Majeure delay and no such delay shall be considered to have commenced until such time as Lessee shall have notified Director in writing of such delay; and provided, further, that the aggregate amount of extensions to the Required Completion Date due to Force Majeure delays shall not exceed two (2) years.

5.2 Application of Article 5 to Redevelopment Work. The remaining sections of this Article 5 pertain to the construction of the Redevelopment Work and to any other Alterations (as defined below) which Lessee may be required or desire to make to the Premises during the Term, including without limitation, the Subsequent Renovations described in Section 5.9 below. For purposes of this Lease, Alterations shall mean the construction of any alterations or modifications to the Improvements located on the Premises or the construction of any new Improvements. Both the Redevelopment Work and the Subsequent Renovations shall be considered to be Alterations. Accordingly, except as expressly provided in this Article 5, all of

the terms and provisions of Article 5 of this Lease shall be applicable to the Redevelopment Work and the Subsequent Renovations.

5.3 Plans and Specifications for Alterations. Lessee shall make no Alterations without the prior written approval of the Director. Prior and as a condition precedent to the construction of any Alterations, Lessee shall submit to Director, for Director's approval, the plans, specifications and other materials described in this Section 5.3 pertaining to such Alterations (except to the extent such submittals and approvals have been previously completed with respect to Redevelopment Work pursuant to the Option Agreement). All Alterations must be consistent with the Permitted Uses set forth in Article 3 of this Lease.

5.3.1 Schematics and Narrative. Lessee shall submit to the Director six (6) sets of schematic plans together with a narrative description and construction cost estimate summary clearly delineating the nature, size, configuration and layout of the Alterations. Such plans shall, among other things, clearly delineate the architectural theme or motif of the Alterations and shall identify and illustrate the boundaries of the Premises and all rights-of-way or other areas reserved to County or third parties which are located thereon. Director shall have sixty (60) days within which to approve or disapprove such submission. Failure of Director to approve such submission in writing within said sixty (60) day period shall be deemed disapproval of said submission. After approval of schematic plans (or subsequent approval of preliminary or final plans) by Director, if changes in such plans are required by conditions of approval of the Alterations imposed by the California Coastal Commission or other governmental agency having jurisdiction thereover, Lessee shall promptly advise Director in writing of such changes and Director shall not disapprove the changes required by the California Coastal Commission or other governmental agency, as appropriate, unless such changes materially prejudice County's ability to enjoy the rights and benefits granted to County pursuant to this Lease.

5.3.2 Preliminary Plans and Specifications. As soon as practicable, but in no event later than thirty (30) days after Director's approval of the materials submitted pursuant to subsection 5.3.1, Lessee shall submit to Director six (6) sets of preliminary plans, outline specifications and construction cost estimates for the Alterations. The preliminary plans, outline specifications and construction cost estimate shall conform to, expand upon and reflect a natural evolution from the descriptions and estimates set forth in the approved schematic plans and narrative. Any difference in the scope, size, configuration, arrangement or motif of the Improvements from those described in the approved schematics and narrative shall be separately identified and described. Director shall have twenty-one (21) days within which to approve or reasonably disapprove such submission, and Director may disapprove said preliminary plans on the grounds that they do not reflect a natural evolution from the approved schematic plans or that they materially differ from the approved schematic plans and narrative. Failure of Director to disapprove said preliminary plans within twenty one (21) days after Director's receipt thereof shall be deemed Director's approval thereof; provided, however, that in the event that the preliminary plans, outline specifications and construction cost estimates contain substantial changes from the approved schematics and narrative, then Director shall have sixty (60) days in which to approve said submission, which approval shall be deemed

withheld if not granted in writing within such sixty (60) day period; and provided further, that together with the submission of the preliminary plans, outline specifications and construction cost estimates, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

> "PURSUANT TO SUBSECTION 5.3.2 OF THE AMENDED AND RESTATED LEASE AGREEMENT, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES FROM THE MATERIALS PREVIOUSLY SUBMITTED TO YOU, YOU HAVE TWENTY ONE (21) DAYS AFTER RECEIPT OF THESE MATERIALS IN WHICH TO APPROVE OR DISAPPROVE THEM. FAILURE TO DISAPPROVE THESE MATERIALS IN WRITING WITHIN TWENTY ONE (21) DAYS OF YOUR RECEIPT OF THESE MATERIALS SHALL CONSTITUTE YOUR APPROVAL OF THEM."

5.3.3 Final Plans and Specifications. As soon as practicable, but in no event later than sixty (60) days after approval of the preliminary plans, Lessee shall submit for approval by Director six (6) complete sets of final plans, detailed specifications and a construction cost statement for the Alterations, together with one (1) set of appropriate structural computations, identical to those requested or required by the County Director of Public Works incident to the issuance of building permits under the relevant provisions of the Los Angeles County Building Code. Lessee shall file duplicate copies of the final plans, detailed specifications and construction cost statement required by this Section with the County Director of Public Works, together with the necessary and appropriate applications for building permits. Any difference in the scope, size, configuration, arrangement or motif of the Alterations from those described in the approved preliminary plans and specifications shall be separately identified and described. Director shall have twenty one (21) days within which to approve or disapprove such submission, and Director may disapprove such submission on the grounds that they do not reflect a natural evolution from or that they materially differ from the approved preliminary plans, outline specifications and construction cost estimates. Failure of Director to disapprove said materials within twenty one (21) days after Director's receipt shall be deemed Director's approval thereof; provided, however, that in the event that the final plans, detailed construction specifications and construction cost statement contain substantial changes from the preliminary plans, outline specifications and construction cost estimates, then Director shall have sixty (60) days in which to approve said submission, which approval shall be deemed withheld if not granted in writing within such sixty (60) day period; and provided further, that together with the submission of the final plans, detailed construction specifications and construction cost statement, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

> "PURSUANT TO SUBSECTION 5.3.3 OF THE AMENDED AND RESTATED LEASE AGREEMENT, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES FROM THE MATERIALS PREVIOUSLY SUBMITTED TO YOU, YOU HAVE TWENTY ONE (21) DAYS AFTER RECEIPT OF THESE MATERIALS IN WHICH TO

APPROVE OR DISAPPROVE THEM. FAILURE TO DISAPPROVE THESE MATERIALS IN WRITING WITHIN TWENTY ONE (21) DAYS OF YOUR RECEIPT OF THESE MATERIALS SHALL CONSTITUTE YOUR APPROVAL OF THEM."

Director's approval shall not be unreasonably withheld; provided, however, that it shall be deemed reasonable to disapprove any submission not in substantial conformity with the approved preliminary plans and specifications. No material modification shall be made to the Alterations described in the approved final plans, specifications and costs (the "Final Plans and Specifications") without the prior written approval of Director, which shall not be unreasonably withheld.

5.4 Conditions Precedent to the Commencement of Construction. No Alterations shall be commenced until each and all of the following conditions have been satisfied:

5.4.1 Permits and Other Approvals. Lessee shall have received and furnished the Department with copies of all permits, licenses and other governmental approvals necessary for commencement of the Alterations.

5.4.2 Copies of Construction Contracts. Lessee shall have furnished County with copies of any contract(s) entered into between Lessee and any general contractor(s) employed for the purpose of constructing the Alterations.

5.4.3 Performance and Payment Bonds. Lessee shall, at its own cost and expense, have furnished County with the following separate corporate surety bonds not less than ten business (10) days prior to the commencement of construction, which bonds must be in form and content reasonably satisfactory to County:

5.4.3.1 A corporate surety performance bond ("Performance Bond") issued by a surety company licensed to transact business as such in the State of California, in an amount not less than one hundred percent (100%) of the amount of all hard construction costs approved by County in conjunction with the approved work. The Performance Bond and its issuer shall be in all material respects reasonably satisfactory to County. It shall name Lessee as principal and said issuer as surety, and County as obligee, assuring full and satisfactory performance by Lessee of Lessee's obligations herein to build, construct and otherwise complete the Improvements described in the approved final plans and specifications.

5.4.3.2 A corporate surety payment bond, issued by a surety company licensed to transact business as such in the State of California, with Lessee as principal, said company as surety and County as obligee, in a sum equal to one hundred percent (100%) of the total construction cost anticipated to be incurred in connection with the approved work, guaranteeing payment for all materials, provisions, supplies and equipment used in, upon, for or about the performance of said construction work or for labor done thereon of any kind whatsoever and protecting County from any and all liability, loss or damages arising out of or in

connection with any failure to make such payment (the "Payment Bond"). The Payment Bond shall be in form and content reasonably satisfactory to County.

In the event that construction is performed by a licensed general contractor on behalf of Lessee, provided that such contractor provides County with a bond or bonds compliant with this subsection, and in all material respects reasonably satisfactory to County and otherwise complying with this subsection, County will accept such contractor's bonds in lieu of the Performance Bond and/or Payment Bond by Lessee required by this subsection 5.4.3.

5.4.4 Alternative Security. In lieu of providing the Payment and Performance Bonds, Lessee may provide any of the following alternative security: (i) a certificate of deposit, cash or United States governmental security, (ii) a letter of credit, or (iii) a Set Aside Letter from Lessee's construction lender. The foregoing security shall be in an amount equal to one hundred percent (100%) of the construction contract price, and shall permit County to draw thereon to complete the construction of the Improvements if the same have not been completed by Lessee or if an Event of Default has occurred under this Lease. A condition precedent to Lessee's right to provide the alternate security described in this subsection 5.4.4 shall be delivery by Lessee to County of an opinion of counsel from a law firm and in a form acceptable to County to the effect that the construction work does not constitute a public work of improvement requiring the delivery of the bonds described in subsection 5.4.3 above. Director shall have the authority, in his discretion, to modify, waive or reduce the amount of any bonds or alternate security required hereunder.

5.4.5 Evidence of Financing. Lessee shall have provided evidence satisfactory to County of its having sufficient financial resources, as determined by Director, to complete the Alterations. Lessee shall furnish Director with copies of all final notes, guarantees, partnership, shareholder or limited liability company agreements, construction loan and/or permanent loan commitments, as applicable, evidence of equity, documents creating and/or perfecting security interests, and all documents and exhibits referred to in any of the foregoing, together with any and all recorded documents affecting an interest in the Premises.

5.5 Manner of Construction.

5.5.1 General Construction Standards. All construction, alteration, modification or repairs permitted herein shall be accomplished by Lessee with due diligence. Lessee shall take all reasonable steps to minimize any damage, disruption or inconvenience caused by such work and make adequate provisions for the safety and convenience of all persons affected thereby. Lessee shall repair, at its own cost and expense, any and all damage caused by such work, and shall restore the area upon which such work is performed to a condition which is at least equal to or better than the condition which existed before such work was commenced. Additionally, Lessee shall pay or cause to be paid all costs and expenses associated therewith and shall indemnify, defend and hold County harmless from and against all damages, costs, expenses, losses or claims arising out of or in connection with the performance of such work, except to the

extent that such damages, costs, expenses, losses or claims are caused by County. Dust, noise and other effects of such work shall be controlled using accepted measures customarily utilized in order to control deleterious effects associated with construction projects in well populated and developed areas of Southern California.

5.5.2 Utility Work. Any work performed by or on behalf of Lessee or any occupant of the Premises to connect to, repair, relocate, maintain or install any storm drain, sanitary sewer, water line, gas line, telephone conduit, or any other utility service shall be performed in a manner that minimizes interference with the provision of such services to the Premises and other persons.

5.5.3 Construction Safeguards. Lessee shall erect and properly maintain at all times, as required by the conditions and the progress of work performed by or on behalf of Lessee, all necessary safeguards for the protection of workers and the public.

5.5.4 Compliance with Construction Documents and Laws; Issuance of Permits. All Improvements on the Premises shall be completed in substantial compliance with any construction documents approved by County and also in compliance with all applicable local, state and federal laws and regulations. Lessee shall have the sole responsibility for obtaining all necessary permits and shall make application for such permits directly to the person or governmental agency having jurisdiction thereover.

5.5.5 Notice to Director; Damage to County Improvements. Lessee further agrees to keep Director apprised of the progress of the work to the end that Director may timely inspect the Premises to assure proper safeguarding of any County-owned improvements existing on or around the Premises, including but not limited to seawalls, underground conduits and utility lines. If any such County-owned improvement is damaged in connection with said construction activity, Lessee agrees to repair such damage immediately at no cost or expense to County or, in the event that Lessee fails to effectuate such repair within five (5) business days after written notice from County (or such longer period as may be reasonably required to complete such repair so long as Lessee commences such repair within five (5) business days and thereafter diligently prosecutes same to completion), County may enter upon the Premises to make such repairs, the Actual Cost of which shall be paid by Lessee within two (2) business days after demand by County.

5.5.6 Rights of Access. Representatives of the Department of Beaches and Harbors of the County shall, upon reasonable notice and at reasonable times, have the right of reasonable access to the Premises and the Improvements thereon without charges or fees, for the purpose of ascertaining compliance with the terms and conditions of this Lease, including but not limited to the inspection of the construction work being performed. Such access shall be reasonably calculated to minimize interference with Lessee's construction and/or operations. Lessee shall have the right to have a representative present to accompany the representatives of the Department of Beaches and Harbors of the County in connection with such access. In the event of any emergency which is life-threatening or which involves the threat of potential substantial

damage, County shall have the right to enter the Premises immediately and without notice to or accompaniment by Lessee.

5.5.7 Notice of Completion. Upon completion of the Redevelopment Work or any other Alterations, Lessee shall file or cause to be filed in the Official Records of the County of Los Angeles a Notice of Completion (the "Notice of Completion") with respect to the Improvements and Lessee shall deliver to County, at no cost to County, two (2) sets of conoflex or mylar final as-built plans and specifications of the Improvements.

5.6 Use of Plans. Contracts between Lessee and any architect, design professional or licensed contractor in connection with the construction, alteration or modification of Improvements on the Premises shall provide, in form and content reasonably satisfactory to County, for the assignment thereof to County as security to County for Lessee's performance hereunder, and County shall be furnished with a copy of any such contract, together with the further agreement of the parties thereto, that if this Lease is terminated by County due to Lessee's default, County may, at its election, use any plans and specifications created by such architect, design professional or contractor in connection with the contract, upon the payment of any sums due to any party thereto. County's right to elect to use plans and specifications as described above shall not include the unauthorized right to use any trade marks, trade names or logos of Lessee or any such architect, design professional or contractor.

5.7 Where Director Approval Not Required. Notwithstanding the foregoing, and notwithstanding anything to the contrary in this Article 5, Lessee shall not be required to seek or obtain the approvals of Director described in this Article 5 (including those set forth in Section 5.3) for Alterations (other than the Redevelopment Work) where all of the following conditions are satisfied: (i) the total cost of the project is less than One Hundred Thousand Dollars ($100,000), adjusted annually to reflect the increase or decrease in the ENR Index from and after the Effective Date (provided, however, that in no event shall such adjustment result in a reduction of the threshold for Director approval to less than One Hundred Thousand Dollars ($100,000); (ii) none of the proposed construction activity is structural in nature; and (iii) none of the proposed construction, additions, modifications or changes affect or are visible from the exterior of the Premises; provided, however, that whenever Lessee makes or constructs or permits any improvements in or to the Premises, Lessee shall (a) give written notice thereof (including a description of the work to be done and the permits obtained for such work), and (b) furnish a copy of "as-built" plans upon completion of such work to County.

5.8 Protection of County. Nothing in this Lease shall be construed as constituting the consent of County, express or implied, to the performance of any labor or the furnishing of any materials or any specific Improvements, alterations or repairs to the Premises of any part thereof by any contractor, subcontractor, laborer or materialman, nor as giving Lessee or any other person any right, power or authority to act as agent of or to contract for, or permit the rendering of, any services, or the furnishing of any materials, in any such manner as would give rise to the filing of mechanics' liens or other claims against the Premises or County.

5.8.1 Posting Notices. County shall have the right at all reasonable times and places to post and, as appropriate, keep posted, on the Premises any notices which County may deem necessary for the protection of County, the Premises and the

Improvements thereon from mechanics' liens or other claims. Lessee shall give County at least ten (10) business days prior written notice of the commencement of any work to be done on the Premises, in order to enable County timely to post such notices.

5.8.2 Prompt Payment. Lessee shall make, or cause to be made, prompt payment of all monies due and owing to all persons doing any work or furnishing any materials or supplies to Lessee or any of its contractors or subcontractors in connection with the Premises and the Improvements thereon. Lessee shall have the right to contest any such amount; provided, however, the entire expense of any such contest (including interest and penalties which may accrue) shall be the responsibility of Lessee.

5.8.3 Liens; Indemnity. Subject to Lessee's rights to contest the same prior to payment, Lessee shall keep the Premises and any Improvements thereon free and clear of all mechanics' liens and other liens arising out of or in connection with work done for Lessee and/or any parties claiming through Lessee. Lessee agrees to and shall indemnify, defend and hold County harmless from and against any claim, liability, loss, damages, costs, expenses, attorneys' fees incurred in defending and all other expenses on account of claims of lien(s) of laborers or materialmen or others for work performed or materials or supplies furnished to Lessee or persons claiming under it.

In the event any lien is recorded, Lessee shall, within five (5) business days after demand, furnish the bond described in California Civil Code Section 3143, or successor statute, which results in the removal of such lien from the Premises, together with any other evidence requested by County to evidence that such claim will be paid, removed or discharged as a claim against the Premises and/or County.

5.9 Subsequent Renovations. In addition to the Redevelopment Work to be performed by Lessee pursuant to Section 5.1, Lessee shall be required to complete three (3) separate renovations of the Improvements during the remaining Term of the Lease in accordance with the terms and provisions of this Section 5.9 (each, a "Subsequent Renovation"). The construction of the first Subsequent Renovation (the "First Subsequent Renovation") shall be commenced by Lessee not earlier than January 1, 2021 and completed by Lessee not later than December 31, 2022. The construction of the second Subsequent Renovation (the "Second Subsequent Renovation") shall be commenced by Lessee not earlier than January 1, 2036 and completed by Lessee not later than December 31, 2037. The construction of the third Subsequent Renovation (the "Third Subsequent Renovation") shall be commenced by Lessee not earlier than January 1, 2051 and completed by Lessee not later than December 31, 2052. Each Subsequent Renovation shall consist of such renovation and construction work as necessary in the reasonable judgment of Director to position the Improvements to a condition and appearance at least equal to comparable commercial projects. Prior to the commencement of construction of a Subsequent Renovation, Lessee shall submit to Director a renovation plan for such Subsequent Renovation (a "Subsequent Renovation Plan"), which renovation plan shall (a) describe the proposed renovation work in such detail as reasonably requested by Director, (b) include a design, governmental approval and construction schedule for the work described therein, (c) include a budget for all work costs, and (d) address such other matters as Director reasonably requests. The Subsequent Renovation Plan shall be submitted by Lessee to County not later than such date as, taking into consideration the approval periods described in this Section 5.9 and

Section 5.3 above, and the estimated time required to obtain all necessary governmental approvals and permits, will permit the completion by Lessee of the applicable Subsequent Renovation by the dates required under this Section 5.9. Director shall have sixty (60) days within which to reasonably approve or disapprove the Subsequent Renovation Plan, or to approve the Subsequent Renovation Plan subject to conditions imposed by Director in its reasonable judgment. Failure of Director to notify Lessee in writing of its approval or disapproval of the Subsequent Renovation Plan shall be deemed Director's disapproval of the Subsequent Renovation Plan. Upon Director's approval of the Subsequent Renovation Plan, Lessee shall proceed to satisfy all conditions in this Article 5 to the commencement of the Subsequent Renovation and to commence and complete the Subsequent Renovation in accordance with the Subsequent Renovation Plan and the terms and conditions of this Article 5. Lessee's failure to comply with the schedule approved by Director as part of Subsequent Renovation Plan and/or to meet the construction commencement and completion deadlines pertaining to the Subsequent Renovation set forth in this Section 5.9 shall, if not cured within the cure period set forth in subsection 13.1.2, constitute an Event of Default. Any dispute as to whether Director has failed to exercise reasonable judgment in the approval or disapproval of the Subsequent Renovation Plan shall be submitted to arbitration pursuant to Article 16 of this Lease.

5.10 Subsequent Renovations Fund. Commencing with the month following the month during which the fifth (5th) anniversary of the earlier of the Completion Date or the Required Completion Date occurs, and continuing until the completion of the Third Subsequent Renovation, Lessee shall establish and maintain a reserve fund (the "Subsequent Renovations Fund") in accordance with the provisions of this Section 5.10 for the purpose of funding a portion of the cost of each Subsequent Renovation. The Subsequent Renovations Fund shall be held in an account established with a reputable financial institution (including Lessee's Mortgagee) acceptable to Director into which deposits shall be made by Lessee pursuant to this Section 5.10. On or before the fifteenth (15th) day of each month during the period during which the Subsequent Renovation Fund is required to be maintained by Lessee hereunder, Lessee shall make a monthly deposit to the Subsequent Renovations Fund in an amount equal to one-half percent (0.5%) of total Gross Receipts for the previous month. All interest and earnings on the Subsequent Renovations Fund shall be added to the Subsequent Renovations Fund, but shall not be treated as a credit against the Subsequent Renovations Fund deposits required to be made by Lessee pursuant to this Section 5.10. Disbursements shall be made from the Subsequent Renovations Fund only for costs for the design and construction of the Subsequent Renovations which have been approved by Director. Prior to the disbursement of any amounts from the Subsequent Renovations Fund, Lessee shall furnish to Director applicable invoices, evidence of payment and other back-up materials reasonably acceptable to Director concerning the use of amounts from the Subsequent Renovations Fund. Director shall have no obligation to approve the disbursement of amounts from the Subsequent Renovations Fund unless and until Director has approved Lessee's Subsequent Renovation Plan for such Subsequent Renovation and Lessee has furnished to Director evidence reasonably satisfactory to Director that Lessee has sufficient financial resources to pay for all costs of such Subsequent Renovation.

5.11 Capital Improvement Fund. Commencing with the month during which the Completion Date occurs, and continuing during the remaining Term of the Lease, Lessee shall establish and maintain a reserve fund (the "Capital Improvement Fund") in accordance with the

provisions of this Section 5.11 for the cost of Permitted Capital Expenditures (as defined below) for the Premises. Lessee and County agree and acknowledge that the purpose of the Capital Improvement Fund shall be to provide funds for the costs of additions, replacements, renovations or significant upgrades of or to the Improvements on the Premises, including building exteriors and major building systems (such as HVAC, mechanical, electrical, plumbing, vertical transportation, security, communications, structural or roof) that significantly increase the capacity, efficiency, useful life or economy of operation of the Improvements or their major systems, after the completion of the Redevelopment Work ("Permitted Capital Expenditures"). Notwithstanding any contrary provision herein, the Capital Improvement Fund shall not be used to fund any portion of the cost of the Redevelopment Work or the Subsequent Renovations. In addition, Permitted Capital Expenditures shall not include the cost of periodic, recurring or ordinary expenditures, repairs or replacements that keep the buildings or their major systems in an ordinarily efficient operating condition, but that do not significantly add to their value or appreciably prolong their useful life. Permitted Capital Expenditures must constitute capital replacements, improvements or equipment under generally accepted accounting principles consistently applied. Permitted Capital Expenditures shall not include costs for any necessary repairs to remedy any broken or damaged Improvements, all of which costs shall be separately funded by Lessee. All specific purposes and costs for which Lessee desires to utilize amounts from the Capital Improvement Fund shall be subject to Director's approval, which approval shall not be unreasonably withheld. The Capital Improvement Fund shall be held in an account established with a reputable financial institution (including Lessee's Mortgagee) acceptable to Director into which deposits shall be made by Lessee pursuant to this Section 5.11. Lessee shall have the right to partly or fully satisfy the Capital Improvement Fund obligations of this Section 5.11 with capital improvement reserves required by Lessee's Mortgagee, as long as such capital improvement reserves are in all material respects administered in accordance, and otherwise comply, with the terms, provisions and requirements of this Section 5.11.

Commencing on the fifteenth (15th) day of the month during which the Completion Date occurs and continuing on or before the fifteenth (15th) day of each month thereafter during the remaining Term, Lessee shall make a monthly deposit to the Capital Improvement Fund in an amount equal to one and one-half percent (1.5%) of total Gross Receipts for the previous month. All interest and earnings on the Capital Improvement Fund shall be added to the Capital Improvement Fund, but shall not be treated as a credit against the Capital Improvement Fund deposits required to be made by Lessee pursuant to this Section 5.11.

Disbursements shall be made from the Capital Improvement Fund only for costs which have been approved by Director and which satisfy the requirements of this Section 5.11. For the purpose of obtaining Director's prior approval of any Capital Improvement Fund disbursements, Lessee shall submit to Director on an annual calendar year basis a capital expenditure plan for the upcoming year which details the amount and purpose of anticipated Capital Improvement Fund expenditures for which Lessee requests Director's approval, which approval shall not be unreasonably withheld. Any anticipated expenditure set forth in such capital expenditure plan which is approved by Director as an acceptable Capital Improvement Fund disbursement shall be considered pre-approved by Director (but only up to the amount of such expenditure set forth in the annual capital expenditure plan) for the duration of the upcoming year. Lessee shall have the right during the course of each year to submit to Director for Director's approval revisions to the then current capital expenditure plan in effect for such year, or individual expenditures not noted

on the previously submitted capital expenditure plan. Prior to the disbursement of any amounts from the Capital Improvement Fund, Lessee shall furnish to Director applicable invoices, evidence of payment and other back-up materials reasonably acceptable to Director concerning the use of amounts from the Capital Improvement Fund.

All amounts in the Capital Improvement Fund shall be expended for Permitted Capital Expenditures not later than seven (7) years prior to the expiration of the Term of the Lease. Thereafter, if County elects to require Lessee to remove the Improvements at the end of the Term and requires Lessee to provide security to secure its obligation to perform such removal obligations in accordance with subsection 2.4.2 of this Lease, then Lessee shall have the right to contribute the deposits thereafter required to be made by Lessee under this Section 5.11 towards Lessee's obligations to fund the security requirements in subsection 2.4.2, but only if and to the extent that there are sufficient funds made available in the Capital Improvement Fund for any needed Permitted Capital Expenditures, as determined by Director in Director's reasonable discretion

6. CONDEMNATION.

6.1 Definitions.

6.1.1 Condemnation. "Condemnation" means (1) the exercise by any governmental entity of the power of eminent domain, whether by legal proceedings or otherwise, and (2) a voluntary sale or transfer to any Condemnor (as hereafter defined), either under threat of Condemnation or while legal proceedings for Condemnation are pending.

6.1.2 Date of Taking. "Date of Taking" means the date the Condemnor has the right to possession of the Premises being condemned.

6.1.3 Award. "Award" means all compensation, sums or anything of value awarded, paid or received from a total or partial Condemnation.

6.1.4 Condemnor. "Condemnor" means any public or quasi-public authority, or private corporation or individual, having the power of eminent domain.

6.2 Parties' Rights and Obligations to be Governed by Lease. If, during the Term of this Lease, there is any taking of all or any part of the Premises, any Improvements on the Premises or any interest in this Lease by Condemnation, the rights and obligations of the parties shall be determined pursuant to the provisions of this Article 6.

6.3 Total Taking. If the Premises are totally taken by Condemnation, this Lease shall terminate on the Date of Taking.

6.4 Effect of Partial Taking. If a portion of the Premises or the Improvements thereon are taken by Condemnation, this Lease shall remain in effect, except that Lessee may elect to terminate this Lease if the remaining portion of the Premises are rendered unsuitable (as defined herein) for Lessee's continued use for the purposes contemplated by this Lease. The remaining portion of the Premises shall be deemed unsuitable for Lessee's continued use if, following a

reasonable amount of reconstruction (to the extent that funds therefor are available from the anticipated Award), Lessee's business on the Premises could not be operated at an economically feasible level. Lessee must exercise its right to terminate by giving County written notice of its election within ninety (90) days after the nature and extent of the taking and the probable amount of compensation have been determined. Such notice shall also specify the date of termination, which shall not be prior to the Date of Taking. Failure to properly exercise the election provided for in this Section 6.4 will result in this Lease's continuing in full force and effect, except that Annual Minimum Rent shall be abated pursuant to Section 6.5, below.

In the event that Lessee does not elect to terminate this Lease as provided above, then Lessee, whether or not the Awards or payments, if any, on account of such taking shall be sufficient for the purpose, shall, at its sole cost and expense, within a reasonable period of time, commence and complete restoration of the remainder of the Premises as nearly as possible to its value, condition and character immediately prior to such taking, taking into account, however, any necessary reduction in size or other change resulting from the taking; provided, however, that in case of a taking for temporary use, Lessee shall not be required to effect restoration until such taking is terminated.

6.5 Effect of Partial Taking on Rent. If any portion of the Premises is taken by Condemnation and this Lease remains in full force and effect as to the portion of the Premises not so taken (a "Partial Taking"), the Annual Minimum Rent shall be reduced as of the date of the Partial Taking to an amount equal to the Annual Minimum Rent multiplied by the ratio of the fair market value of the portion of the Premises not so taken to the fair market value of the entire Premises immediately prior to the Partial Taking, but without regard to any diminution in value resulting from the imminent taking. Upon the next Adjustment Date, as described in subsection 4.2.3 above, if any, for the purposes of adjusting the Annual Minimum Rent, all Annual Minimum Rent and Percentage Rent paid by Lessee to County prior to the date of the Partial Taking shall be adjusted, for the purposes of this calculation only, to the proportion that the fair market value of the portion of the Premises which remains after the taking bears to the fair market value of the entire Premises immediately prior to the taking. If the parties cannot agree upon the appropriate Annual Minimum Rent, the matter shall be settled through arbitration in the manner set forth in Article 16 hereof. Any determinations of fair market value made pursuant to this Section 6.5 in connection with any arbitration proceeding shall be predicated upon the "income approach" or "income capitalization approach" to property valuation, as defined in The Dictionary of Real Estate Appraisal and/or The Appraisal of Real Estate, published by the Appraisal Institute or any successor organization (the "Income Approach"). All other obligations of Lessee under this Lease, including but not limited to the obligation to pay Percentage Rent, shall remain in full force and effect.

6.6 Waiver of Code of Civil Procedure Section 1265.130. Each party waives the provisions of Code of Civil Procedure Section 1265.130 allowing either party to petition the Superior Court to terminate this Lease in the event of a Partial Taking of the Premises.

6.7 Payment of Award. Awards and other payments on account of a taking, less costs, fees and expenses incurred in the collection thereof ("Net Awards and Payments"), shall be applied as follows:

6.7.1 Partial Taking Without Termination. Net Awards and Payments received on account of a Taking other than a total Taking or a Partial Taking which results in termination hereof or a taking for temporary use shall be held by County and shall be paid out to Lessee or Lessee's designee(s), in progress payments, to pay the cost of restoration of the Premises. The balance, if any, shall be divided between County and Lessee pro rata, as nearly as practicable, based upon (1) the then value of County's interest in the Premises (including its interest hereunder) and (2) the then value of Lessee's interest in the remainder of the Term of this Lease including bonus value (for such purposes, the Term of this Lease shall not be deemed to have terminated even if Lessee so elects under Section 6.4). Any determinations of fair market value made pursuant to this Section 6.5 shall be predicated upon the Income Approach.

In case of a taking other than a total taking or a taking for temporary use, Lessee shall furnish to County evidence satisfactory to County of the total cost of the restoration required by Section 6.4.

6.7.2 Taking For Temporary Use. Net Awards and Payments received on account of a taking for temporary use shall be paid to Lessee; provided, however, that if any portion of any such award or payment is paid by the Condemnor by reason of any damage to or destruction of the Improvements, such portion shall be held and applied as provided in the first sentence of Section 6.7.1, above.

6.7.3 Total Taking and Partial Taking with Termination. Net Awards and Payments received on account of a total taking or a Partial Taking which results in the termination of this Lease shall be allocated in the following order:

First: There shall be paid to County an amount equal to the greater of (a) the sum of (1) the present value of all Annual Minimum Rent, Percentage Rent and other sums which would become due through the expiration of the Term if it were not for the taking less, in the event of a Partial Taking, an amount equal to the present value of the fair rental value of the portion of the Premises (with the Improvements thereon) not subject to the Partial Taking, from the date of the Partial Taking through the expiration of the Term and (2) the present value of the portion of the Premises (with the Improvements thereon) subject to the taking from and after the expiration of the Term or (b) in the event of a Partial Taking, the present value of the fair market rental value of the portion of the Premises (with the Improvements thereon) subject to the Partial Taking, from and after the expiration of the Term.

Second: There shall be paid to any Encumbrance Holder an amount equal to the sum of any unpaid principal amount of any Encumbrance secured by the Premises plus costs, expenses, and other sums due pursuant the loan documents, if any, and any interest accrued thereon, all as of the date on which such payment is made; and then

Third: There shall be paid to Lessee an amount equal to the value of Lessee's interest in the remainder of the Term of this Lease, including the value of the ownership interest in and use of the Improvements constructed on the Premises,

determined as of the date of such taking, less payments made under paragraph Second above. For such purposes, the Term of this Lease shall not be deemed to have terminated even if Lessee so elects under Section 6.4.

Fourth: The balance shall be paid to County.

6.7.4 Disputes. Any dispute under Article 6 concerning the fair market value of the Premises or any portion thereof, computation of present value or the determination of the amount of Annual Minimum Rent or Percentage Rent or other sums which would have become due over the Term of this Lease which are not resolved by the parties, shall be submitted to arbitration pursuant to Article 16 of this Lease. Such valuations, computations and determinations of value shall be made utilizing the Income Approach.

7. SECURITY DEPOSIT.

7.1 Amount and Use. Lessee shall deliver to and maintain with County a security deposit (the "Security Deposit") in an amount equal to the sum of three (3) times the Monthly Minimum Rent in effect from time to time during the Term (i.e., adjusted to reflect any change in the Monthly Minimum Rent during the Term of this Lease). The Security Deposit shall secure Lessee's obligations pursuant to this Lease, and may be drawn on by County, in whole or in part, to cover (a) delinquent rent not paid by Lessee within any applicable notice and cure period, and (b) any other Events of Default of Lessee under this Lease. The Security Deposit shall be applied at the discretion of County. Lessee shall have the right to maintain the Security Deposit in form of cash or in the form of a certificate of deposit, letter of credit or other approved investment instrument acceptable to County with respect to form, content and issuer. As long as no Event of Default by Lessee exists under the Lease, Lessee shall be entitled to any interest or other earnings which are actually earned on any unapplied portions of the Security Deposit delivered to County in the form of a certificate of deposit or other approved investment instrument (as opposed to cash, on which Lessee shall not be entitled to interest). Provided that no Event of Default then exists under the Lease, at the end of each Lease Year Lessee shall be entitled to a credit for all unexpended interest accruing to Lessee's benefit with respect to the Security Deposit during such Lease Year pursuant to the immediately preceding sentence. Notwithstanding any contrary provision hereof, County shall have the right at any time to apply any accrued but uncredited interest (which accrued during non-Event of Default periods) against delinquent rents and other amounts owed by Lessee under the Lease.

7.2 Replacement. In the event that some or all of the Security Deposit is drawn against by County and applied against any delinquent rent not paid by Lessee within any applicable notice or cure period, or against other Events of Default of Lessee hereunder, Lessee shall, within five (5) days after receipt of written notice of the amount so applied and the reasons for such application, deposit sufficient additional funds with County, or cause the issuer of any letter of credit to reinstate the letter of credit to its full face amount, so that at all times that this Lease is in effect (other than between the date of the application of funds by County and the expiration of said five (5) day period), the full amount of the Security Deposit shall be available to County. Failure to maintain and replenish the Security Deposit, if not cured within the time period set forth in subsection 13.1.3, shall constitute an Event of Default hereunder.

7.3 Renewal. Any letter of credit procured by Lessee and delivered to County shall provide for notice to County by the issuer thereof no less than sixty (60) days prior to the expiration of the term of such letter of credit in the event that the issuer thereof is not irrevocably committed to renew the term of such letter of credit. In the event that, thirty (30) days prior to the expiration of such letter of credit, Lessee has not provided County with satisfactory evidence of its renewal or replacement, or has not provided County with adequate replacement security, County may draw down upon the letter of credit and hold the funds as security for Lessee's obligations as set forth in this Lease and may apply the funds to cover delinquent rent not paid by Lessee within any applicable notice and cure period and/or any other Event of Default of Lessee under this Lease.

8. INDEMNITY.

Except to the extent caused by the gross negligence or willful misconduct of any such indemnitee, Lessee shall at all times relieve, defend, indemnify, protect, and save harmless County and its respective Boards, officers, agents, consultants, counsel, employees and volunteers from any and all claims, costs, losses, expenses or liability, including expenses and reasonable attorneys' fees incurred in defending against the same by an attorney selected by Lessee and reasonably satisfactory to County, for the death of or injury to persons or damage to property, including property owned or controlled by or in the possession of County or any of its Board, officers, agents, employees or volunteers, to the extent that such arises from or is caused by (a) the operation, maintenance, use, or occupation of the Premises by Lessee or its agents, officers, employees, licensees, concessionaires, permittees or Sublessees, (b) the acts, omissions, or negligence of Lessee, its agents, officers, employees, licensees, concessionaires, permittees or Sublessees, or (c) the failure of Lessee, its agents, officers, employees, licensees, concessionaires, permittees or Sublessees to observe and abide by any of the terms or conditions of this Lease or any applicable law, ordinance, rule, or regulation. The obligation of Lessee to so relieve, indemnify, protect, and save harmless County and each of its respective Boards, officers, agents, consultants, counsel, employees and volunteers, shall continue during any periods of occupancy or of holding over by Lessee, its agents, officers, employees, licensees, concessionaires, permittees or Sublessees, beyond the expiration of the Term or other termination of this Lease.

9. INSURANCE.

Lessee shall maintain at all times during the Term of this Lease policies of liability, worker's compensation and property insurance from companies authorized to transact business in the State of California by the Insurance Commissioner thereof.

9.1 Property Insurance. The policy of property insurance shall provide fire insurance with extended coverage, insuring against loss or damage by fire, lightning and the additional perils included in the standard extended coverage endorsement, as well as those included in the "all risk" policy, and burglary and theft insurance, on the structures, Improvements, inventory, trade fixtures, furnishings and equipment used or to be used by Lessee on the Premises. Such insurance shall be in an amount sufficiently adequate to enable the resumption of the leasehold operations by Lessee following the occurrence of any of the risks covered by said insurance. The policy shall provide standard fire and extended coverage insurance, and shall cover

vandalism, malicious mischief, and those risks ordinarily defined in "All-Risk coverage." The policy shall also contain "business interruption", "rental interruption" and/or continuous operation coverage payable to County equal to one (1) year's Annual Minimum Rent. During periods of substantial construction on the Premises, Lessee or Lessee's contractor will provide completed value builder's risk insurance reasonably satisfactory to County, together with (i) broad form liability and breach of warranty coverages by endorsement; and (ii) non owned, non hired automotive liability coverage with a policy limit of Two Million and 00/100 Dollars ($2,000,000). Such insurance shall be in an amount equal to one hundred percent (100%) of the full replacement value of said buildings, structures, equipment, and Improvements, with a deductible not greater than five percent (5%) of such replacement value) (as such replacement value is determined by such insurance company and approved by County's risk manager), and shall be placed and maintained with such insurance company or companies and in such form as shall be reasonably satisfactory to County.

9.2 Form of Policy. All such insurance policies, along with their endorsements, shall name the Major Sublessee, if any, County and its respective Board of Supervisors and members thereof, and County's officers, agents, employees and volunteers, as additional insureds and any Encumbrance Holder as loss payee. Upon the occurrence of any loss, the proceeds of such insurance shall be held by County in trust for the named insureds as their interests appear, and shall be disbursed by County on a monthly basis to pay for work completed in accordance with then-prevailing industry custom and practice. In the event of such loss Lessee shall be obligated to rebuild or replace the destroyed or damaged buildings, structures, equipment, and Improvements, in accordance with the procedures set forth hereinabove for the initial construction, except as otherwise provided in Article 11 hereof. Any surplus or proceeds after said rebuilding or replacement shall be distributed to Lessee.

Subject to the immediately following grammatical paragraph, a duplicate policy or policies evidencing such insurance coverage, in such form as shall be reasonably acceptable to County, shall be filed with Director no later than five (5) business days after the Effective Date, and such policy or policies shall provide that such insurance coverage will not be canceled or reduced without at least thirty (30) days prior written notice to Director or ten (10) business days in case of cancellation for failure to pay the premium. At least ten (10) business prior to the expiration of such policy, a certificate showing that such insurance coverage has been renewed shall be obtained by Lessee and filed with Director.

In lieu of submitting a copy of the policy or policies evidencing the above insurance, Lessee may submit in a form reasonably acceptable to County a certificate of insurance.

Any such policy may be issued in the form of a blanket policy insuring other properties, in form, amount and content reasonably satisfactory to County, taking into account any additional protection that County reasonably deems prudent to provide for losses related to such other properties.

9.3 Liability Insurance. Lessee shall maintain in full force and effect during the Term of this Lease, commercial general liability insurance together with premises operations, products, completed operations, advertising, independent contractor and contractual liability coverages,

including liquor liability. Such insurance shall consist of (i) primary coverage with a combined single limit of not less than Five Million Dollars ($5,000,000) per occurrence, Five Million Dollars ($5,000,000), annual aggregate, and (ii) umbrella coverage with a limit of not less than Fifteen Million Dollars ($15,000,000). Lessee agrees that County and its respective Board of Supervisors and members thereof, and County's officers, agents, employees and volunteers, shall be named as additional insureds under such liability insurance policy or policies.

Subject to Lessee's option to provide a certificate of insurance as set forth below, a duplicate policy or policies evidencing such insurance coverage shall be obtained by Lessee and filed with Director no later than five (5) business days after the Effective Date, and said policy shall provide that such insurance coverage shall not be canceled or reduced without at least thirty (30) days prior written notice to Director or ten (10) business days in case of cancellation for failure to pay the premium. At least thirty (30) days prior to the expiration of any such policy, a policy showing that such insurance coverage has been renewed or extended shall be filed with Director.

The amounts of liability insurance required by this Section shall be subject to renegotiation as of each fifth (5th) anniversary of the Effective Date (each, an "Insurance Renegotiation Date"). If County and Lessee cannot agree upon the amount of insurance by the sixtieth (60th) day preceding an Insurance Renegotiation Date, the matter shall be resolved by binding arbitration in accordance with Article 16. In no event shall the amounts of liability insurance be decreased as a result of such renegotiation or arbitration. Following such renegotiation or arbitration, the parties shall execute an amendment to this Lease setting forth the renegotiated insurance provisions or the arbitration judgment, as appropriate.

In lieu of submitting a copy of the policy or policies evidencing the above insurance, Lessee may submit in a form reasonably acceptable to County a certificate of insurance.

Any such policy may be issued in the form of a blanket policy insuring other properties, in form, amount and content reasonably satisfactory to County, taking into account any additional protection that County reasonably deems prudent to provide for losses related to such other properties.

9.4 Worker's Compensation Insurance. Lessee shall maintain in force during the Term of this Lease, in an amount and with coverage in compliance with applicable California law or, if no such law exists, then reasonably satisfactory to Director, Worker's Compensation Insurance.

9.5 Required Provisions. Lessee's insurance policies required by this Article 9 shall be for a term of not less than one year and shall additionally provide:

(a) that the full amount of any losses to the extent insurance proceeds are available shall be payable to additional insureds notwithstanding any act, omission or negligence of Lessee which might otherwise result in forfeiture of such insurance;

(b) in any property insurance policy, a waiver of all right of subrogation against County and its respective Board of Supervisors and members thereof, and

County's officers, agents, employees and volunteers with respect to losses payable under such policies;

(c) in any property insurance policy, that such policies shall not be invalidated should the insured waive, prior to a loss, any or all right of recovery against any party for losses covered by such policies;

(d) that the policies shall provide coverage on a "primary basis" with respect to the additional insureds, regardless of any other insurance or self-insurance that such additional insureds may elect to purchase or maintain;

(e) that losses, if any, shall be adjusted with and payable to Lessee, County and Encumbrance Holders, if any, pursuant to a standard mortgagee clause;

(f) that such policies shall not be suspended, voided, canceled, reduced in coverage or in limits or materially changed without at least thirty (30) days prior written notice to County and all Encumbrance Holders or ten (10) business days in case of cancellation for failure to pay the premium;

(g) that the insurance shall apply separately to each insured against whom a claim is made, except with respect to the overall limits of said insurer's liability; and,

(h) that such policies shall contain no special limitations on the scope of protection afforded to the additional insureds, and no failure to comply with the reporting provisions of such policies shall affect the coverage afforded to such additional insureds.

9.6 Failure to Procure Insurance. Failure of Lessee to procure or renew the herein required insurance shall, if not cured within ten (10) days after written notice from County, constitute a default hereunder. In the event of such failure, in addition to the other rights and remedies provided hereunder, County may, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith and all monies so paid by County shall be repaid by Lessee, with interest thereon at the Applicable Rate, to County upon demand.

10. MAINTENANCE AND REPAIR; DAMAGE AND DESTRUCTION.

10.1 Lessee's Maintenance and Repair Obligations. Lessee shall maintain the Premises, including paved or unpaved ground surfaces and Improvements thereon, in conformance with such reasonable rules and regulations regarding the use and occupancy of commercial projects in Marina del Rey (such as the Premises) as may be promulgated by County from time to time for general applicability on a non-discriminatory basis, as revised from time to time. Without limiting the foregoing, at Lessee's sole cost and expense, but subject to the terms and conditions of this Lease, Lessee shall keep and maintain the Premises and all equipment, Improvements or physical structures of any kind which may exist or be erected, installed or made on the Premises in good and substantial repair and condition, including without limitation capital improvements and structural and roof repairs and replacement, and shall make all necessary repairs and alterations and replacements thereto, except as otherwise provided in this Article 10. Lessee shall undertake such repairs, alterations or replacements in compliance with Applicable Laws, or as reasonably required in writing by Director to Lessee incident to the provisions of this

Article 10. Lessee shall maintain all Improvements on the Premises in a safe, clean, wholesome and sanitary condition, to the reasonable satisfaction of Director and in compliance with all Applicable Laws. Lessee shall, at its own cost and expense, install, maintain and replace landscaping between the streets abutting the Premises and the building footprints on the Premises as is reasonably necessary to create a pleasing development to the reasonable satisfaction of Director. Lessee specifically agrees to provide proper containers for trash and garbage which are screened from public view, to keep the Premises free and clear of rubbish and litter. County in its proprietary capacity shall have the right to enter upon and inspect the Premises at any reasonable time for cleanliness, safety and compliance with this Section 10.1, as long as such entrance is not done in a manner which would unreasonably interfere with the operation of the Premises. Lessee's obligation to maintain and restore is absolute, and is not in any way dependent upon the existence or availability of insurance proceeds, except as otherwise provided in this Article 10. Restoration shall take place in accordance with the provisions of Article 5.

10.2 Maintenance Deficiencies. If County provides written notice to Lessee of a deficiency or other breach in the performance by Lessee of the maintenance and repair obligations of Lessee under Section 10.1 above, then Lessee shall promptly commence the cure thereof and shall complete such cure within the time period for such cure set forth in the County's deficiency notice, which cure period shall not be less than thirty (30) days except if the deficiency pertains to a condition that is a threat to health or safety or otherwise constitutes an emergency situation, in which case County shall have the right to immediately require Lessee to take all appropriate steps to avoid damage or injury. If Lessee fails to cure any such deficiency within the cure period set forth in County's deficiency notice (which cure period shall comply with the requirements of the immediately preceding sentence of this Section 10.2), then in addition to, and not in lieu of, any rights or remedies that County may have under Article 13 of this Lease for defaults not cured within the applicable notice and cure periods set forth therein, Lessee shall pay to County an amount equal to One Hundred Dollars ($100) per day per item of deficiency for each day after such cure period that the deficiency item remains uncured; provided, however, if the nature of the deficiency is such that it is not capable of cure within the cure period specified in County's notice (for example, as a result of permitting requirements or construction material procurement delays beyond the control of Lessee), then as long as during the specified cure period Lessee commences the cure of the deficiency and thereafter continues the prosecution of the completion of such cure in a manner and with such diligence that will effectuate the cure in as short a period as reasonably possible, then the cure period specified in County's deficiency notice shall be extended for such additional time as necessary to complete the cure in as short a period as reasonably possible. For purposes of determining the number of items of deficiency set forth in a deficiency notice received from the County, County shall reasonably identify the separate deficiencies so as not to unfairly increase the daily amount payable under this Section 10.2 by separating the work into unreasonably particularized items (e.g., the requirement to paint the exterior of a building shall not be split into individual deficiency items for the painting of each individual door, window or other component of such building). If a cited deficiency is not health or safety related and does not otherwise constitute an emergency, and if in the reasonable and good faith business judgment of Lessee the deficiency notice was erroneously issued by County, then Lessee shall have the right to contest such deficiency notice by written notice to Director within five (5) business days after the date the deficiency notice is received by Lessee. If Lessee files any such contest with Director, then Director shall have the right, in the exercise of Director's discretion, to consider such contest. If

Lessee's contest is made on a reasonable and good faith basis, then the cure period for the deficiency notice shall be tolled during the period between the date Director receives written notice of such contest and continuing until Director notifies Lessee in writing that either Director denies Lessee's contest or that Director has determined not to consider such contest. The One Hundred Dollars ($100) per diem amount set forth in this Section 10.2 shall be adjusted every three (3) years during the remaining Lease Term on each third (3rd) anniversary of the Effective Date to reflect any change in the Consumer Price Index over the three (3) year period immediately preceding each such adjustment. If Lessee fails to pay any amounts payable by Lessee under this Section 10.2 within ten (10) days after written notice from County, then County shall have the right to draw on the Security Deposit to cover such unpaid amounts.

10.3 Option to Terminate for Uninsured Casualty. Lessee shall have the option to terminate this Lease and be relieved of the obligation to restore the Improvements on the Premises where all or substantially all of the Improvements on Premises are substantially damaged or destroyed and such damage or destruction resulted from a cause not required to be insured against by this Lease (an "Uninsured Loss"), and where all of the following occur:

10.3.1 No more than one hundred (100) days following the Uninsured Loss, Lessee shall notify County of its election to terminate this Lease; to be effective, this notice must include both a copy of Lessee's notification to the Encumbrance Holder, if any, of Lessee's intention to exercise this option to terminate and Lessee's certification under penalty of perjury that Lessee has delivered or mailed such notification to the Encumbrance Holder in accordance with this subsection 10.2.1. County shall be entitled to rely upon the foregoing notice and certification as conclusive evidence that Lessee has notified the Encumbrance Holder regarding Lessee's desire to terminate this Lease.

10.3.2 No more than sixty (60) days following the giving of the notice required by subsection 10.2.1 or such longer time as may be reasonable under the circumstances, Lessee shall, at Lessee's expense: remove all debris and other rubble from the Premises; secure the Premises against trespassers; and, at County's election, remove all remaining Improvements on the Premises.

10.3.3 No more than sixty (60) days following the giving of the notice required under subsection 10.2.1, Lessee delivers to County a quitclaim deed to the Premises in recordable form, in form and content satisfactory to County and/or with such other documentation as may be reasonably requested by County or any title company on behalf of County, terminating Lessee's interest in the Premises and reconveying such interest to County free and clear of any and all Encumbrances and Subleases.

10.3.4 Within ten (10) days following the County's receipt of the notice referred to in subsection 10.2.1, County has not received both written notice from the Encumbrance Holder, if any, objecting to such termination and an agreement containing an effective assignment of Lessee's interest in this Lease to such Encumbrance Holder whereby such Encumbrance Holder expressly assumes and agrees to be bound by and perform all of Lessee's obligations under this Lease.

10.4 No Option to Terminate for Insured Casualty. Lessee shall have no option to terminate this Lease or otherwise be relieved of its obligation to restore the Improvements on the Premises where the damage or destruction results from a cause required to be insured against by this Lease.

10.5 No County Obligation to Make Repairs. County shall have no obligation whatsoever to make any repairs or perform any maintenance on the Premises.

10.6 Repairs Not Performed by Lessee. If Lessee fails to make any repairs or replacements as required, Director may notify Lessee of said failure in writing, and should Lessee fail to cure said failure and make repairs or replacements within a reasonable time as established by Director, County may make such repairs or replacements and the cost thereof, including, but not limited to, the cost of labor, overhead, materials and equipment, shall be charged against Lessee as provided in Section 13.5.

10.7 Other Repairs. Although having no obligation to do so, County may, at its own cost and at its sole discretion, perform or permit others to perform any necessary dredging, filling, grading or repair of water systems, sewer facilities, roads, or other County facilities on or about the Premises.

10.8 Notice of Damage. Lessee shall give prompt notice to County of any fire or damage affecting the Premises from any cause whatsoever.

10.9 Waiver of Civil Code Sections. The parties' rights shall be governed by this Lease in the event of damage or destruction. The parties hereby waive the provisions of California Civil Code Section 1932 and any other provisions of law which provide for contrary or additional rights.

11. ASSIGNMENT AND SUBLEASE.

11.1 Subleases.

11.1.1 Definition. The term "Sublease" shall mean any lease, license, permit, concession or other interest in the Premises (including, without limitation, the Improvements), or a right to use the Premises or a portion thereof, which is conveyed or granted by Lessee to a third party, and which constitutes less than the unrestricted conveyance of the entire Lessee's interest under this Lease. "Sublessee" shall be the person or entity to whom such right to use is conveyed by a Sublease. A Sublease which grants or conveys to the Sublessee the right to possess or use all or substantially all of the Premises is referred to in this Lease as a "Major Sublease" and the Sublessee under such agreement is referred to in this Lease as a "Major Sublessee".

11.1.2 Approval Required. At least thirty (30) days prior to the proposed effective date of any Sublease that is not a Major Sublease, or of any amendment or assignment of such Sublease, Lessee shall submit a copy of such Sublease, amendment or assignment to Director for approval, which approval shall be given or withheld at Director's sole and absolute discretion. To the extent practical, Director shall approve or disapprove said proposed Sublease, amendment or assignment within thirty (30) days

after receipt thereof. In no event, however, shall any such Sublease, amendment or assignment be made or become effective without the prior approval of Director. Each such Sublease shall specifically provide that the Sublessee shall comply with all of the terms, covenants, and conditions of this Lease applicable to the portion of the Premises subject to the Sublease. If Director disapproves a Sublease, Director shall notify Lessee in writing of the reason or reasons for such disapproval.

11.1.3 Major Sublease. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable commercial facilities such as exist on the Premises. In light of the inherent detailed nature of a Major Sublease, Lessee shall deliver to County a copy of any proposed Major Sublease, or any sub-sublease or any other document pursuant to which an interest is proposed to be transferred in all or substantially all of the Premises, not less than sixty (60) days prior to the proposed effective date of such proposed Major Sublease or other document, for County's review and approval pursuant to the procedures and requirements specified in Section 11.2.

11.2 Approval of Assignments and Major Subleases. Except as specifically hereinbefore provided in this Article 11, Lessee shall not, without the prior written consent of County, which shall be based upon factors described in Exhibit C hereto, which is incorporated herein by this reference ("Assignment Standards"), either directly or indirectly give, assign, hypothecate, encumber, transfer, or grant control of this Lease or any interest, right, or privilege therein (including without limitation the right to manage or otherwise operate the Improvements located from time to time on the Premises), or enter into a Major Sublease affecting the Premises, or license the use of all or substantially all of the Premises. Any Change of Ownership shall constitute an assignment of Lessee's interest under this Lease. In addition, for purposes of this provision, the following shall require the prior written consent of County to be effective: (1) the addition, removal or replacement of one or more general partners or managing members in a Lessee which is a limited partnership or limited liability entity, except (a) by death, insolvency, incapacity, resignation (except for a sole general partner, if any) or removal of a general partner or managing member and his replacement by a vote of the limited partners, the remaining general partners or remaining members, or (b) if any general partner or managing member owning more than fifty percent (50%) of the interests of the partnership or limited liability entity acquires the interest of another general partner or managing member owning fifteen percent (15%) or less of the interests in the partnership or limited liability entity; (2) the sale, assignment, or transfer of fifty-percent (50%) or more of the stock in a corporation which owns or is a general partner or managing member of a partnership or limited liability entity owning an interest in this Lease. Lessee shall provide County with any information reasonably requested by County in order to determine whether or not to grant approval of the assignment as provided herein. These same limitations and approval requirements shall apply with respect to the Sublessee's interest under a Major Sublease.

11.2.1 County's Use of Discretion and Limitation on Permissible Assignees. In exercising its discretion to approve assignments as provided in this Section 11.2, County shall take into account the Assignment Standards and, if County determines that such Assignment Standards are satisfied, County shall not unreasonably withhold or delay its consent to any proposed assignment. If County withholds its consent to an

assignment, County shall notify Lessee in writing of the reason or reasons for such disapproval.

11.2.2 Involuntary Transfers Prohibited. Except as otherwise specifically provided in this Lease, neither this Lease nor any interest therein shall be assignable or transferable in proceedings in attachment, garnishment, or execution against Lessee, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Lessee, or by any process of law including proceedings under the Bankruptcy Act.

11.2.3 Procedure. Requests for approval of any proposed assignment shall be processed in accordance with the following procedures:

11.2.3.1 Prior to entering into any agreement requiring the approval of County pursuant to this Sections 11.1 or 11.2, Lessee (or the entity seeking approval of such assignment) shall notify County and deliver to County all information relevant to the proposed assignment, including without limitation any term sheets, letters of intent, draft Major Subleases, any other documents which set forth any proposed agreement regarding the Premises and the information set forth in subsection 11.2.3.5. County will evaluate the information provided to it and County may request additional information as may be reasonably necessary to act on the request. Under no circumstances will County formally discuss an assignment with any proposed assignee prior to reviewing the proposal with Lessee.

11.2.3.2 In completing its review of the proposal and granting or withholding its consent thereto, County will not be bound by any deadline contained in any proposed assignments, Major Subleases, escrow instructions or other agreements to which County is not a party.

11.2.3.3 Lessee acknowledges that the time needed for County to review a proposed assignment depends on many factors, including without limitation the complexity of the proposed transaction, the financial and other information submitted for review, and the workload of County's personnel. Notwithstanding the foregoing, County shall act as promptly as governmental processes permit in processing and acting upon a requested approval of an assignment of Lessee's interest under this Article 11.

11.2.3.4 Lessee shall be required to reimburse County for reasonable costs of legal, financial and/or other analyses, as well as County's Actual Costs incurred in connection with the proposed assignment, whether or not County ultimately grants its approval to the proposed assignment. However, in the event that County approves the proposed assignment, Lessee shall receive a credit toward those costs to the extent that an Administrative Charge is paid in connection with the assignment.

11.2.3.5 Lessee or the proposed assignee shall provide County with sufficient information for County to determine if the public interest will be served by

approving the proposed transaction. The information that must be provided includes, but shall not be limited to, the following:

(a) Nature of the Assignee. Full disclosure is required in accordance with this Lease and County's applicant disclosure policy then in effect. Additionally, a flowchart identifying the chain of ownership of the assignee and its decision-making authority shall be provided to County. County shall be advised if the proposed assignee, or any other person or entity for whom disclosure is required pursuant to County's disclosure policy, has had any leasehold or concessionaire's interest canceled or terminated by the landlord due to the tenant or Lessee's breach or default thereunder;

(b) Financial Condition of Assignee. County shall be provided with current, certified financial statements, including balance sheets and profit and loss statements, demonstrating the proposed assignee's financial condition for the preceding five (5) years, or such shorter period that assignee has been in existence. This requirement shall also apply to any related person or entity which will be responsible for or guarantee the obligations of the proposed assignee or provide any funds or credit to such proposed assignee.

(c) Financial Analysis. County shall be provided with the proposed assignee's financing plan for the operation of the Premises and for any contemplated improvement thereof, demonstrating such proposed assignee's financial capability to so operate the Premises and construct such improvements. Such financing plan shall include, but not be limited to, information detailing (1) equity capital; (2) sources and uses of funds; (3) terms of financing; (4) debt service coverage and ratio; and (5) loan to value ratio. The proposed assignee shall also provide County with documentation demonstrating such proposed assignee's financial viability, such as letters of commitment from financial institutions which demonstrate the availability of sufficient funds to complete any proposed construction or improvements on the Premises. Further, such proposed assignee shall authorize the release of financial information to County from financial institutions relating to the proposed assignee or other information supplied in support of the proposed assignment.

(d) Business Plan. County shall be provided with the proposed assignee's business plan for the Premises, if applicable, including pro forma financial projections for the Premises for the five (5) year period beginning upon the commencement of the proposed assignment. Such pro forma projections will include capital costs, income and expenses, as well as debt service and all other payments to providers of debt and equity, and will be accompanied by a statement of basic assumptions and an identification of the sources of the data used in the production of such projections.

(e) Assignor's Financial Statements. County shall be provided with certified financial statements, including balance sheets and profits and loss statements concerning the assignor Lessee and its operations for the three (3) most recent years prior to the proposed transaction.

(f) Cure of Defaults. County shall be provided with the proposed assignee's specific plans to cure any and all delinquencies under this Lease which may be identified by County, whether identified before or after the date of the proposed assignment.

(g) Prospectus Materials. County shall be provided with any materials distributed to third parties relating to the business of the proposed assignee to be conducted on, from or relating to the Premises.

(h) Other Information. County shall be provided with a clear description of the terms and conditions of the proposed assignment, including a description of the proposed use of the Premises and any proposed alterations or improvements to the Premises. Additionally, County shall be provided with any and all other information which it reasonably requests of Lessee in connection with its review of the proposed transaction, including without limitation materials pertinent to the issues noted in this subsection to the extent that they exist, such as escrow instructions, security agreements, personal property schedules, appraisals, market reports, lien releases, UCC Statements, preliminary title reports, management agreements affecting the Premises, contracts in excess of $25,000 affecting the Premises, schedules of pending or threatened litigation, and attorneys' closing opinions relating to Lessee, the proposed assignee or the Premises. County shall endeavor to keep the foregoing materials confidential, subject to the Public Records Act and other Applicable Laws.

11.2.3.6 Nondisturbance. At the request of Lessee, County shall agree to execute a subordination, nondisturbance and attornment agreement on commercially reasonable terms in favor of any Major Sublessee.

11.2.3.7 Final Documents. Prior to granting its approval over any proposed assignment, County shall be provided with an executed Assignment and Acceptance of Assignment in form and content as approved or supplied by the County. Ten (10) copies of each must be submitted to County, of which five (5) shall be signed originals and properly acknowledged.

11.2.4 County Right to Recapture. If Lessee proposes to assign its interest in this Lease or the Premises, proposes to enter into any Major Sublease affecting the Premises or proposes to transfer a Controlling Interest in the leasehold (with any such proposed transaction herein referred to as a "Proposed Transfer"), it shall provide County with written notice of such desire, which notice shall include the sale price ("Lessee Sale Price") at which it is willing to consummate the Proposed Transfer. For purposes hereof, a "Controlling Interest" in the leasehold shall mean seventy five percent (75%) or more of the direct or indirect beneficial ownership of the capital and profits interests in Lessee. Within thirty (30) days after receipt of Lessee's notice of a Proposed Transfer, County shall provide Lessee with written notification as to whether it has elected to acquire an option to purchase the interest subject to the Proposed Transfer. During said thirty (30) day period, Lessee may continue to market the interest subject to the Proposed Transfer, provided that such interest is offered subject to County's rights as provided herein. In the event that, prior to the expiration of said thirty (30) day period, County has given notice to Lessee that it has elected to acquire said option, County shall have an assignable option

to purchase the interest subject to the Proposed Transfer ("County Option") at the Lessee Sale Price. Such County Option shall have a term of five (5) calendar months from the date of County's notice of its election to acquire such option. During the term of the County Option, Lessee shall make the Premises and its books and records reasonably available for inspection by County and third parties as reasonably requested by County. In the event that County causes Lessee to issue the County Option and subsequently declines to purchase the interest subject to the Proposed Transfer at the Lessee Sale Price, County shall pay to Lessee at the expiration of the County Option period (or, at County's election, credit to Lessee against the next applicable installment(s) of Annual Minimum Rent and Percentage Rent), a sum (the "County Option Price") which represents (i) three percent (3%) of the Lessee Sale Price, plus (ii) seven percent (7%) interest per annum on said three percent (3%) of the Lessee Sale Price, from the date Lessee received notice of County's election to receive the County Option through the date on which the County Option Price, together with interest thereon, is paid or credited in full. If County either (a) fails to elect to acquire the County Option within said thirty (30) day period, or (b) gives notice that it has elected not to acquire the interest subject to the Proposed Transfer, then during the ensuing nine (9) month period after the date (the "Trigger Date") which is the earlier of such notice or the expiration of such thirty (30) day period, Lessee shall be entitled to enter into an agreement with a third party for the Proposed Transfer (subject to County's approval rights as otherwise set forth in this Lease) so long as (1) the Proposed Transfer price is equal to or greater than the Lessee Sale Price last offered to County and upon no more favorable material other terms than those offered to County, and (2) the closing of the Proposed Transfer is actually consummated within twelve (12) months after the Trigger Date (which twelve (12) month period shall be extended to the extent the closing is delayed due to a delay by County in approving the transaction within sixty (60) days after County has received a notice from Lessee requesting County's approval of such transaction and all information required by County under this Lease to permit County to evaluate the transaction). In the event of a proposed Major Sublease or other permitted assignment of less than all of the Premises, County's election shall pertain to such portion of the Premises which is the subject of the proposed Major Sublease or assignment and, in the event that County elects to acquire such portion of Lessee's interest in the Premises, Lessee's Annual Minimum Rent shall be proportionally reduced and Lessee's obligation to pay Percentage Rent shall pertain only to the amounts derived from the portion of the Premises retained by Lessee. In the event that County elects to recapture all or any portion of the Premises as provided herein, Lessee agrees to execute promptly a termination agreement and such other documentation as may be reasonably necessary to evidence the termination of this Lease, to set a termination date and to prorate rent and other charges with respect to the termination. Notwithstanding any contrary provision hereof, County's rights pursuant to this subsection 11.2.4 shall not apply to (I) Financing Events, or (II) those events identified in subsection 4.6.2 of this Lease.

11.2.5 <u>County Credits Toward Purchase Price</u>. In the event that County or its assignee elects to exercise the County Option, it shall receive the following credits toward the Lessee Sale Price: (1) the Net Proceeds Share which would be payable to County in the event that a third party were to purchase the interest offered at the Lessee Sale Price and (2) an amount which represents unpaid Annual Minimum Rent,

Percentage Rent, and all other amounts payable under the Lease, if any, with late fees and interest as provided herein, from the end of the period most recently subject to County audit through the date of the purchase of the interest by County. In lieu of the credit described in (2) above, Lessee may provide County with a letter of credit or other security satisfactory to County to secure the payment of such unpaid amounts when finally determined by County. During the term of the County Option, Lessee shall cause to be available to County all books and records reasonably necessary in order to determine the amount of such unpaid Annual Minimum Rent, Percentage Rent, and other amounts payable under the Lease. In the event that County or its assignee exercises the County Option, but the transaction fails to close due to a failure of the parties to agree upon an appropriate allowance for such unpaid Annual Minimum Rent, Percentage Rent, and other amounts or appropriate security for the payment thereof, then County shall have no obligation to pay or credit to Lessee the County Option Price.

11.3 Terms Binding Upon Successors, Assigns and Sublessees. Except as otherwise specifically provided for herein, each and all of the provisions, agreements, terms, covenants, and conditions herein contained to be performed, fulfilled, observed, and kept by Lessee hereunder shall be binding upon the heirs, executors, administrators, successors, and assigns of Lessee, and all rights, privileges and benefits arising under this Lease in favor of Lessee shall be available in favor of its heirs, executors, administrators, successors, and assigns. Notwithstanding the foregoing, no assignment or subletting by or through Lessee in violation of the provisions of this Lease shall vest any rights in any such assignee or Sublessee. Any approved assignment of this Lease shall release the assignor of all liability arising due to actions or omissions on or after the effective date of such assignment, provided the assignee assumes all of such liability, including without limitation the obligation of assignee to cure any defaults and delinquencies under this Lease and to pay County Percentage Rent and any other amounts attributable to the period prior to the assignment, but not discovered by County or the assignee until after the assignment; provided, further, the assignor shall not be relieved of any liability for the payment of the Administrative Charge or the required portion of any Net Proceeds Share or Net Refinancing Proceeds which arise upon such assignment as provided herein.

12. ENCUMBRANCES.

12.1 Financing Events. Lessee may, with the prior written consent of Director, which shall not be unreasonably withheld, and subject to any specific conditions which may be imposed by Director, consummate one or more Financing Event(s) (as defined below). Lessee shall submit to Director a complete set of all proposed transaction documents in connection with each proposed Financing Event. Director shall have sixty (60) days in which to grant or withhold approval of the Financing Event. If not approved in writing within such sixty (60) day period, the proposed Financing Event shall be deemed disapproved by Director. If Director withholds its approval of an assignment, Director shall notify Lessee in writing of the reason or reasons for such disapproval. Lessee shall further reimburse County for County's Actual Cost incurred in connection with its review of the proposed Financing Event, including without limitation the costs of in-house counsel, outside counsel and third party consultants. For the purposes of this Lease, including without limitation the provisions of Sections 4.6 through 4.8 hereof, a "Financing Event" shall mean any financing or refinancing consummated by Lessee, whether

with private or institutional investors or lenders, where such financing or refinancing is an Encumbrance (as defined below).

12.1.1 Encumbrances. As used in this Lease, an "Encumbrance" shall be any direct or indirect grant, assignment, transfer, mortgage, hypothecation, grant of control over, or encumbrance of all or any portion of Lessee's interest under this Lease and the estate so created, including without limitation a direct or indirect assignment of Lessee's right to receive rents from subtenants, and a pledge of partnership interests or other beneficial ownership interests in Lessee by the principals of Lessee, to a lender (upon County approval of the Encumbrance and consummation of the lending transaction, the "Encumbrance Holder") on the security of Lessee's interest in the Lease and the Premises, the shares or interests of beneficial ownership in Lessee, or otherwise secured by Lessee's rights in and to the Premises. One (1) copy of any and all security devices or instruments as finally executed or recorded by the parties in connection with any approved Encumbrance shall be filed with Director not later than seven (7) days after the effective date thereof. These same limitations and approval requirements shall apply with respect to the financing and the Encumbrance Holder of any Major Sublessee's interest pursuant to a Major Sublease.

12.1.2 Consent Not Required to Transfer Resulting from Foreclosure. The written consent of County shall not be required in the case of:

12.1.2.1 A transfer of this Lease or a Major Sublease at a foreclosure sale or at a judicial foreclosure or voluntary conveyance to the Encumbrance Holder or an affiliate in lieu thereof; or

12.1.2.2 A single subsequent transfer of the Lease or a Major Sublease by an Encumbrance Holder who was a purchaser at such foreclosure sale or transfer in lieu thereof, provided the transferee expressly agrees in writing to assume and to perform all of the obligations under this Lease and, if applicable, a Major Sublease.

12.1.3 Effect of Foreclosure. In the event of a transfer under subsection 12.1.2, the Encumbrance Holder shall forthwith give notice to County in writing of any such transfer setting forth the name and address of the transferee and the effective date of such transfer, together with a copy of the document by which such transfer was made.

12.1.3.1 Any transferee under the provisions of subsection 12.1.2.1 which is a commercial bank, savings and loan institution, insurance company, pension fund, investment bank, opportunity fund, mortgage conduit, real estate investment trust or other similar financial institution which ordinarily engages in the business of making loans secured by collateral similar to the Premises, or an affiliate thereof ("Institutional Lender"), shall be liable to perform the full obligations of Lessee under this Lease until a subsequent transfer of the Lease approved by County.

12.1.3.2 A transferee under subsection 12.1.2.1 which is not an Institutional Lender and any subsequent transferee under the provisions of subsection 12.1.2.2 shall be liable to perform the full obligations of Lessee under this Lease and

as a condition to the completion of such transfer must cure, remedy, or correct any Event of Default existing at the time of such transfer or arising thereafter due to an event or occurrence before date of transfer.

12.1.3.3 Neither an Administrative Charge nor any Net Proceeds Share shall be payable in respect of or charged against any amount payable under the Encumbrance to or for the benefit of the Encumbrance Holder in connection with a transfer pursuant to subsection 12.1.2.

12.2 Right to Notice and Cure Defaults. All Encumbrance Holders and Major Sublessees shall have the right, at any time during the term of its Encumbrance or Major Sublease, as applicable, but prior to the termination of this Lease, and as further provided in Section 12.4, to do any act or thing required of Lessee in order to prevent termination of Lessee's rights hereunder, and all such acts or things so done hereunder shall be treated by County the same as if performed by Lessee.

12.3 No Subordination. County's rights in the Premises and this Lease, including without limitation County's right to receive Annual Minimum Rent and Percentage Rent, shall not be subordinated to the rights of any Encumbrance Holder. Notwithstanding the foregoing, an Encumbrance Holder shall have all of the rights set forth in the security instrument creating the Encumbrance, as approved by County in accordance with Section 12.1, to the extent that such rights are not inconsistent with the terms of this Lease, including the right to commence an action against Lessee for the appointment of a receiver and to obtain possession of the Premises under and in accordance with the terms of said Encumbrance, provided that all obligations of Lessee hereunder shall be kept current, including but not limited to the payment of rent and curing of all defaults or Events of Default hereunder.

12.4 Delay in Exercising Termination Remedy. County shall not exercise any remedy available to it upon the occurrence of an Event of Default (other than pursuant to Section 13.5), unless it first shall have given written notice of such default to each and every Major Sublessee and Encumbrance Holder, where the Event of Default is one where notice is required to be given to Lessee pursuant to the terms of this Lease and the Encumbrance Holder and/or Major Sublessee have notified Director in writing of its interest in the Premises or this Lease and the addresses to which such notice should be delivered. Such notice shall be sent simultaneously with the notice or notices to Lessee. An Encumbrance Holder or Major Sublessee shall have the right and the power to cure the Event of Default specified in such notice in the manner prescribed below. If such Event or Events of Default are so cured, this Lease shall remain in full force and effect.

12.4.1 Manner of Curing Default. Events of Default may be cured by an Encumbrance Holder or Major Sublessee in the following manner:

(1) If the Event of Default is in the payment of rental, taxes, insurance premiums, utility charges or any other sum of money, an Encumbrance Holder or the Major Sublessee may pay the same, together with any Late Fee or interest payable thereon, to County or other payee within thirty five (35) days after mailing of the aforesaid notice of default to the Encumbrance Holder or the Major Sublessee. If,

after such payment to County, Lessee pays the same or any part thereof to County, County shall refund said payment (or portion thereof) to such Encumbrance Holder or Major Sublessee.

(2) If the Event of Default cannot be cured by the payment of money, but is otherwise curable, the default may be cured by an Encumbrance Holder or Major Sublessee as follows:

(a) If an Encumbrance Holder or Major Sublessee cures, remedies and corrects the default within ten (10) days after the end of Lessee's cure period as provided in Section 13.1 hereof; provided, however, if curing of such default requires activity over a longer period of time, such default may be cured if within said ten (10) day period, such Encumbrance Holder or Major Sublessee commences and thereafter continues to use due diligence to perform whatever acts may be required to cure the particular default; in the event Lessee commences to cure the default within Lessee's applicable cure period and thereafter fails or ceases to pursue the cure with due diligence, the Encumbrance Holder's and Major Sublessee's ten (10) day period shall commence upon the later of the end of Lessee's cure period or the date upon which County notifies the Encumbrance Holder and/or Major Sublessee that Lessee has failed or ceased to cure the default with due diligence.

(b) With respect to an Encumbrance Holder, but not a Major Sublessee, if before the expiration of said ten (10) day period, said Encumbrance Holder notifies County of its intent to commence foreclosure of its interest, and within sixty (60) days after the mailing of said notice, said Encumbrance Holder (i) actually commences foreclosure proceedings and prosecutes the same thereafter with due diligence, said sixty (60) day period shall be extended by the time necessary to complete such foreclosure proceedings, or (ii) if said Encumbrance Holder is prevented from commencing foreclosure proceedings by any order, judgment or decree of any court or regulatory body of competent jurisdiction, and said Encumbrance Holder diligently seeks release from or reversal of such order, judgment or decree, said sixty (60) day period shall be extended by the time necessary to obtain such release or reversal and thereafter to complete such foreclosure proceedings. Within thirty five (35) days after such foreclosure sale and the vesting of title in the purchaser thereat (whether or not such purchaser is the Encumbrance Holder), said purchaser shall, as a condition to the completion of such transfer, cure, remedy or correct the default, or commence and thereafter pursue with due diligence, the performance of the thing or acts required to be done to cure, correct and remedy said default.

13. DEFAULT.

13.1 Events of Default. The following are deemed to be "Events of Default" hereunder:

13.1.1 Monetary Defaults. The failure of Lessee to pay the rentals due, or make any other monetary payments required under this Lease (including, without limitation, deposits to the Subsequent Renovations Fund and/or Capital Improvement Fund), within five (5) days after written notice that said payments are overdue. Lessee may cure such nonpayment by paying the amount overdue, with interest thereon and the applicable Late Fee, within such five (5) day period.

13.1.2 Failure to Comply with Construction Obligations. The failure of Lessee to comply with the obligations and timeframes set forth in Article 5 of this Lease if not cured within ten (10) days after written notice of such failure, if no other notice of such failure is otherwise required hereunder; provided, however, if a breach by Lessee of its obligations under Article 5, other than its obligation to complete the Redevelopment Work or a Subsequent Renovation by the applicable date set forth in Article 5, is curable but such cure is not reasonably susceptible of completion within the foregoing ten (10) day period, then as long as Lessee in good faith commences the cure of such breach within such ten (10) day period and continues to diligently pursue such cure to completion within a reasonable time, such breach shall not constitute an Event of Default.

13.1.3 Maintenance of Security Deposit. The failure of Lessee to maintain and/or replenish the Security Deposit required pursuant to Article 7 of this Lease if not cured within five (5) days after written notice of such failure.

13.1.4 Failure to Perform Other Obligations. The failure of Lessee to keep, perform, and observe any and all other promises, covenants, conditions and agreements set forth in this Lease, including without limitation the obligation to maintain adequate accounting and financial records, within thirty five (35) days after written notice of Lessee's failure to perform from Director; provided, however, that where Lessee's performance of such covenant, condition or agreement is not reasonably susceptible of completion within such thirty five (35) day period and Lessee has in good faith commenced and is continuing to perform the acts necessary to perform such covenant, condition or agreement within such thirty five (35) day period, County will not exercise any remedy available to it hereunder for so long as Lessee uses reasonable due diligence in continuing to pursue to completion the performance such covenant, condition or agreement and so completes performance within a reasonable time.

13.1.5 Nonuse of Premises. The abandonment, vacation, or discontinuance of use of the Premises, or any substantial portion thereof, for a period of thirty five (35) days, except when prevented by Force Majeure or when closed for renovations or repairs required or permitted to be made under this Lease; provided, however, the termination of operations in a portion of the Premises by a Sublessee shall not constitute an Event of Default under this Section 13.1.5 if Lessee uses its best efforts to recover possession of such portion of the Premises from such Sublessee and to re-sublease such portion of the

Premises to another Sublessee as soon as possible; provided, further, that except as provided below operations in such portion of the Premises in accordance with this Lease must recommence no later than one hundred eighty (180) days following the date that operations in such portion of the Premises first terminated. The one hundred eighty (180) day period set forth in the immediately preceding sentence shall be tolled for delays incurred by Lessee beyond such one hundred eighty (180) day period in recovery of possession of the Premises due to the Sublessee's bankruptcy or contest of unlawful detainer proceedings, as long as Lessee diligently continues to prosecute its action to recover possession of the Premises. In addition, notwithstanding any contrary provision of this subsection 13.1.5, an Event of Default shall not be triggered under this subsection 13.1.5 due to the termination of operations by a Sublessee as long as (i) Lessee diligently attempts to re-open the subject space as soon as reasonably possible and the subject space is re-opened for business not later than three hundred sixty five (365) days after the date that such operations were closed, and (ii) during any period between the end of the one hundred eighty (180) day period set forth above in this subsection 13.1.5 (as such period may be extended as provided above) and the date that the subject portion of the Premises is re-opened for business, Lessee pays County Percentage Rent for such space based upon an imputed Gross Receipts for such space equal to the actual Gross Receipts for such space during the one year period prior to the closure of business for such space.

Any notice required to be given by County pursuant to subsections 13.1.1 through and including 13.1.4 shall be in addition to, and not in lieu of, any notice required under Section 1161 of the California Code of Civil Procedure.

13.2 Limitation on Events of Default. Lessee shall not be considered in default as to any provision of this Lease when such default is the result of or pursuant to, any process, order, or decree of any court or regulatory body of competent jurisdiction, or any other circumstances which are physically impossible to cure provided Lessee uses due diligence in pursuing whatever is required to obtain release from or reversal of such process, order, or decree or is attempting to remedy such other circumstances preventing its performance.

13.3 Remedies. Upon the occurrence of an Event of Default, and subject to the rights of any Encumbrance Holder or Major Sublessee to cure such Event of Default as provided in Section 12.4 hereof, County shall have, in addition to any other remedies in law or equity, the following remedies which are cumulative:

13.3.1 Terminate Lease. County may terminate this Lease by giving Lessee written notice of termination. On the giving of the notice, all Lessee's rights in the Premises and in all Improvements shall terminate. Promptly after notice of termination, Lessee shall surrender and vacate the Premises and all Improvements in broom-clean condition, and County may re-enter and take possession of the Premises and all remaining Improvements and, except as otherwise specifically provided in this Lease, eject all parties in possession or eject some and not others, or eject none. Termination under this subsection shall not relieve Lessee from the payment of any sum then due to County or from any claim for damages against Lessee as set forth in subsection 13.4.3, or from Lessee's obligation to remove Improvements at County's election in accordance with Article 2. County agrees to use reasonable efforts to mitigate damages.

13.3.2 Keep Lease in Effect. Without terminating this Lease, so long as County does not deprive Lessee of legal possession of the Premises and allows Lessee to assign or sublet subject only to County's rights set forth herein, County may continue this Lease in effect and bring suit from time to time for rent and other sums due, and for Lessee's breach of other covenants and agreements herein. No act by or on behalf of County under this provision shall constitute a termination of this Lease unless County gives Lessee written notice of termination. It is the intention of the parties to incorporate the provisions of California Civil Code Section 1951.4 by means of this provision.

13.3.3 Termination Following Continuance. Even though it may have kept this Lease in effect pursuant to subsection 13.3.2, thereafter County may elect to terminate this Lease and all of Lessee's rights in or to the Premises unless prior to such termination Lessee shall have cured the Event of Default or shall have satisfied the provisions of Section 13.2, hereof. County agrees to use reasonable efforts to mitigate damages.

13.4 Damages. Should County elect to terminate this Lease under the provisions of the foregoing Section, County shall be entitled to recover from Lessee as damages:

13.4.1 Unpaid Rent. The worth, at the time of the award, of the unpaid rent that had been earned at the time of termination of this Lease;

13.4.2 Post-Termination Rent. The worth, at the time of the award, of the unpaid rent that would have been earned under this Lease after the date of termination of this Lease until the date Lessee surrenders possession of the Premises to County; and

13.4.3 Other Amounts. The amounts necessary to compensate County for the sums and other obligations which under the terms of this Lease become due prior to, upon or as a result of the expiration of the Term or sooner termination of this Lease, including without limitation, those amounts of unpaid taxes, insurance premiums and utilities for the time preceding surrender of possession, the cost of removal of rubble, debris and other above-ground Improvements, attorney's fees, court costs, and unpaid Administrative Charges, Net Proceeds Shares and Net Refinancing Proceeds.

13.5 Others' Right to Cure Lessee's Default. County (and any Encumbrance Holder or Major Sublessee, as provided in the last sentence of this section), at any time after Lessee's failure to perform any covenant, condition or agreement contained herein beyond any applicable notice and cure period, may cure such failure at Lessee's cost and expense. If, after delivering to Lessee two (2) or more written notices with respect to any such default, County at any time, by reason of Lessee's continuing failure, pays or expends any sum, Lessee shall immediately pay to County the lesser of the following amounts: (1) twice the amount expended by County to cure such default and (2) the amount expended by County to cure such default, plus one thousand dollars ($1,000). To the extent practicable, County shall give any Encumbrance Holders or Major Sublessees the reasonable opportunity to cure Lessee's default prior to County's expenditure of any amounts thereon.

13.6 Default by County. County shall be in default in the performance of any obligation required to be performed by County under this Lease if County has failed to perform

such obligation within thirty (30) days after the receipt of notice from Lessee specifying in detail County's failure to perform; provided, however, that if the nature of County's obligation is such that more than thirty (30) days are required for its performance, County shall not be deemed in default if it shall commence such performance within thirty (30) days and thereafter diligently pursues the same to completion. Lessee shall have no rights as a result of any default by County until Lessee gives thirty (30) days notice to any person or entity having a recorded security interest in County's fee title to the Premises whose identity and address have been disclosed in writing to Lessee. Such person or entity shall then have the right to cure such default, and County shall not be deemed in default if such person or entity cures such default within thirty (30) days after receipt of notice of the default, or such longer time as may be reasonably necessary to cure the default. Notwithstanding anything to the contrary in this Lease, County's liability to Lessee for damages arising out of or in connection with County's breach of any provision or provisions of this Lease shall not exceed the value of County's equity interest in the Premises and its right to insurance proceeds in connection with the policies required under Article 9 hereof. During any period that County is in default of its obligation to pay a sum of money to Lessee, any amount of money that may be owed by Lessee to County (but not in excess of the undisputed amount of money owed by County to Lessee for which County is in default) shall not accrue interest or late charges during such period as County remains in default of its obligation to pay Lessee such sum of money.

14. ACCOUNTING.

14.1 Maintenance of Records and Accounting Method. In order to determine the amount of and provide for the payment of the Annual Minimum Rent, Percentage Rent, Administrative Charge, Net Proceeds Share, Net Refinancing Proceeds and other sums due under this Lease, Lessee and all Sublessees shall at all times during the Term of this Lease, and for thirty six (36) months thereafter, keep, or cause to be kept, locally, to the reasonable satisfaction of Director, true, accurate, and complete records and double-entry books of account for the current and five (5) prior Accounting Years, such records to show all transactions relative to the conduct of operations, and to be supported by data of original entry. Such records shall detail transactions conducted on or from the Premises separate and apart from those in connection with Lessee's (or sublessee's or licensee's, as appropriate) other business operations, if any. Lessee shall utilize the accrual method of accounting with respect to its preparation of the reports and maintenance of records required herein.

14.2 Cash Registers. To the extent retail sales are conducted on the Premises, or other cash or credit sales of goods or services are conducted, all such sales shall be recorded by means of cash registers or computers which automatically issue a customer's receipt or certify the amount recorded in a sales slip. Said cash registers shall in all cases have locked-in sales totals and transaction counters which are constantly accumulating and which cannot, in either case, be reset, and in addition thereto, a tape (or other equivalent security mechanism) located within the register on which transaction numbers and sales details are imprinted. Beginning and ending cash register readings shall be made a matter of daily record.

Lessee shall cause to be implemented point of sale systems which can accurately verify all sales for audit purposes and customer review purposes, which system shall

be submitted to the Director in advance of installation for his approval, which approval or disapproval shall be given within a reasonable time, and shall not be unreasonably withheld.

Lessee's obligations set forth in this Section 14.2 include Lessee's obligation to insure that Lessee's Sublessees, licensees, permittees, concessionaires and any other occupants of any portion of the Premises keep records sufficient to permit County and County's auditors to determine the proper levels of Annual Minimum Rent, Percentage Rent, Administrative Charge, Net Proceeds Share, Net Refinancing Proceeds and other sums due under this Lease.

14.3 Statement; Payment. No later than the fifteenth (15th) day of each calendar month, Lessee shall render to County a detailed statement showing Gross Receipts during the preceding calendar month, together with its calculation of the amount payable to County under Sections 4.2 through 4.8 inclusive, and shall accompany same with remittance of amount so shown to be due.

14.4 Availability of Records for Inspector's Audit. Books of account and records hereinabove required shall be kept or made available at the Premises or at another location within Los Angeles County, and County and other governmental authorities shall have the right at any reasonable times to examine and audit said books and records, without restriction, for the purpose of determining the accuracy thereof and of the monthly statements of Gross Receipts derived from occupancy of the Premises and the compliance of Lessee with the terms of this Lease and other governmental requirements. This Section 14.4 shall survive the expiration of the Term or other termination of this Lease for thirty six (36) months after such expiration or termination.

14.4.1 Entry by County. County and its duly authorized representatives or agents may enter upon the Premises at any and all reasonable times and normal business hours during the Term of this Lease for the purpose of determining whether or not Lessee is complying with the terms and conditions hereof, or for any other purpose incidental to the rights of County.

14.5 Cost of Audit. In the event that, for any reason, Lessee does not make available its (or its Sublessee's or licensee's) original records and books of account at the Premises or at a location within Los Angeles County, Lessee agrees to pay all expenses incurred by County in conducting any audit at the location where said records and books of account are maintained. In the event that any audit discloses a discrepancy in County's favor of greater than two percent (2%) of the revenue due County for the period audited, then Lessee shall pay County audit contract costs, together with the amount of any identified deficiency, with interest thereon and Late Fee provided by Section 4.5.

14.6 Accounting Year. The term "Accounting Year" as used herein shall mean each calendar year during the Term.

14.7 Annual Financial Statements. Upon reasonable notice and request by County, Lessee shall furnish for each Accounting Year hereunder, a copy of Lessee's most recent federal income tax return, which County agrees shall be held confidential, except (i) for disclosure to

County's consultants and attorneys, (ii) as may be necessary for the enforcement of County's rights and Lessee's obligations under this Lease, or (iii) as required by Applicable Law.

14.8 Accounting Obligations of Sublessees. Lessee shall cause all Sublessees, licensees, concessionaires and others conducting business operations on or from the Premises to comply with all terms of this Article 14 with respect to the maintenance, form, availability and methodology of accounting records.

14.9 Inadequacy of Records. In the event that Lessee or its Sublessees, licensees or concessionaires, as appropriate, fails to keep the records required by this Article 14 such that a Certified Public Accountant is unable to issue an unqualified opinion as to Gross Receipts, such failure shall be deemed a breach of this Lease by Lessee. In addition to the other remedies available to County at law or equity as a result of such breach, County may prepare a calculation of the Percentage Rent payable by Lessee during the period in which the accounting records were inadequately maintained. Such calculation may be based on the past Gross Receipts levels on or from the Premises, the past or present level of Gross Receipts experienced by tenants of comparable leaseholds in Marina del Rey with comparable business operations, or any other method as determined by Director and shall utilize such methodology as Director deems reasonable. Within five (5) days after receipt of County's determination of Percentage Rent due, if any, Lessee shall pay such Percentage Rent, together with a late fee of six percent (6%) and interest to the date of payment at the Applicable Rate from the date upon which each unpaid installment of Percentage Rent was due, together with County's Actual Cost in connection with the attempted audit of the inadequate records and the reconstruction and estimation of Gross Receipts and the calculation of Percentage Rent due.

15. MISCELLANEOUS.

15.1 Quiet Enjoyment. Lessee, upon performing its obligations hereunder, shall have the quiet and undisturbed possession of the Premises throughout the Term of this Lease, subject, however, to the terms and conditions of this Lease.

15.2 Time is of the Essence. Except as specifically otherwise provided for in this Lease, time is of the essence of this Lease and applies to all times, restrictions, conditions, and limitations contained herein.

15.3 County Costs. Lessee shall promptly reimburse County for the Actual Costs incurred by County in the review, negotiation, preparation and documentation of this Lease and the term sheets and memoranda that preceded it. The parties acknowledge that Lessee has deposited the sum of _____ dollars ($_____) toward those costs. County shall deliver to Lessee a report detailing such expenditures within ninety (90) days after the Effective Date.

15.4 County Disclosure and Lessee's Waiver.

15.4.1 Disclosures and Waiver.

15.4.1.1 "AS IS". Lessee acknowledges that it is currently in possession of the Premises and that Lessee or its predecessor-in-interest has continuously occupied and/or managed and operated the Parcel 95S Premises since 1968. Lessee

accepts the Premises in their present condition notwithstanding the fact that there may be certain defects in the Premises, whether or not known to either party to this Lease, at the time of the execution of this Lease by Lessee and Lessee hereby represents that it has performed all investigations necessary, including without limitation soils and engineering inspections, in connection with its acceptance of the Premises "AS IS".

15.4.1.2 Lessee acknowledges that it may incur additional engineering and construction costs above and beyond those contemplated by either party to this Lease at the time of the execution hereof and Lessee agrees that, it will make no demands upon County for any construction, alterations, or any kind of labor that may be necessitated in connection therewith.

15.4.1.3 Lessee hereby waives, withdraws, releases, and relinquishes any and all claims, suits, causes of action (other than a right to terminate as otherwise provided in this Lease), rights of rescission, or charges against County, its officers, agents, employees or volunteers which Lessee now has or may have or asserts in the future which are based upon any defects in the physical condition of the Premises and the soil thereon and thereunder, regardless of whether or not said conditions were known at the time of the execution of this instrument.

15.4.1.4 California Civil Code Section 1542 provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

By initialing this paragraph, Lessee acknowledges that it has read, is familiar with, and waives the provisions of California Civil Code §1542 set forth above, and agrees to all of the provisions of subsection 15.4.1.3 above.

_____
Lessee's Initials

15.4.2 Right of Offset. Lessee acknowledges that the rent provided for in this Lease has been agreed upon in light of Lessee's construction, maintenance and repair obligations set forth herein, and, notwithstanding anything to the contrary provided in this Lease or by applicable law, Lessee hereby waives any and all rights, if any, to make repairs at the expense of County and to deduct or offset the cost thereof from the Annual Minimum Rent, Monthly Minimum Rent, Percentage Rent or any other sums due County hereunder.

15.5 Holding Over. If Lessee holds over after the expiration of the Term for any cause, with or without the express or implied consent of County, such holding over shall be deemed to be a tenancy from month-to-month only, and shall not constitute a renewal or extension of the Term. During any such holdover period, the Minimum Monthly Rent and

Percentage Rent rates in effect at the end of the Term shall be increased to one hundred fifty percent (150%) of such previously effective amounts. Such holdover shall otherwise be subject to the same terms, conditions, restrictions and provisions as herein contained. Such holding over shall include any time employed by Lessee to remove machines, appliances and other equipment during the time periods herein provided for such removal.

Nothing contained herein shall be construed as consent by County to any holding over by Lessee, and County expressly reserves the right to require Lessee to surrender possession of the Premises to County as provided in this Lease upon the expiration or other termination of this Lease. The provisions of this Section 15.5 shall not be deemed to limit or constitute a waiver of any other rights or remedies of County provided at law or in equity. If Lessee fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to County accruing therefrom, Lessee shall protect, defend, indemnify and hold County harmless from all losses, costs (including reasonable attorneys' fees), damages, claims and liabilities resulting from such failure, including, without limitation, any claims made by any succeeding tenant arising from such failure to surrender, and any lost profits to County resulting therefrom.

15.6 Waiver of Conditions or Covenants. Except as stated in writing by the waiving party, any waiver by either party of any breach of any one or more of the covenants, conditions, terms, and agreements of this Lease shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term, or agreement of this Lease, nor shall failure on the part of either party to require exact full and complete compliance with any of the covenants, conditions, terms, or agreements of this Lease be construed as in any manner changing the terms hereof or estopping that party from enforcing the full provisions hereof, nor shall the terms of this Lease be changed or altered in any manner whatsoever other than by written agreement of County and Lessee. No delay, failure, or omission of County to re-enter the Premises or of either party to exercise any right, power, privilege, or option, arising from any default, nor any subsequent acceptance of rent then or thereafter accrued shall impair any such right, power, privilege, or option or be construed as a waiver of or acquiescence in such default or as a relinquishment of any right. No notice to Lessee shall be required to restore or revive "time of the essence" after the waiver by County of any default. Except as specifically provided in this Lease, no option, right, power, remedy, or privilege of either party shall be construed as being exhausted by the exercise thereof in one or more instances.

15.7 Remedies Cumulative. The rights, powers, options, and remedies given County by this agreement shall be cumulative except as otherwise specifically provided for in this Lease.

15.8 Authorized Right of Entry. In any and all cases in which provision is made herein for termination of this Lease, or for exercise by County of right of entry or re-entry upon the Premises, or in case of abandonment or vacation of the Premises by Lessee, Lessee hereby irrevocably authorizes County to enter upon the Premises and remove any and all persons and property whatsoever situated upon the Premises and place all or any portion of said property, except such property as may be forfeited to County, in storage for the account of and at the expense of Lessee.

Lessee agrees to indemnify, defend and save harmless County from any cost, expense, loss or damage arising out of or caused by any such entry or re-entry upon the Premises and the removal of persons and property and storage of such property by County and its agents.

15.9 Place of Payment and Filing. All rentals shall be paid to and all statements and reports herein required and other items deliverable to County hereunder shall be filed with or delivered to the Department. Checks, drafts, letters of credit and money orders shall be made payable to the County of Los Angeles.

15.10 Service of Written Notice or Process. Any notice required to be sent under this Lease shall be in compliance with and subject to this Section 15.10. If Lessee is not a resident of the State of California, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, Lessee shall file with Director a designation of a natural person residing in the County of Los Angeles, State of California, or a service company, such as CT Corporation, which is authorized to accept service, giving his or its name, residence, and business address, as the agent of Lessee for the service of process in any court action between Lessee and County, arising out of or based upon this Lease, and the delivery to such agent of written notice or a copy of any process in such action shall constitute a valid service upon Lessee.

If for any reason service of such process upon such agent is not possible, then any officer of Lessee may be personally served with such process outside of the State of California and such service shall constitute valid service upon Lessee; and it is further expressly agreed that Lessee is amenable to such process and submits to the jurisdiction of the court so acquired and waives any and all objection and protest thereto.

Written notice addressed to Lessee at the addresses below-described, or to such other address that Lessee may in writing file with Director, shall be deemed sufficient if said notice is delivered personally, by telecopy or facsimile transmission or, provided in all cases there is a return receipt requested and postage or other delivery charges prepaid, by registered or certified mail posted in the County of Los Angeles, California, Federal Express or DHL, or such other services as Lessee and County may mutually agree upon from time to time. Each notice shall be deemed received and the time period for which a response to any such notice must be given or any action taken with respect thereto (including cure of any prospective Event of Default) shall commence to run from the date of actual receipt of the notice by the addressee thereof in the case of personal delivery, telecopy or facsimile transmission if before 5:00 p.m. on regular business days, or upon the expiration of the third (3rd) business day after such notice is sent from within Los Angeles County in the case of such registered or certified mail as authorized in this Section.

Copies of any written notice to Lessee shall also be simultaneously mailed to any Encumbrance Holder, Major Sublessee or encumbrancer of such Major Sublessee of which County has been given written notice and an address for service. Notice given to Lessee as provided for herein shall be effective as to Lessee notwithstanding the failure to send a copy to such Encumbrance Holder, Major Sublessee or encumbrancer.

As of the date of execution hereof, the persons authorized to receive notice on behalf of County and Lessee are as follows:

COUNTY:

Director
Department of Beaches and Harbors
Los Angeles County
13837 Fiji Way
Marina del Rey, California 90292
Phone: 310/305-9522
Fax: 310/821-6345

With a Copy to:

Office of County Counsel
Los Angeles County
500 West Temple Street
Los Angeles, California 90012
Attn: County Counsel
Phone: 213/974-1801
Fax: 213/617-7182

LESSEE:

Gold Coast West, LLC
9200 Sunset Blvd., Suite 805
Los Angeles, California 90069
Attn: Michael Pashaie
Phone: 310/858-6797
Fax: 310/858-6862

and

Gold Coast West, LLC
1026 Wall Street
Second Floor
Los Angeles, California 90015
Attn: David Taban
Phone: 213/745-5191
Fax: 213/747-8225

and

Pacific Ocean Management
13575 Mindanao Way
Marina del Rey, California 90292
Attn: Mike Selden
Phone: 310/822-6866
Fax: 310/822-4266

With a Copy to: Soukup & Schiff, LLP
1880 Century Park East, Suite 1108
Los Angeles, California 90067
Phone: 310/276-2026
Fax: 310/286-0522

15.11 Interest. In any situation where County has advanced sums on behalf of Lessee pursuant to this Lease, such sums shall be due and payable immediately upon demand, together with interest at the Applicable Rate (unless another rate is specifically provided herein) from the date such sums were first advanced, until the time payment is received. In the event that Lessee repays sums advanced by County on Lessee's behalf with interest in excess of the maximum rate permitted by Applicable Laws, County shall either refund such excess payment or credit it against subsequent installments of Annual Minimum Rent and Percentage Rent.

15.12 Captions. The captions contained in this Lease are for informational purposes only, and are not to be used to interpret or explain the particular provisions of this Lease.

15.13 Attorneys' Fees. In the event of any action, proceeding or arbitration arising out of or in connection with this Lease, whether or not pursued to judgment, the prevailing party shall be entitled, in addition to all other relief, to recover its costs and reasonable attorneys' fees, including without limitation attorneys' fees for County Counsel's services where County is represented by the County Counsel and is the prevailing party, and also including all fees, costs and expenses incurred in executing, perfecting, enforcing and collecting any judgment.

15.14 Amendments. This Lease may only be amended in writing executed by duly authorized officials of Lessee and County. Notwithstanding the foregoing, Director shall have the power to execute such amendments to this Lease as are necessary to implement any arbitration judgment issued pursuant to this Lease.

15.15 Time For Director Approvals. Except where a different time period is specifically provided for in this Lease, whenever in this Lease the approval of Director is required, approval shall be deemed not given unless within thirty (30) days after the date of the receipt of the written request for approval from Lessee, Director either (a) approves such request in writing, or (b) notifies Lessee that it is not reasonably possible to complete such review within the thirty (30)-day period, provides a final date for approval or disapproval by Director (the "Extended Time") and approves such request in writing prior to such Extended Time. If Director does not approve such request in writing within such Extended Time, the request shall be deemed to be

disapproved. If Director disapproves a matter that requires its approval under this Lease, then Director shall notify Lessee in writing of the reason or reasons for such disapproval.

15.16 Time For County Action. Notwithstanding anything to the contrary contained in this Lease, wherever Director determines that a County action required hereunder necessitates approval from or a vote of one or more of County's boards or commissions or County's Board of Supervisors, then upon written notice to Lessee the time period for County performance of such action shall be extended as is necessary in order to secure such approval or vote, and County shall not be deemed to be in default hereunder in the event that it fails to perform such action within the time periods otherwise set forth herein.

15.17 Estoppel Certificates. Each party agrees to execute, within ten (10) business days after the receipt of a written request therefor from the other party, a certificate stating: that this Lease is in full force and effect and is unmodified (or stating otherwise, if true); and that, to the best knowledge of such party, the other party is not then in default under the terms of this Lease (or stating the grounds for default if such be the case). Prospective purchasers and lenders may rely on such statements.

15.18 Indemnity Obligations. Whenever in this Lease there is an obligation to indemnify, hold harmless and/or defend, irrespective of whether or not the obligation so specifies, it shall include the obligation to defend and pay reasonable attorney's fees, reasonable expert fees and court costs.

15.19 Controlled Prices. Lessee shall at all times maintain a complete list or schedule of the prices charged for all goods or services, or combinations thereof, supplied to the public on or from the Premises, whether the same are supplied by Lessee or by its Sublessees, assignees, concessionaires, permittees or licensees. Said prices shall be fair and reasonable, based upon the following two (2) considerations: first, that the property herein demised is intended to serve a public use and to provide needed facilities to the public at fair and reasonable cost; and second, that Lessee is entitled to a fair and reasonable return upon his investment pursuant to this Lease. In the event that Director notifies Lessee that any of said prices are not fair and reasonable, Lessee shall have the right to confer with Director and to justify said prices. If, after reasonable conference and consultation, Director shall determine that any of said prices are not fair and reasonable, the same shall be modified by Lessee or its Sublessees, assignees, concessionaires, permittees or licensees, as directed. Lessee may appeal the determination of Director to the Board, whose decision shall be final and conclusive. Pending such appeal, the prices fixed by Director shall be the maximum charged by Lessee.

16. ARBITRATION.

Except as otherwise provided by this Article 16, disputed matters which may be arbitrated pursuant to this Lease shall be settled by binding arbitration in accordance with the then existing provisions of the California Arbitration Act, which as of the date hereof is contained in Title 9 of Part III of the California Code of Civil Procedure, commencing with Section 1280.

(a) Either party (the "Initiating Party") may initiate the arbitration process by sending written notice ("Request for Arbitration") to the other party (the "Responding Party") requesting initiation of the arbitration process and setting forth a brief description of the dispute or disputes to be resolved and the contention(s) of the Initiating Party. Within ten (10) days after service of the Request for Arbitration, the Responding Party shall file a "Response" setting forth the Responding Party's description of the dispute and the contention(s) of Responding Party. If Responding Party has any "Additional Disputes" he shall follow the format described for the Initiating Party. The Initiating Party will respond within ten (10) days after service of the Additional Disputes setting forth Initiating Party's description of the Additional Disputes and contentions regarding the Additional Disputes.

(b) Notwithstanding anything to the contrary which may now or hereafter be contained in the California Arbitration Act, the parties agree that the following provisions shall apply to any and all arbitration proceedings conducted pursuant to this Lease:

16.1 Selection of Arbitrator. The parties shall attempt to agree upon an arbitrator who shall decide the matter. If, for any reason, the parties are unable to agree upon the arbitrator within ten (10) days of the date the Initiating Party serves a request for arbitration on the Responding Party, then at any time on or after such date either party may petition for the appointment of the arbitrator as provided in California Code of Civil Procedure Section 1281.6.

16.2 Arbitrator. The arbitrator shall be a retired judge of the California Superior Court, Court of Appeal or Supreme Court, or any United States District Court or Court of Appeals located within the State, who has agreed to resolve civil disputes.

16.3 Scope of Arbitration. County and Lessee affirm that the mutual objective of such arbitration is to resolve the dispute as expeditiously as possible. The arbitration process shall not apply or be used to determine issues other than (i) those presented to the arbitrator by the Initiating Party provided those disputes are arbitrable disputes pursuant to this Lease, (ii) Additional Disputes presented to the arbitrator by the Responding Party, provided that any such Additional Disputes constitute arbitrable disputes pursuant to this Lease and (iii) such related preliminary or procedural issues as are necessary to resolve (i) and/or (ii) above. The arbitrator shall render an award. Either party may, at its sole cost and expense, request a statement of decision explaining the arbitrator's reasoning which shall be in such detail as the arbitrator may determine. Unless otherwise expressly agreed by the parties in writing, the award shall be made by the arbitrator no later than the sooner of six (6) months after the date on which the arbitrator is selected by mutual agreement or court order, whichever is applicable, or five (5) months after the date of a denial of a petition to disqualify a potential arbitrator for cause. County and Lessee hereby instruct the arbitrator to take any and all actions deemed reasonably necessary, appropriate or prudent to ensure the issuance of an award within such period. Notwithstanding the foregoing, failure to complete the arbitration process within such period shall not render such arbitration or any determination made therein void or voidable; however, at any time after the expiration of the foregoing five (5) or six (6) month periods, as applicable, either party may deliver written notice to the arbitrator and the other party either terminating the arbitration or declaring such party's intent to terminate the arbitration if the award is not issued within a specified number of days after delivery of such notice. If the arbitrator's award is not issued

prior to the expiration of said specified period, the arbitration shall be terminated and the parties shall recommence arbitration proceedings pursuant to this Article 16.

16.4 Immunity. The parties hereto agree that the arbitrator shall have the immunity of a judicial officer from civil liability when acting in the capacity of arbitrator pursuant to this Lease.

16.5 Section 1282.2. The provisions of Code of Civil Procedure § 1282.2 shall apply to the arbitration proceedings except to the extent they are inconsistent with the following:

(1) Unless the parties otherwise agree, the arbitrator shall appoint a time and place for the hearing and shall cause notice thereof to be served as provided in said § 1282.2 not less than ninety (90) days before the hearing, regardless of the aggregate amount in controversy.

(2) No later than sixty (60) days prior to the date set for the hearing (unless, upon a showing of good cause by either party, the arbitrator establishes a different period), in lieu of the exchange and inspection authorized by Code of Civil Procedure § 1282.2(a)(2)(A), (B) and (C), the parties shall simultaneously exchange the following documents by personal delivery to each other and to the arbitrator:

(a) a written Statement of Position, as further defined below, setting forth in detail that party's final position regarding the matter in dispute and specific numerical proposal for resolution of monetary disputes;

(b) a list of witnesses each party intends to call at the hearing, designating which witnesses will be called as expert witnesses and a summary of each witness's testimony;

(c) a list of the documents each intends to introduce at the hearing, together with complete and correct copies of all of such documents; and,

(d) if the issue involves Fair Market Rental Value or a valuation matter, a list of all Written Appraisal Evidence (as defined below) each intends to introduce at the hearing, together with complete and correct copies of all of such Written Appraisal Evidence.

(3) No later than twenty (20) days prior to the date set for the hearing, each party may file a reply to the other party's Statement of Position ("Reply"). The Reply shall contain the following information:

(a) a written statement, to be limited to that party's rebuttal to the matters set forth in the other party's Statement of Position;

(b) a list of witnesses each party intends to call at the hearing to rebut the evidence to be presented by the other party, designating which witnesses will be called as expert witnesses;

(c) a list of the documents each intends to introduce at the hearing to rebut the evidence to be presented by the other party, together with complete and correct copies of all of such documents (unless, upon a showing of good cause by either party, the arbitrator establishes a different deadline for delivering true and correct copies of such documents);

(d) if the issue involves Fair Market Rental Value or a valuation matter, a list of all Written Appraisal Evidence, or written critiques of the other party's Written Appraisal Evidence if any, each intends to introduce at the hearing to rebut the evidence presented by the other party, together with complete and correct copies of all of such Written Appraisal Evidence (unless, upon a showing of good cause by either party, the arbitrator establishes a different deadline for delivering true and correct copies of such Written Appraisal Evidence); and

(e) Witnesses or documents to be used solely for impeachment of a witness need not be identified or produced.

(4) The arbitrator is not bound by the rules of evidence, but may not consider any evidence not presented at the hearing. The arbitrator may exclude evidence for any reason a court may exclude evidence or as provided in this Lease.

16.6 Statements of Position. The Statement of Position to be delivered by Section 16.5 shall comply with the following requirements:

(1) Where the dispute involves rent to be charged, market values, insurance levels or other monetary amounts, the Statements of Position shall numerically set forth the existing minimum rent, percentage rent, market value, insurance level and/or other monetary amounts in dispute, the party's proposed new minimum rent, percentage rent, market value, insurance level and/or other monetary amounts, and shall additionally set forth the facts supporting such party's position.

(2) If the dispute relates to Improvement Costs, the Statements of Position shall set forth the facts supporting such party's position and the amount of each cost which the party believes should be allowed or disallowed.

16.7 Written Appraisal Evidence. Neither party may, at any time during the proceedings, introduce any written report which expresses an opinion regarding Fair Market Rental Value or the fair market value of the Premises, or any portion thereof, ("Written Appraisal Evidence") unless such Written Appraisal Evidence substantially complies with the following standards: it shall describe the Premises; identify the uses permitted thereon; describe or take into consideration the terms, conditions and restrictions of this Lease; correlate the appraisal method(s) applied; discuss the relevant factors and data considered; review rentals paid by lessees in Marina del Rey and other marina locations within Southern California who are authorized to conduct similar activities on comparable leaseholds; and, describe the technique of analysis, limiting conditions and computations that were used in the formulation of the valuation opinion expressed. With respect to disputes regarding Fair Market Rental Value, such Written

Appraisal Evidence shall express an opinion regarding the fair market rental value of the Premises as prescribed by Section 4.4.1. Written Appraisal Evidence in connection with disputes arising out of Article 6 of this Lease shall predicate any valuation conclusions contained therein on the Income Approach. Written Appraisal Evidence shall in all other respects be in material conformity and subject to the requirements of the Code of Professional Ethics and the Standards of Professional Practice of The Appraisal Institute or any successor entity.

16.8 Evidence. The provisions of Code of Civil Procedure § 1282.2(a)(2)(E) shall not apply to the arbitration proceeding. The arbitrator shall have no discretion to allow a party to introduce witnesses, documents or Written Appraisal Evidence (other than impeachment testimony) unless such information was previously delivered to the other party in accordance with Section 16.5 and, in the case of Written Appraisal Evidence, substantially complies with the requirements of Section 16.7, or such evidence consists of a transcript of a deposition of an expert witness conducted pursuant to Section 16.9. Notwithstanding the foregoing, the arbitrator may allow a party to introduce evidence which, in the exercise of reasonable diligence, could not have been delivered to the other party in accordance with Section 16.5, provided such evidence is otherwise permissible hereunder.

16.9 Discovery. The provisions of Code of Civil Procedure § 1283.05 shall not apply to the arbitration proceedings except to the extent incorporated by other sections of the California Arbitration Act which apply to the arbitration proceedings. There shall be no pre-arbitration discovery except as provided in Section 16.5; provided, however, each party shall have the right, no later than seven (7) days prior to the date first set for the hearing, to conduct a deposition, not to exceed three (3) hours in duration unless the arbitrator otherwise determines that good cause exists to justify a longer period, of any person identified by the other party as an expert witness pursuant to Sections 16.5 (2)(b) or 16.5 (3)(b).

16.10 Awards of Arbitrators.

16.10.1 Monetary Issues. With respect to monetary disputes (including without limitation disputes regarding Percentage Rent, Fair Market Rental Value and the amount of coverage under the policies of insurance required pursuant to Article 9 of this Lease), the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position. The arbitrator shall instead select whichever of the two Statements of Position is the closest to the monetary or numerical amount that the arbitrator determines to be the appropriate determination of the rent, expense, claim, cost, delay, coverage or other matter in dispute and shall render an award consistent with such Statement of Position. For purposes of this Section 16.10, each dispute regarding Annual Minimum Rent, each category of Percentage Rent and the amount of required insurance coverage shall be considered separate disputes (a "Separate Dispute"). While the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position concerning a Separate Dispute, the arbitrator shall have the right, if the arbitrator so chooses, to choose one party's Statement of Position on one or more of the Separate Disputes, while selecting the other party's Statement of Position on the remaining Separate Disputes. For example, if the parties are unable to agree on the Annual Minimum Rent and three Percentage Rent categories to be renegotiated pursuant to Section 4.4 and the amount of liability insurance coverage to be

renegotiated pursuant to Section 9.3, then there shall be five Separate Disputes and the arbitrator shall be permitted to select the County's Statement of Position with respect to none, some or all of such five Separate Disputes and select the Lessee's Statement of Position, on the balance, if any, of such five Separate Disputes. Upon the arbitrator's selection of a Statement of Position, pursuant to this Article 16, the Statement of Position so chosen and the award rendered by the arbitrator thereon shall be final and binding upon the parties, absent Gross Error on the part of the arbitrator.

16.10.2 Nonmonetary Issues. With respect to nonmonetary issues and disputes, the arbitrator shall determine the most appropriate resolution of the issue or dispute, taking into account the Statements of Position submitted by the parties, and shall render an award accordingly. Such award shall be final and binding upon the parties, absent Gross Error on the part of the arbitrator.

16.11 Powers of Arbitrator. In rendering the award, the arbitrator shall have the power to consult or examine experts or authorities not disclosed by a party pursuant to Section 16.5(2) hereof, provided that each party is afforded the right to cross-examine such expert or rebut such authority.

16.12 Costs of Arbitration. Lessee and County shall equally share the expenses and fees of the arbitrator, together with other expenses of arbitration incurred or approved by the arbitrator. Failure of either party to pay its share of expenses and fees constitutes a material breach of such party's obligations hereunder.

16.13 Amendment to Implement Judgment. Within seven (7) days after the issuance of any award by the arbitrator becomes final, the County will draft a proposed amendment to the Lease setting forth the relevant terms of such award. Within seven (7) days after delivery of a copy of the amendment to Lessee, Lessee will either sign the amendment and return the executed copy to the County, or notify County in writing of any deficiencies or errors in the Amendment. If the parties shall, in good faith, disagree upon the form of any such amendment, such disagreement shall be submitted to the arbitrator for resolution. Upon execution by Lessee, any amendment described in this Section 16.13 shall thereafter be executed by County as soon as reasonably practicable.

16.14 Impact of Gross Error Allegations. Where either party has charged the arbitrator with Gross Error:

16.14.1 The award shall not be implemented if the party alleging Gross Error obtains a judgment of a court of competent jurisdiction stating that the arbitrator was guilty of Gross Error and vacating the arbitration award ("Disqualification Judgment"). In the event of a Disqualification Judgment, the arbitration process shall begin over immediately in accordance with this Section 16.14, which arbitration shall be conducted (with a different arbitrator) as expeditiously as reasonably possible.

16.14.2 The party alleging Gross Error shall have the burden of proof.

16.14.3 For the purposes of this Section 16.14, the term "Gross Error" shall mean that the arbitration award is subject to vacation pursuant to California Code of Civil Procedure § 1286.2 or any successor provision.

17. DEFINITION OF TERMS; INTERPRETATION.

17.1 Meanings of Words Not Specifically Defined. Words and phrases contained herein shall be construed according to the context and the approved usage of the English language, but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning by law, or are defined in Section 1.1, are to be construed according to such technical, peculiar, and appropriate meaning or definition.

17.2 Tense; Gender; Number; Person. Words used in this Lease in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter and the neuter includes the masculine and feminine; the singular number includes the plural and the plural the singular; the word "person" includes a corporation, partnership, limited liability company or similar entity, as well as a natural person.

17.3 Business Days. For the purposes of this Lease, "business day" shall mean a business day as set forth in Section 9 of the California Civil Code.

17.4 Parties Represented by Consultants, Counsel. Both County and Lessee have entered this Lease following advice from independent financial consultants and legal counsel of their own choosing. This document is the result of combined efforts of both parties and their consultants and attorneys. Thus, any rule of law or construction which provides that ambiguity in a term or provision shall be construed against the draftsperson shall not apply to this Lease.

17.5 Governing Law. This Lease shall be governed by and interpreted in accordance with the laws of the State of California.

17.6 Reasonableness Standard. Except where a different standard is specifically provided otherwise herein, whenever the consent of County or Lessee is required under this Lease, such consent shall not be unreasonably withheld and whenever this Lease grants County or Lessee the right to take action, exercise discretion, establish rules and regulations or make allocations or other determinations, County and Lessee shall act reasonably and in good faith. These provisions shall only apply to County acting in its proprietary capacity.

17.7 Compliance with Code. County and Lessee agree and acknowledge that this Lease satisfies the requirements of Section 25536 of the California Government Code as a result of various provisions contained herein.

17.8 Memorandum of Lease. The parties hereto shall execute and acknowledge a Memorandum of Lease Extension, in recordable form and otherwise satisfactory to the parties hereto, for recording as soon as is practicable on or following the Effective Date.

IN WITNESS WHEREOF, County and Lessee have entered into this Lease as of the Effective Date.

THE COUNTY OF LOS ANGELES

By: _____
Mayor, Board of Supervisors

GOLD COAST WEST, LLC, a Delaware limited liability company

By: _____
Its: _____

By: _____
Its: _____

APPROVED AS TO FORM:

LLOYD W. PELLMAN
COUNTY COUNSEL

By: _____
Deputy

ATTEST:

VIOLET VARONA-LUKENS,
Executive Officer of the
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

PARCEL 95S LEGAL DISCRIPTION

LEGAL DESCRIPTION

Marina Del Rey
Lease Parcel No. 95S

Parcels 370 to 377 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said county.

Excepting therefrom that portion thereof which lies northeasterly of a line which bears at right angles to the southeasterly line of said Parcel 377 and which passes through a point in said southeasterly line distant southwesterly thereon 100.00 feet from the easterly corner of said last mentioned parcel.

Also excepting therefrom that portion thereof which lies within the southwesterly 10 feet of said Parcel 370.

Together with a right of way for ingress and egress to be used in common with others over those portions of Parcels 362 to 369 inclusive, as shown on said map, which lie northwesterly of a line parallel with and 20 feet southeasterly, measured at right angles, from the northwesterly line of said Parcel 362.

Also reserving and excepting unto the County of Los Angeles a right of way for harbor utility purposes in and across the southeasterly 5 feet of said Parcels 370 to 377 inclusive.

DESCRIPTION APPROVED
May 13, 1968
JOHN A. LAMBIE
County Engineer

By _____ Deputy

EXHIBIT B

PARCELS 95S & LLS RENOVATION PLAN

Term Sheet Template Item	*Lessee Proposal Gold Coast West Offices – Parcel 95*
1) SCOPE OF WORK	
A reasonably detailed, written narrative description of the work to be done, including each of the following: ▫ **All new construction and renovation** ▫ **Timing for the start of the construction – August 2003** ▫ **Timing for the completion of the construction – October/November 2004 (Leased and operating January 2005)** **The narrative shall include all applicable components of the project, grouped as set forth below.**	
a) Commercial – Shopping Center	
• **Demolition (of existing improvements prior to commencing work)**	The corner of Washington Boulevard and Via Marina presents an opportunity to create a second grand entrance to Marina del Rey. Gold Coast West currently has 21,119 square feet of retail and commercial improvements on Parcel 95. The improvements, which were originally developed thirty years ago, are dated and represent an under utilization of the parcel. We now plan to demolish the existing improvements, except for the Islands Restaurant, and to develop a new 40,763 square foot mixed use project.

Term Sheet Template Item	*Lessee Proposal* *Gold Coast West Offices – Parcel 95*
• **New building construction**	The development contemplated for Parcels 95 and LLS is extensive. Plans include i) building a new two story office building on the current site of the Wells Fargo Bank, ii) completely renovating the Islands Restaurant to like new condition and to blend with the new construction, and iii) building a new 20,112 square foot building for retail and restaurant tenants, between the new office building and the Islands Restaurant. Additionally, 238 parking spaces will be incorporated into the project, including 70 surface level parking spaces located behind the new retail building and 168 parking spaces located on the roof of the new retail building. The new retail/restaurant building reflects an undulating façade with store fronts at varying depths from the street to soften the elevation. The office building has a curved frontage to provide a view of the park and to open the vista into Marina del Rey.
• **A New Park**	For the past several years there has been an initiative to provide a public park on Parcel LLS at the southwest corner of Washington Boulevard and Via Marina, adjacent to Wells Fargo Bank. Our plan incorporates the design of a public park on Parcel LLS. Further, this park dramatically opens the corner at Via Marina and Washington Boulevard. Taken together with our simultaneous, separate proposal for Parcel 97, which places another similar public park across Via Marina from Parcel LLS, a grand entrance boulevard to Mother's Beach and the westside of Marina del Rey will be created along Via Marina.

Term Sheet Template Item	*Lessee Proposal Gold Coast West Offices – Parcel 95*
• **Remodeled building exteriors**	**Building Heights** The new office building on the east end of Parcel 95, adjacent to Parcel LLS, will be 32 feet in height at the main roof line and approximately 39 feet at the accent tower. The new retail building will be approximately 20 feet tall at the top of the parking screen wall and 37 feet at its towers. **Building Materials** The site will be developed with an extensive use of colored interlocking concrete pavers, tile, granite and smooth finish plaster exterior elevations, copper standing seam roof, glass skylights, precast planters, blue/green tinted glass throughout and decorative metal rails. **Landscaping** The ground level landscaping will include the predominant use of Loropetalum, Chinese Plum Delight, Asparagus Meyer II, Canna Tropicana, Phoenix Roebeleni, Phoenix Dactilifera Mejool, Tupidanthus Calyptratus, Strelitzia Reginae, Bromeliads and Howea Fostereana. Several palm trees currently on the site will be maintained and the project will benefit from the extensive use of annual color. Rooftop and accent plants in rear of the office building lobby will include the use of Azalea 'Red Bird' Trachelospermum Jasminoides and Strelitzia Reginae. **Signage** Signs are planned to be back lit channel letters 18" tall with black returns and consistent color criteria. **Parking** The proposed uses require 238 parking spaces and this plan provides those spaces.

Term Sheet Template Item	*Lessee Proposal* *Gold Coast West Offices – Parcel 95*
• **Remodeled building interiors**	**The Office Building** The new 2 story building located on the east side of Parcel 95 will contain 14,938 square feet on two floors. We will locate Wells Fargo and a 2800 square foot restaurant on the ground floor. Offices will occupy the upper floor. **The Islands Restaurant** The Islands Restaurant will be completely renovated to like new condition and will blend architecturally with the new structures. Due to the ongoing business concerns of the tenant, this building will not be demolished. The Islands Restaurant will remain in the building and in business throughout the renovation. **The New Retail** A new retail/restaurant facility with frontage on Washington Boulevard is planned between the new office building and the Islands Restaurant. The retail building will include 20,112 square feet of which 3,712 square feet are planned as restaurant space and 16,400 square feet are planned as retail shops. Areas will be devoted for outdoor dining which will enhance the project.
b) Marina	
• **Replacement of docks and slips, including design and materials**	This item does not apply because Parcel 95 is not adjacent to the water and there currently are no docks.
• **Retention of existing slip count, including slip count before and after by slip size**	This item does not apply because Parcel 95 is not adjacent to the water and currently has no slips.

Term Sheet Template Item	*Lessee Proposal Gold Coast West Offices – Parcel 95*
• **Retention of marine commercial facilities, including area count before and after for each category**	This item does not apply because Parcel 95 is not adjacent to the water and currently houses no marine commercial facilities.
c) Promenade	
• **Walkway design and materials**	This item does not apply because Parcel 95 is not adjacent to the water and therefore there will be no Promenade.
• **Fencing design and materials**	This item does not apply because Parcel 95 is not adjacent to the water and therefore there will be no Promenade.
• **Lighting design and materials**	This item does not apply because Parcel 95 is not adjacent to the water and therefore there will be no Promenade.
d) Signage	
• **New signage program**	Signs are planned to be back lit letters, 18" tall with black returns and consistent color criteria.

Term Sheet Template Item	*Lessee Proposal Gold Coast West Offices – Parcel 95*
2) PLANS & DRAWINGS	
Preliminary plans for all work to be done	
a) Site Plan	
• **Reduced color site plans (8.5x11 or 11x17), showing work described above, including all structures, hardscape, promenade, landscaping and slips**	See Exhibit A-3, "Parcels 95S & LLS Site Plan – Entire Site" Also see Exhibit A-4, "Parcels 95S & LLS Site Plan – First Floor" Also see Exhibit A-5, "Parcels 95S & LLS Site Plan – Second Floor" Also see Exhibit A-8, "Parcels 95S & LLS Project Analysis"
b) Building Elevation	
• **A reduced color elevation (8.5x11 or 11x17) drawing that shows all new and/or renovated building elevations**	See Exhibit A-1, "Parcels 95S & LLS Elevation – Detail" Also see Exhibit A-2, "Parcels 95S & LLS Elevation – North"
c) Landscaping Plan	
• **If not already included in the above materials**	See Exhibit A-6, "Parcels 95S & LLS Landscape Plan – Panel 1 and Legend" Also see Exhibit A-7, "Parcels 95S & LLS Landscape Plan – Panel 2"

Term Sheet Template Item	*Lessee Proposal* *Gold Coast West Offices – Parcel 95*
d) Dock Construction Plan	
• **Dock construction plan, including physical layout of docks and slips**	This item does not apply because Parcel 95 is not adjacent to the water and there are no slips.

Term Sheet Template Item	*Lessee Proposal* *Gold Coast West Offices – Parcel 95*
3) BUDGET	
a) Budget worksheet	
• **Estimated cost for all of the work agreed upon**	$8,065,000

Exhibit A-1
Parcels 95S & LLS Elevation – Detail

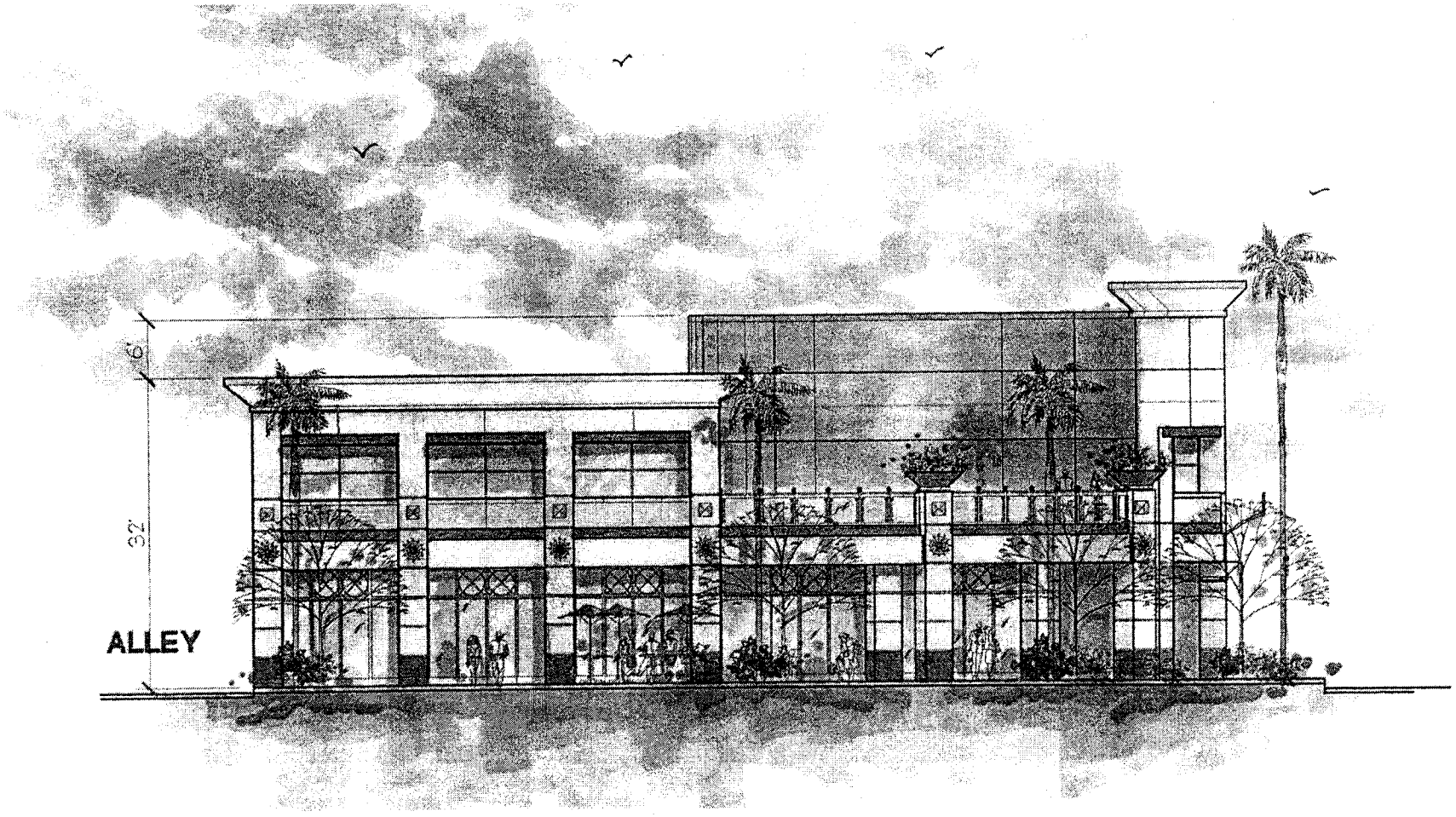


Exhibit A-2
Parcels 95S & LLS Elevation – North

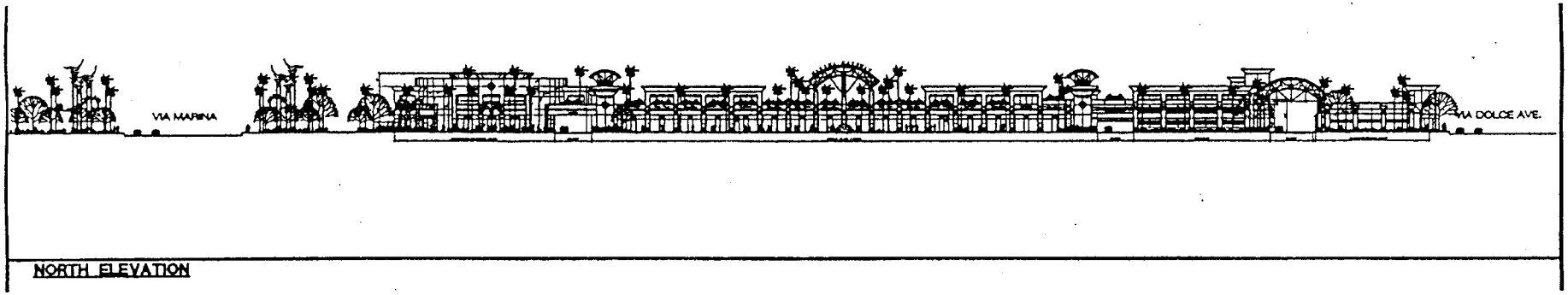
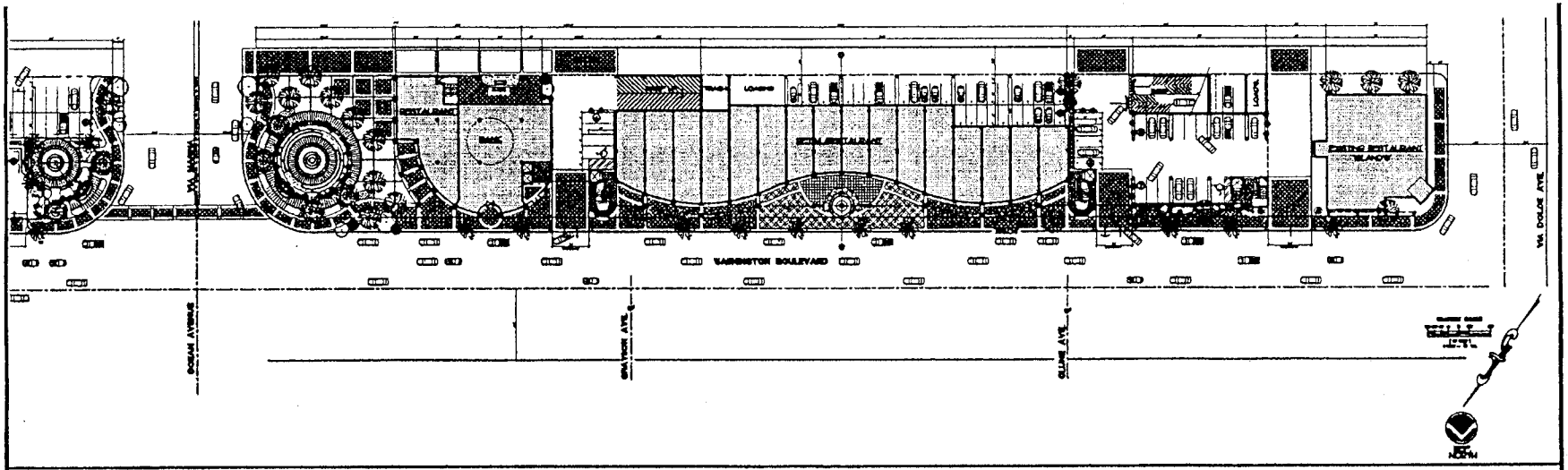


Exhibit A-3
Parcels 95S & LLS Site Plan – Entire Site



SITE PLAN

Marina Gateway

MARINA DEL REY, PARCEL 95, CALIFORNIA

Jack Hollander & Associates, Inc.

Exhibit A-4
Parcels 95S & LLS Site Plan – First Floor

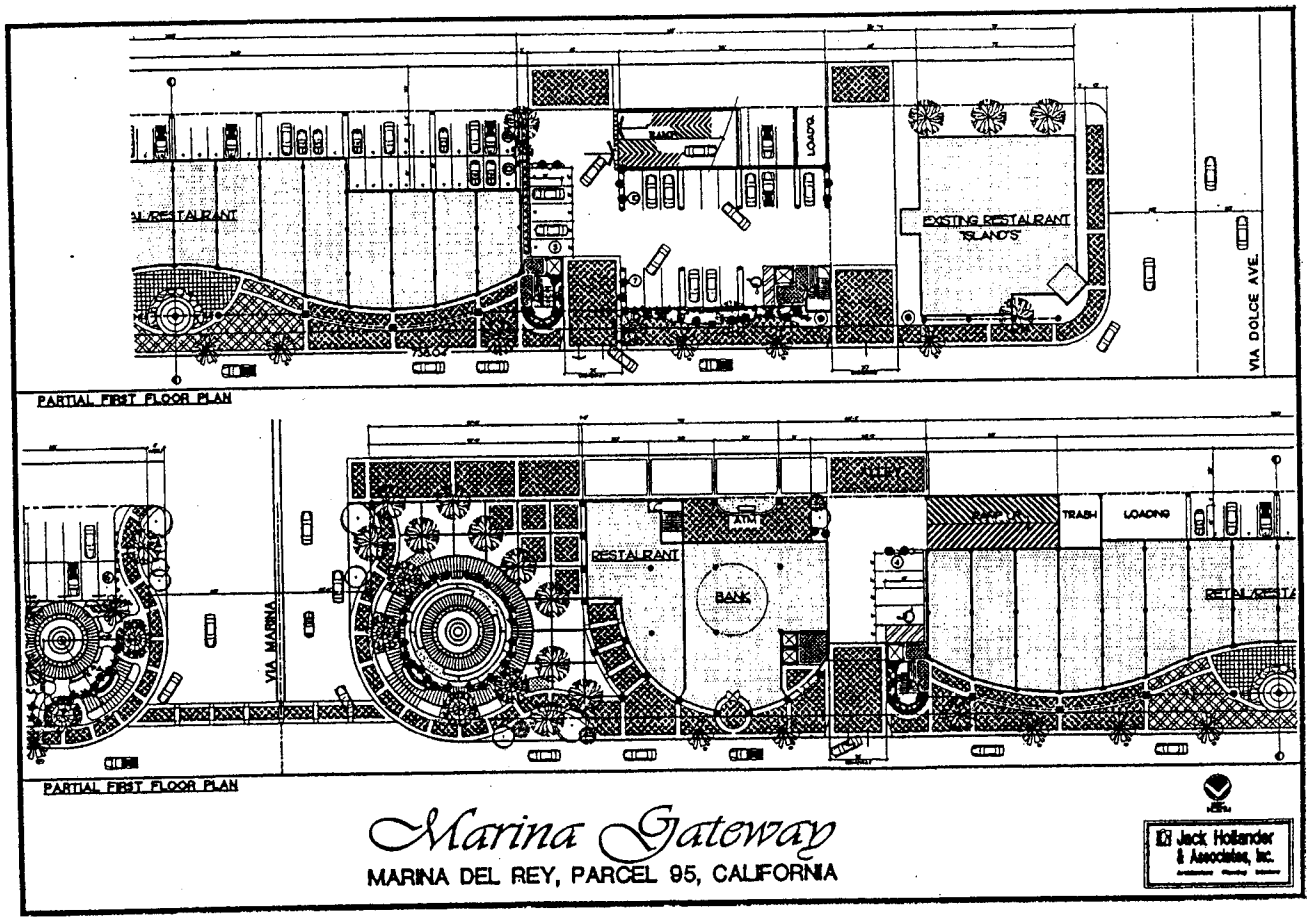


Exhibit A-5
Parcels 95S & LLS Site Plan – Second Floor

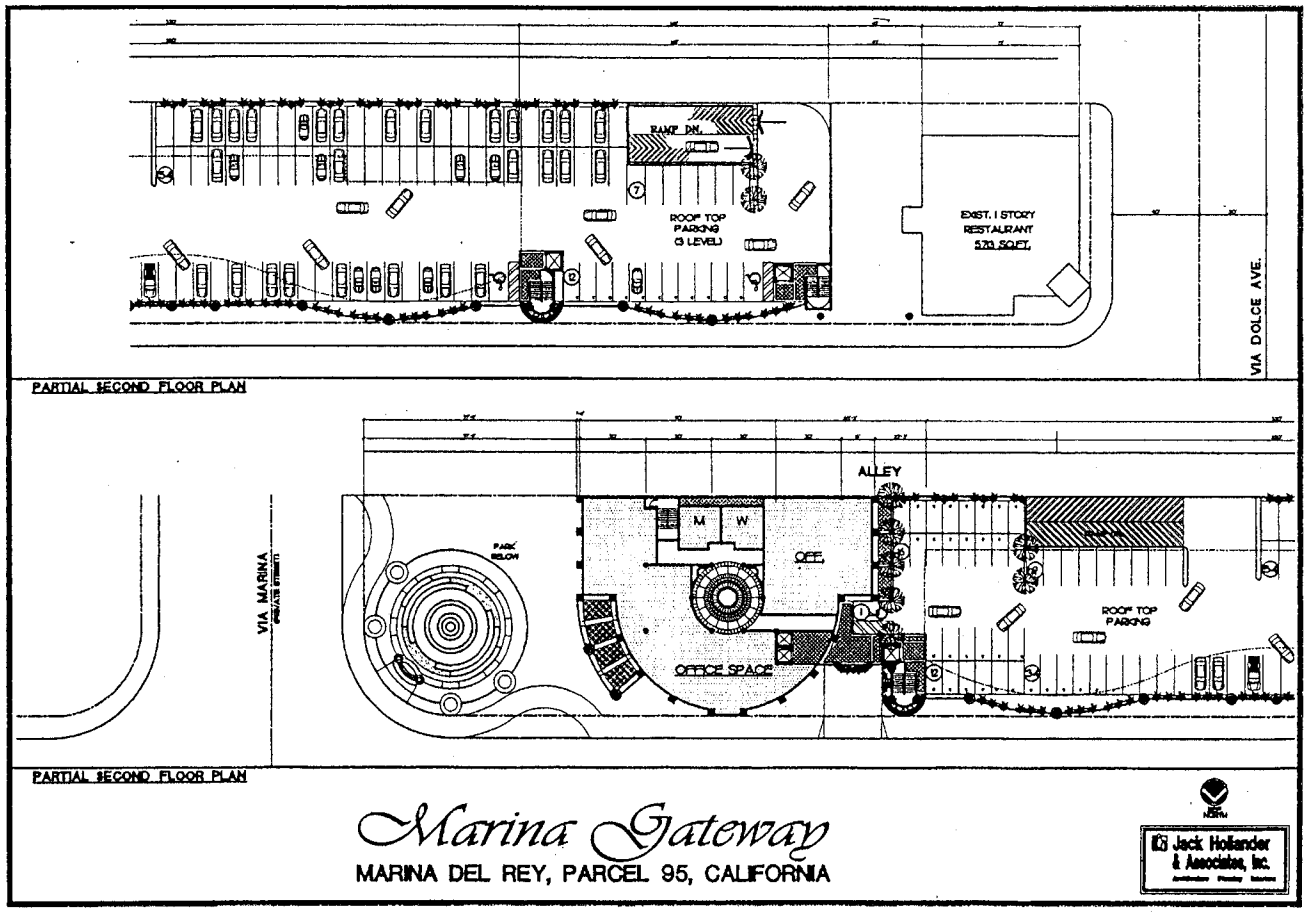


Exhibit A-6
Parcels 95S & LLS Landscape Plan – Panel 1 and Legend

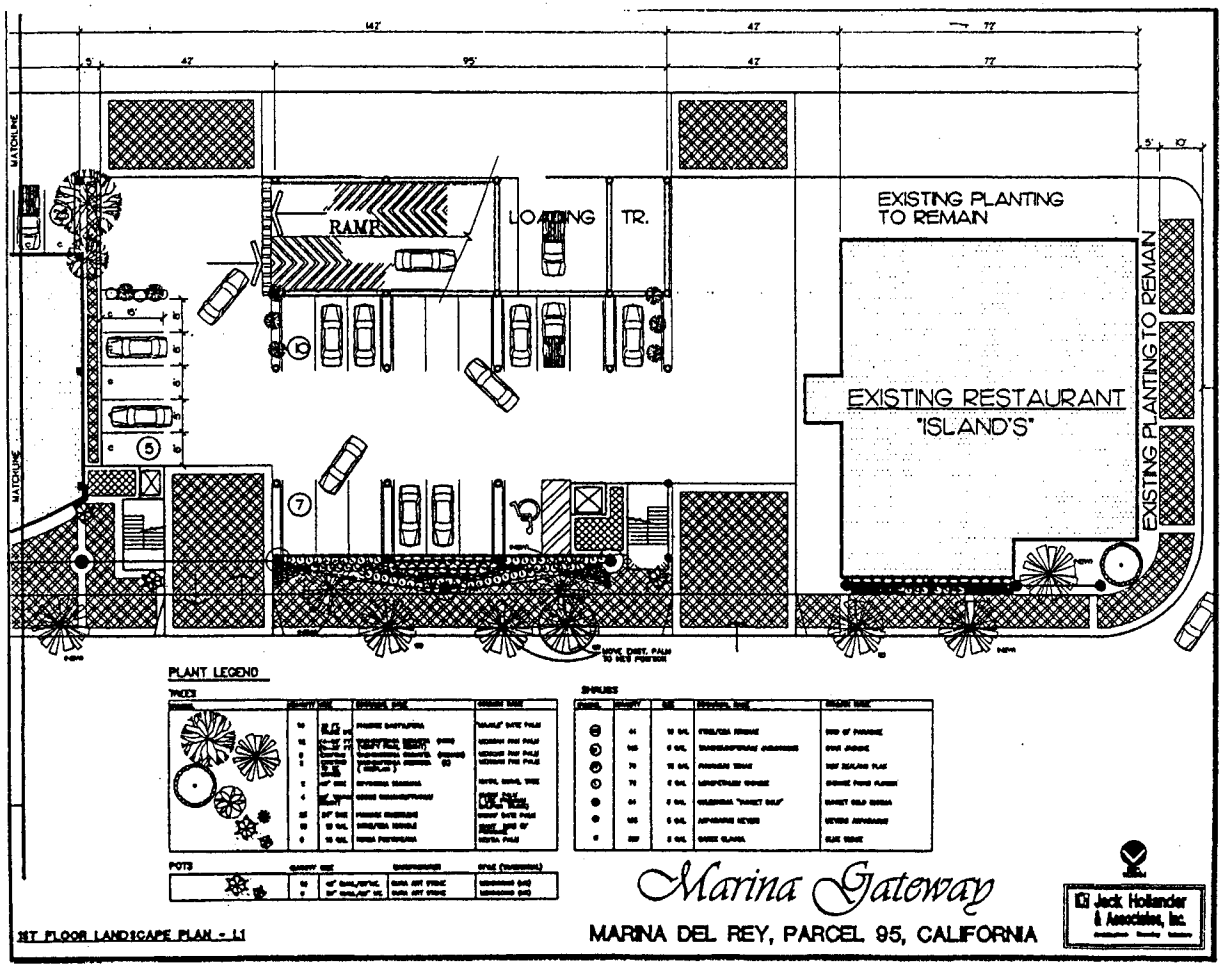


Exhibit A-7
Parcels 95S & LLS Landscape Plan – Panel 2

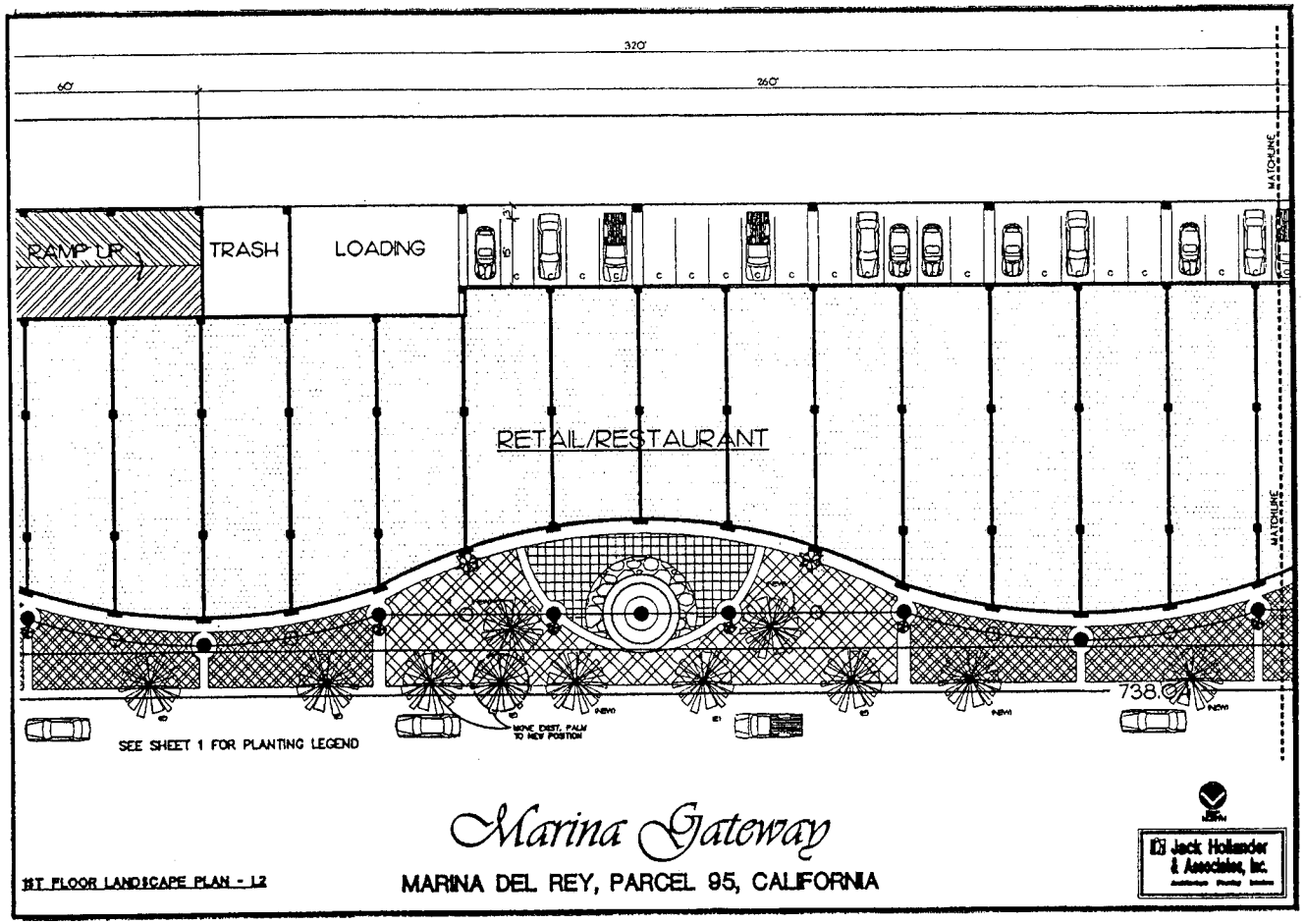


Exhibit A-8
Parcels 95S & LLS Project Analysis

PROJECT ANALYSIS

BUILDING AREA

GROUND FLOOR			
EXISTING REST.	=	5,713	S.F.
PROPOSED REST.	=	6,512	S.F.
RETAIL	=	15,250	S.F.
BANK	=	4,250	S.F.
SUB TOTAL	=	31,725	S.F.
SECOND FLOOR			
OFFICE	=	7,888	S.F.
TOTAL PROPOSED BUILDING AREA	=	39,613	S.F.
TOTAL EXISTING BUILDING AREA	=	21,119	S.F.
TOTAL ADDED BUILDING AREA = 39,433 - 21,119	=	18,494	S.F.

TRAFFIC TRIP GENERATION

USE	EXISTING AREA (SQ.FT.)	PROPOSED AREA (SQ. FT.)	NET NEW AREA	TOTAL TRIP GENERATION	TOTAL TRIPS
OFFICE	9,180	7,888	-1,292	= 2.21 X 14.25/1000 =	-2.86
BANK	7,500	4,250	-3,250	= 33.15 X 3,250/1000	-107.73
RESTAURANT	5,713	5,713 + 6,512	6,512	240 SEATS X 0.25 PER SEAT	+60
RETAIL	----	15,250	15,250	=4.44 X 15,250 /1000	+67.71
				TOTAL	+17.12

PARKING ANALYSIS

PARKING REQUIRED

USE:	AREA(SQ.FT.)	PARKING REQUIRED		
EXISTING REST.	5,713	= 165 OCCUPANTS /3	= 55	SPACES
PROPOSED REST.	6,512	= 240 OCCUPANTS /3	= 80	SPACES
RETAIL	15,250	15,250 / 250	= 61	SPACES
BANK	4,250	4,250 / 250	= 17	SPACES
2ND FLR. OFFICE	7,888	7,888 / 400	= 19.72	SPACES
DEDICATED PARKING FOR THE PARK			= 1	SPACES
TOTAL	39,613 S.F.		=233.72	SPACES

PARKING PROVIDED

	HANDICAPPED	STANDARD	COMPACT'S	TOTAL
GROUND LEVEL	2	22	40	64
INTERMEDIATE PARKING LEVEL	2	15	8	25
ROOF TOP PARKING	3	97	45	145
TOTAL	7	134	93 = 34.2%	234

Marina Gateway

MARINA DEL REY, PARCEL 95, CALIFORNIA

Jack Hollander & Associates, Inc.

EXBIBIT B

Draft: 6/4/03

EXHIBIT C
ASSIGNMENT STANDARDS

These standards are to apply to proposed transactions requiring County's consent pursuant to Section 11.2 of the Lease. These standards and conditions are not to apply to (a) an assignment for the purpose of securing leasehold financing of the parcel by an encumbrance holder approved by County, (b) the transfer of the leasehold in connection with a foreclosure or transfer in lieu of foreclosure by an approved lender, or (c) the first transfer by that encumbrance holder if it has acquired the leasehold through a foreclosure or a transfer in lieu of foreclosure.

1. The proposed transferee must have a net worth determined to be sufficient in relation to the financial obligations of the lessee under the Lease (equal to at least six (6) times the total Annual Minimum Rent and Percentage Rent due to County for the most recent fiscal). A letter of credit, cash deposit, guarantee from a parent entity or participating individual(s) having sufficient net worth or similar security satisfactory to the County may be substituted for the net worth requirement.

2. The proposed assignee must have significant experience in the construction (if contemplated), operation and management of the type(s) of Improvements existing on or to be constructed on the Premises, or provide evidence of contractual arrangements for these services with providers of such services satisfactory to the County. If County's approval of the transaction is based on the identity of third party service providers, then subsequent changes in such service providers or changes to the contractual arrangements on which such services are provided must be approved by the County. All such approvals of the County will not be unreasonably withheld or delayed.

3. The individual or individuals who will acquire Lessee's interest in this Lease or the Premises, or who own the entity which will so acquire Lessee's interest, irrespective of the tier at which such individual ownership is held, must be of good character and reputation and, in any event, shall have neither a history of, nor a reputation for: (1) discriminatory employment practices which violate any federal, state or local law; or (2) non-compliance with environmental laws, or any other legal requirements or formally adopted ordinances or policies of the County.

4. The price to be paid for the acquired interest shall not, in County's reasonable judgment, result in a financing obligation of the proposed transferee which jeopardizes the Lessee's ability to meet its rental obligations to the County. Market debt service coverage ratios and leasehold financial performance, at the time of the Proposed Transfer, will be used by County in making this analysis.

5. If the proposed transferee is an entity, rather than an individual, the structure of the proposed transferee must be such that (or the assignee must agree that) the County will have reasonable approval rights regarding any future direct or indirect transfers of interests in the entity or the applicable lease; provided however, that a transfer of ownership of a publicly held parent corporation or

other entity of Lessee that is not done primarily as a transfer of this leasehold will not be subject to County approval.

6. The terms of the proposed assignment will not detrimentally affect the efficient operation or management of the leasehold, the Premises or any Improvements thereon.

7. The proposed transferee does not have interests which, when aggregated with all other interests granted by County to such transferee, would violate any policy formally adopted by County restricting the economic concentration of interests granted in the Marina del Rey area, which is uniformly applicable to all Marina del Rey lessees.

8. The transfer otherwise complies with the terms of all ordinances, policies and/or other statements of objectives which are formally adopted by County and/or the County Department of Beaches and Harbors and which are uniformly applicable to persons or entities with rights of occupancy in any portion of Marina del Rey.