To enrich lives through effective and caring service

Los Angeles County
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

December 6, 2007

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan

SUBJECT: **COMMISSION AGENDA** – December 12, 2007 Meeting

Enclosed is the Agenda for the December 12, 2007 meeting. Also enclosed are the minutes for your Commission's August 8, 2007 meeting, October 11, 2007 meeting, and November 14, 2007 meeting. In addition, please find the reports related to Agenda Items 3a, 3b, 4a, 5a, 5b, 5d and 6a. The report related to Agenda Item 5c will be e-mailed to you and placed on the Department website by the close of business on Monday, December 10, 2007.

Please feel free to call me at (310) 305-9522 if you have any questions or need additional information.

SW:rf

Enclosures

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6315 • internet: http://marinadelrey.lacounty.gov

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LOS ANGELES COUNTY
Department of Beaches & Harbors

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Director

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SMALL CRAFT HARBOR COMMISSION

AGENDA
December 12, 2007
9:30 a.m.

BURTON W. CHACE PARK COMMUNITY ROOM
13650 MINDANAO WAY
MARINA DEL REY, CA. 90292

1. Call to Order and Pledge of Allegiance

2. Approval of Minutes: August 8, 2007, October 11, 2007 and November 14, 2007 Meetings

3. **REGULAR REPORTS**

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

   b. Marina del Rey and Beach Special Events (PRESENTATION BY DUSTY CRANE, DIVISION CHIEF, COMMUNITY AND MARKETING SERVICES)

   c. Marina del Rey Convention and Visitors Bureau (PRESENTATION BY BEVERLY MOORE, EXECUTIVE DIRECTOR OF MdR CVB)

4. **OLD BUSINESS**

   a. Proposed Letter to Board of Supervisors Regarding Boat Slip Rental Rate Increases (DISCUSS LETTER)

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://marinadelrey.lacounty.gov

5. **NEW BUSINESS**

a. Parcel 27R (Jamaica Bay Inn) - Approval of Renewal of Option to Amend Lease No. 6573 (RECOMMEND TO BOARD OF SUPERVISORS)

b. Parcel OT (Parking Lot) [Future Parcel 147] - Approval of Option for Lease and Lease to Facilitate Redevelopment (RECOMMEND TO BOARD OF SUPERVISORS)

c. Parcel 21 (Holiday Harbor) - Approval of Option for Amended and Restated Lease to Facilitate Redevelopment (RECOMMEND TO BOARD OF SUPERVISORS)

d. Parcel 20 (Panay Way Marina) - Approval of Amendment No. 12 to Lease No. 6684 to Modify Redevelopment Work and Leasehold Area (RECOMMEND TO BOARD OF SUPERVISORS)

6. **STAFF REPORTS**

a. Ongoing Activities (DISCUSS REPORT)
- Board Actions on Items Relating to Marina del Rey
- Local Coastal Program Periodic Review – Update
- Regional Planning Commission's Calendar

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 (Ord. 93-0031 § 2 (part), 1993), 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://marinadelrey.lacounty.gov

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

Lloyd Taber-Marina del Rey Library
4533 Admiralty Way
Marina del Rey, CA 90292

Si necesita asistencia para interpretar esta informacion llame al (310) 305-9547.

ADA ACCOMMODATIONS: If you require reasonable accommodations or auxiliary aids and services such as material in alternate format or a sign language interpreter, please contact the ADA (Americans with Disabilities Act) Coordinator at (310) 305-9590 (Voice) or (310) 821-1734 (TDD).

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
MARINA DEL REY STATION
PART I CRIMES-NOVEMBER 2007

	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										0
Rape										0
Robbery: Weapon	1							2		3
Robbery: Strong-Arm		1					1		1	3
Aggravated Assault	2				1			2	2	7
Burglary: Residence	6			1	1		3	5	3	19
Burglary: Other Structure		1		1	2	1	2	3	1	11
Grand Theft	7	2					3	4	1	17
Grand Theft Auto	3	1			2			3	1	10
Arson										0
Boat Theft	1									1
Vehicle Burglary	2	1					2	3	8	16
Boat Burglary	1									1
Petty Theft	3	6			1		1	1	2	14
REPORTING DISTRICTS TOTALS	**26**	**12**	**0**	**2**	**7**	**1**	**12**	**23**	**19**	**102**

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

Source- LARCIS, **Date Prepared –DECEMBER 3, 2007**
CRIME INFORMATION REPORT - OPTION B

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

MARINA DEL REY STATION

PART I CRIMES- NOVEMBER-2007

Community Advisory Committee	Upper Ladera 2764	Lower Ladera 2766
Homicide	0	0
Rape	0	0
Robbery: Weapon	0	0
Robbery: Strong-Arm	0	1
Aggravated Assault	1	0
Burglary: Residence	1	3
Burglary: Other Structure	2	2
Grand Theft	0	3
Grand Theft Auto	2	0
Arson	0	0
Boat Theft	0	0
Vehicle Burglary	0	2
Boat Burglary	0	0
Petty Theft	1	1
Total	**7**	**12**

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

Source- LARCIS, **Date Prepared DECEMBER 3, 2007**
CRIME INFORMATION REPORT - OPTION B

MARINA DEL REY HARBOR ORDINANCE
SEAWORTHY & LIVEABOARD COMPLIANCE REPORT
2007

	October	November
Liveaboard Permits Issued (NEW)	**0**	**0**
(RENEW)	**10**	**7**
Total	**10**	**7**
Notices to Comply Issued	**0**	**0**

	Last Meeting	Present
Total Reported Liveaboards:	**382**	**382**
Total Current Liveaboard Permits Issued:	**175**	**170**
Total expired permits:	**94**	**99**
Total Reported Liveaboards without permits:	**113**	**113**

Total reported vessels docked in Marina del Rey Harbor: **4,416**

Percentage of vessels that are registered liveaboards: **8.65%**

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. (un-seaworthy vessel) in the months of July and August.

Number Of Impounded Vessels Demolished

To date, two hundred thirty-one (233) vessels have been removed from the marina for disposal, twenty-six (28) of those in 2007. Currently, four (11) vessels are awaiting disposal.

To enrich lives through effective and caring service

LOS ANGELES COUNTY
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

December 6, 2007

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan

SUBJECT: ITEM 3b - MARINA DEL REY AND BEACH SPECIAL EVENTS

MARINA DEL REY EVENTS

TALL SHIPS

Villa del Mar Anchorage, 13929 Marquesas Way, C-Basin
December 6th - 18th

Lady Washington, who played the "Interceptor" in "Pirates of the Caribbean – Curse of the Black Pearl", along with her tour partner, Hawaiian Chieftain, will arrive in Marina del Rey on Thursday, December 6th. Travel back in time aboard the Lady Washington, a reproduction of the great tall ship that sailed in the late 1700's.

There will be battle re-enactment sails and dockside tours open to the public beginning Thursday, December 6th, through Tuesday, December 18th. School aged children will have the opportunity to learn, hands-on, about global trade, navigation, and the life of 18th century sailors through scheduled educational programs.

For fee schedule and reservations call: Lady Washington at (800) 200-5239 or visit website http://www.historicalseaport.org.

FISHERMAN'S VILLAGE WEEKEND CONCERTS

Sponsored by Pacific Ocean Management, LLC
All concerts from 1:00 – 4:00 p.m.

Saturday, December 15
Chris "Hammer" Smith Band, performing Harmonica Jazz & Blues

Sunday, December 16
Floyd & The Fly Boys, playing Rhythm & Groove

Saturday, December 22
LA Cat, playing Reggae

Sunday, December 23
Malachi Nathan & The Elements, performing Funky Jazzy Blues

Saturday, December 29
Bob DeSena Latin Jazz Band, Latin Jazz Vibraphonist

Sunday, December 30
Susie Hansen Latin Jazz Band, performing Hot Latin Jazz

For more information call: Pacific Ocean Management at (310) 822-6866.

MARINA DEL REY GREETS THE NEW YEAR WITH FIREWORKS SPECTACULAR
Monday, December 31st
Sponsored by the Department of Beaches and Harbors
and presented by Zambelli Fireworks International

Marina del Rey will usher in the New Year with a spectacular free fireworks show off the Marina South Jetty on New Year's Eve, Monday, December 31. The fireworks will begin at the 30-second countdown to midnight and continue into the opening minutes of 2008.

The fireworks can be viewed throughout Marina del Rey. The best locations for viewing fireworks are Fisherman's Village on Fiji Way and Burton Chace Park. Parking is available in County lots throughout the Marina.

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

BEACH EVENTS

There are no beach events this month.

SW:DC:cm

SMALL CRAFT HARBOR COMMISSION
MINUTES
AUGUST 8, 2007

Commissioners

Harley Searcy, Chairman; Russ Lesser, Vice-Chairman; Albert Landini, Ed.D; Vanessa Delgado, MPA , Christopher Chuang-Lin, PhD

Department of Beaches and Harbors

Stan Wisniewski, Director

Also Present

Thomas Faughnan, Principal Deputy County Counsel; Beverly Moore, MdR Convention and Visitors Bureau; Dusty Crane, Community and Marketing Division; Lt. Roderick Kusch, Sergeant Michael Carriles and Deputy John Rochford of the Sheriff's Department

1. CALL TO ORDER, ACTION ON ABSENCES AND PLEDGE OF ALLEGIANCE

Chairman Searcy called the meeting to order at 9:37 a.m. The Commissioners, staff and members of the public stood and recited the Pledge of Allegiance.

Chairman Searcy moved and Vice-Chairman Lesser seconded a motion to excuse Commissioner Delgado from the meeting. The motion passed unanimously. Commissioner Delgado arrived later in the meeting.

2. APPROVAL OF MINUTES

Public Comment –

Ms. Marino referenced Page 10 of the minutes, second paragraph down. She stated that the discussion regarding the LCP review and the delays associated with the review, are not accurate. The entire paragraph is not very intelligible. She further commented that she did not receive the mailing on this and had just obtained this information last night.

Chairman Searcy asked Ms. Marino if she would like to spend some time correcting the minutes, which relates directly to that portion of her testimony. Chairman Searcy told Ms. Marino to provide her corrections to staff and staff would then have the minutes appropriately reflect that correction.

Ms. Marino replied that she would like to do that.

Chairman Searcy moved and Vice-Chairman Lesser seconded the motion to approve the July 11, 2007 minutes with Ms. Marino's correction to be given to staff. The motion passed unanimously.

3. REGULAR REPORTS

a. Marina Sheriff – Crime Statistics

Lt. Kusch stated that crime in the Marina area has remained fairly static over the last month. He commented that the Sheriff's bicycle team has stayed over the entire summer. The bicycle team has been paying attention to public events and increased patrols in subterranean garages.

Lt. Kusch explained the armed robbery at the Waterside Ralph's fresh faire market. Although this was listed as armed robbery, it was a shoplifting that escalated to a robbery when the staff tried to stop the robber. The robber brandished a knife, threw the items down and ran away. This was coded as a robbery even though it was a petty theft. There is another incident under investigation of a person brandishing a firearm at Dock 44.

Lt. Kusch would like to bring to the public's attention, that there is group(s) that are cutting down the palm trees in the Marina. It is his understanding that this is typically done when people oppose the vegetation that is not native to the area. A fifty foot palm tree is there one moment and gone the next. The Sheriff's Department is asking the public's assistance. If you see work crews hacking down a palm tree, please call the Sheriff's Station with the vehicle license plate number. The palm trees are not being cut up into small pieces and hauled away. This takes heavy equipment to saw down a palm tree in its entirety.

Lt Kusch advised the public that third row seats are being stolen out of Tahoe's, Yukon's and similar expensive vehicles. In case of a theft, the seats are marked. He advised the public that if this happens to one of them, to look on E-Bay or similar sites to see if their seat is being resold. The seats cost approximately three thousand dollars at the dealer.

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

Sgt. Carriles reported there are no significant changes.

Public Comment

Carla Andrus stated she would like to see the year on the reports.

b. Marina del Rey and Beach Special Events

Ms. Crane stated that we are almost through summer and advised the public that Fisherman's Village continues to have its concert series. She further spoke about other beach events and mentioned the new Los Angeles County beach guide and the updated Marina del Rey area restaurant guide. These publications are produced by private sponsorship money in which the Arrowhead Company has been a tremendous sponsor to the Department.

c. **Marina del Rey Convention and Visitors Bureau**

Ms. Moore explained that they are in the process of conducting an audit of the Marina del Rey Convention and Bureau Website to increase traffic to the website. The website has approximately fifty thousand visitors to the site each month.

OLD BUSINESS

a. **County Review of Apartment, Boat Slip and Liveaboard Rental Rates**

Mr. Wisniewski stated during the last Commission hearing, the Commission requested that the slip rent survey be standardized to show all rates by lineal foot. Accordingly, the Department has returned with a revised rent survey by lineal foot for Southern California and Marina del Rey. He further explained the rates in the Marina are consistent and in line with the rates charged at other Southern California marinas.

Chairman Searcy asked what the radius is for the Southern California survey.

Mr. Wisniewski replied sixty miles. The survey covers areas from Ventura to Newport Beach.

Commissioner Landini asked if staff could provide a vacancy report for the Marina.

Mr. Wisnewiski said that staff would happily provide the report.

Commissioner Chuang-Lin asked if some of the harbors had rent control.

Mr. Wisnewiski replied no. The other marinas are under the same price control procedures.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

John Nahas asked for the presentation to be heard before the public made their comments.

Chairman Searcy stated he would accommodate Mr. Nahas' request to change the Agenda.

However for the record, (prior to this meeting) Mr. Nahas sent an e-mail to the Commission with his information, requesting to speak and advising them of what the presentation would be. In the bi-line line of the e-mail, there is subject line and then next to it, request to speak. In Mr. Nahas' subsequent e-mail that was sent to the world and the press, it contained the same e-mail message, except the subject line was greater with Chairman Seracy's name next to it. Chairman Seracy advised Mr. Nahas he did not appreciate it especially when he is trying to work with him.

ITEM #7

Mr. Nahas explained to Chairman Searcy that he requested the Commission to provide financial statements and appraisals. Further, he requested the documents at the last meeting.

Vice-Chairman Lesser replied that he asked Mr. Nahas to submit all the documentation that he said that he had in advance so the Commission could review it.

Mr. Nahas said all his information was from Beaches and Harbors, so why would he submit things that the Department already had.

Chairman Searcy replied that when he makes a presentation, he is to furnish the materials. Chairman Searcy further explained that the Commission would accommodate him and have photocopies made of whatever he brought.

Mr. Wisnewiski advised the Commission that on the public document table, there is a summary of Mariners Bay gross receipts from 2000 to 2007.

Mr. Nahas said that it was his mistake. He thought the financial documents covering Mariners Bay and the other marinas would have been produced by the County.

Chairman Searcy replied that he had Mr. Nahas e-mail and that Mr. Nahas asked Chairman Searcy to make copies of the Mariners Bay gross receipt summary from 2000 to 2007. Further, Chairman Searcy told Mr. Nahas to begin his presentation.

Mr. Nahas replied that if the Commission is to make recommendations, how could they make those recommendations when they have limited information. If the Commission does not have the original lease agreement and amendments or the amount that Mariners Bay and other marinas are getting in the way of actual gross receipts, how can the Commission really justify the slip rent increases.

Chairman Searcy explained to Mr. Nahas the process of the meetings and recommended that he start with his presentation since this was part of his presentation time.

Mr. Nahas explained that the data in the survey was flawed since it does not include amenities and attributes. The data was not comparable.

Mr. Nahas started his presentation speaking about slip fee increases. He stated Mariner's Bay had fifty percent slip rental rate increases this year and a three point five percent increase every year since 2002. This was unprecedented in Marina del Rey. Mr. Nahas (they) met with Steve Napolitano in which Mr. Napolitano said he was not aware of any increases in his West Los Angeles region. Further, Mr. Nahas stated there have been consistent raises over the last several years at several marinas including Mariners Bay.

Mr. Nahas went to the Department of Beaches and Harbors and found fourteen amendments to the lease. He noted the terminology changed from "fair return on your investment" to "fair market". Mariners Bay Company, last year alone had nine point eight million dollars of gross receipts and one point two million of that went to the County. Mr. Nahas cited how Orange County gave their lessees thirty years leases and they then said goodbye to the lessees when the lease expired. Orange County now has the property and uses a management company.

He explained how fair market value is an oxymoron. If there is no supply then there is no market. With no supply, the marinas have created a leapfrog effect with slip rates. This becomes a very slippery slope between the have's against the have not's. If he cannot afford his boat slip anymore then he cannot afford his boat. Mr. Nahas went over the Mariners Bay gross receipts summary with the public using the projector.

Mr. Nahas (they) discovered Michigan State University as a source for research. The University referred him to Professor Ed Mahoney who came to their assistance. Professor Mahoney gave him

data on public recreation boating and economics. This data showed that fair market value and waterfront property is going to be the highest in the land.

Mr. Nahas then produced a movie that contained boater's comments regarding slip increases. These boaters could not attend the meeting. The movie ran approximately five minutes. (parts of the movie inaudible for transcribing due to technical difficulties)

Mr. Nahas spoke how the Department of Beaches and Harbors is two months behind in their vacancy reports. He spoke of long ADA compliant gangways at Basin A that could be changed and spoke of the use of hydraulics instead. In addition, four hundred slips from Deauville have been taken off the market for seven years and yet we have more citizens coming in to the Los Angeles area who want boat slips.

Mr. Nahas then spoke about the manipulation at Mariners Bay by increases in the thirds. He felt that didn't make sense and Mariners Bay could have easily raised all the slips at once. Further, he spoke of live-aboard status for all and doctored maintenance reports,

Mr. Nahas spoke about how the Department of Beaches and Harbors Mission Statement does not mention anything about boating. He said it's hard to be put in the position of landlord where you are getting all these increases and the other side where the Department is saying the harbor is all about recreational boating and we will protect the boaters. Further, the Department has allowed the Lessees to have too much power by allowing live-aboard limitations, raising rents and no enforcement of compliance.

Mr. Nahas concluded by commenting that the County should let the leases expire and take the land back from the Lessees. The Marina should remain recreational boating.

Mr. Jim Oates read a letter from Professor Mahoney regarding issues such as public marinas, recreation and fair market value. In the letter, Professor Mahoney explained there is no way to calculate fair market price when it comes to marina slip pricing.

Mr. Oates stated he has a boat at Villa del Mar what he considers is a nice marina, however the condition and rates and some of the other docks are horrendous.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Dorothy Franklin, a slip renter at Bar Harbor had her rent go up from December 2002 to January 2004. The overall increase was $293 a month. She spoke about Basin B and C being out of commission for almost seven years. She said the County forsakes its management responsibilities, which in turn curtails the public's right to the use and enjoyment of our costal resources. Further, she spoke of the lack of public outreach on the County's part.

Buzz Cook, is a slip renter at Mariners Bay who is very much stressed at the rent increases at his facility and that the facilities have not been brought up to standard, citing the bathrooms were shameful.

Nancy Vernon Marino thanked Mr. Nahas for a wonderful presentation and a good investigation. She did not get the mailing and was very upset to find out last that Item #4a was listed as a County review of apartment boat slip and liveaboard rental rates. She stated they do not want a review but an investigation and they want the county to do it. Further, she wants this Commission to do an investigation. Ms. Marino stated to the Commission that Mr. Nahas has brought them a tremendous amount of evidence.

Nancy Marino said the Marina del Rey slip rent survey was not defined. These numbers are not defined. There are two numbers for each one and Mr. Wisniewski thinks that is the range. She said five of the twenty marinas in the survey do not have small slips. That is twenty five percent and that is pretty shameful. She stated Neptune, Marina del Rey Hotel and Marina City Club have not been renovated and asked why are these small boat slips at twenty one dollars, twenty three fifty and twenty seven fifty a foot. Further, the Commission needs to ensure that Beaches and Harbors enforces appropriate rental rates in the Marina to encourage small craft boating and affordability for the average boater.

Nancy Marino asked if the averages on the slip survey had been calculated based on the number of slips per Marina or only on the rates. She questioned why Dock 77 was not on the survey, since they have affordable rates. She stated, the survey is incomplete, has poor information and needs to be improved.

Vice-Chairman Lesser said that Nancy makes an interesting point. The three rents are so out of line compared to everything else and their bottom number, whatever the bottom number means. Vice-Chairman Lesser then asked Mr. Wisniewski if he could try and get an explanation.

Chairman Searcy replied that other wise it seems to be spiking the averages.

Vice-Chairman Lesser replied that those three numbers are so out of line with everything else in the Marina.

Chairman Searcy added that while staff is looking at that, to also look at the methodology question.

Vice-Chairman Lesser added he would also like to know what the top and bottom top numbers represents.

Mr. Wisniewski replied that it does indicate the range, but we will be happy to report back.

Jun Yang is the Marina organizer for the People Organized for Westside Renewal. He wanted to see some oversight in regulations. Mr. Yang also added that we don't understand why it is so difficult for the people in the County of Los Angeles, who live, breath and die here to get any movement in and around the County of Los Angeles. We are asking for a little more transparency and a little more support for the community that we live in and work in.

Carla Andrus spoke about the manipulation of the Marina. She just received a copy of Deauville's lease and noted that Deauville has not been paying their ground rent of thirty two thousand dollars a month for the last seven years. She would like to sit down and write a number of questions and submit those questions to Chairman Searcy regarding the manipulation of Deauville Marina. Deauville Marina has all these slips out of commission. Bar Harbor is getting ready to send out their eviction notices so they may do their renovation. She feels it is only right that these boaters have a first come, first serve opportunity to be invited to the new marina at the same rent that they are paying at Bar Harbor.

Gerald Sobel is a boater who shares a slip at Pier 44. He spoke about his rent increase. He started paying $135 a month and is now paying $235 a month. This increase is over a eight-year period. He complained the high-rise buildings are blocking the wind for boaters.

Eric Kupris is a boat owner who rents a slip at Pier 44. He says that he cannot afford a fifty percent increase and asked for the County to buy his boat.

Rick Horner said this is not private real estate where the goal is the highest and best use of your property. This is almost a public park, where the highest is service for the community, not the highest

value that you can achieve on a square foot of property. He then asked how someone could be a member of the Commission.

Chairman Searcy asked Mr. Faughnan to response.

Mr. Faughnan replied that the positions of the Small Craft Harbor Commission are filled by the Board Offices and there are certain qualifications for each one of these seats.

Chairman Searcy replied that if someone wished to be considered for sitting on this Commission, they should contact the Board of Supervisors.

Mr. Faughnan replied that Chairman Searcy was correct.

Mr. Horner replied that needed to be changed and he felt the Commission needs to have some balance.

Ronnie is a liveaboard at the Bay Club who is unhappy that he had a one hundred and fifty dollar rent increase this year. He said after the rent increase, the Bay Club changed the toilet paper in the bathrooms from two-ply to one ply.

Scott Ganary is a boat slip renter at the Bay Club who complained that things are not being repaired. He mentioned that he arrived one weekend and found no parking but noticed twenty-three unauthorized vehicles with no stickers. He mentioned the Harbormaster at his marina does not work on the weekends. Mr. Ganary presented pictures of the restrooms to the Commission. He also stated the mail drop on the weekend is behind a locked gate. He further mentioned that he has experienced the electricity go out four times. Afterwards, he received a letter from the office that he will be evicted if he is within five hundred feet of the office. The owner will not return his calls.

Howard Minkin is a licensed general contractor and a Marina resident and liveaboard. When he first lived in the Marina, his boat payment, insurance and rent was $1,010.00 and now with no boat payment his rent alone is $1,116.00. He spoke about the need for democracy and balance.

Rudi Pel has been a boater for the last forty years. He said he is afraid he is going to have to sell is boat because of slip increases.

John Rizzo asked why the questions he submitted earlier to staff were never answered.

Mr. Wisniewski replied that this was the first time that he has ever seen these questions.

Mr. Rizzo replied that he came into the office and gave the questions to Donna.

Mr. Wisniewski asked when he handed the questions in and advised him that he would have the response within a week.

Mr. Rizzo said he has seen this dog and pony show for 32 years. The Commission listened to us in 1975 and they jockey us around. We went to the Board of Supervisors, had three meetings and then came Policy Statement 27. Further, the only way to control the Marina is to look at the return on the investment. The cost to build plus the improvements. He said in his humble opinion, the Lessees are running the Marina by running the Supervisor. They own Don Knabe. Further, Don Knabe gets fifty thousand dollars campaign contributions from Jerry Epstein and Archstone. He also stated the County is losing over one hundred million dollars a year and that is why I don't have my questions answered. He ended by complementing Chairman Searcy on doing a good job.

Ed White has been a boater in the Marina for ten years. His boat slip rent has doubled at the Bay Club. He stated the working class people are getting squeezed out of the Marina.

Deborah Tallent is a resident of the Bay Club. She said that the tenants were forced into a lease since they would have to pay one hundred dollars more per month if they didn't sign a lease. Eight years ago, her slip fee was $135 a month and as of September, her slip fee will be over $600 a month. She stated the bathrooms are as bad as the pictures that were submitted earlier by another tenant.

T. Gray is a longtime Marina del Rey resident who was in the same situation as the last speaker who felt that she was forced into signing a lease. She stated her slip fees have almost doubled at the Bay Club. She asked Mr. Faughnan to see the requirements for becoming a member of the Commission and citied how Santa Monica College has students on their Education Board.

Louis Scaduto said he would appreciate if the survey were broken out to show the private marina versus the yacht clubs and also the management companies in place. He would also like to see the

Averages based on how many slips are in the area. In regards to the Southern California survey, he noticed that a majority of the slips are in a much lower rent profile.

Staff Comment

Mr. Wisniewski advised the public that there is a Marina del Rey slip vacancy chart for May and June 2007 available to the public at the public information table. He explained in the categories of 18 to 25 foot slips, there were 125 vacancies for the month of June. In the categories for 26 to 35 foot slips there were 39 vacancies. It is when you get into the 36 to 50 and 50 and over categories that there were only 6 vacancies.

He felt that there is a statewide if not a national trend for marinas that when they build new slips, the marinas go from a large number of small slips to a fewer number of larger slips, though they do maintain a balance in all of the categories. They do stress the larger slips. It's a matter of economics because the demand that we are not currently meeting is in the 36 and above category. The requirement that we have with the Lessees when they rebuild their slips is that they maintain a ratio that is consistent with the State Department of Boating and Waterways. They have done a study on this very issue and they have recommended ranges of percentages that an anchorage should have in each slip size catalog. The California Costal Commission is aware of that standard and he believes they are using that when they are evaluating the number of slips that are different sizes.

Mr. Wisniewski stated this place is not run by contributions to the Supervisors. He is a paid executive and he makes recommendations to the Board. He has not seen a Supervisor give him direction on a deal point. Every deal that is made in Marina del Rey is verified as being at market pursuant to an appraisal and we are at least achieving market and in many cases, we over achieved. We have some of the toughest leases in the Country.

Mr. Wisniewski stated that in our slip rental rate survey, we survey ten thousand boat slips in Southern California and Marina del Rey falls in line with the rental rates of ten thousand other boats in Southern California. He stated that all of the proponents today would like to see investment defined as original cost. The Board of Supervisors has defined the term investment, as what is the market value is of that leasehold. Mr. Wisniewski said he does not support fifty percent increase as Mariners Bay has done and he has talked to that Lessee. Their fifty percent increase did not bring their rents above what is consider market. He felt that it was unfortunate that the Lessee did fifty percent and he has encouraged all the Lessees to increase slip rental rates in a balanced manner rather than try to

catch up with the market all at one time. Further, he is taking full responsibility for the Mariners Bay increase and it is compliant with the Lease and pursuant to Policy Statement 27.

Chairman Searcy asked how long is left on their lease.

Mr. Wisniewski replied he thought they had asked for a lease extension and the Department came back to them with terms. He thought that Mariners Bay has about twelve years left. The Department explained to Mariners Bay that the Department needed higher percentage rents from them in order to keep the County whole because the County can get this leasehold back in twelve years. Mariners Bay declined to date.

Vice-Chairman Lesser said he was looking at the schedule that the Commission was given and if you add May and June 07 compared to May and June 06, in May and June 06 it shows one million six seventy two and in May and June 07 it shows one million six ninety nine, which is a two percent increase in gross receipts.

Mr. Wisniewski replied that he believed Mr. Nahas prepared the summary. Further, he was not sure if that summary was the total gross receipts of the leasehold or just boat slip rentals.

Chairman Searcy said Mr. Wisniewski could look into it.

Mr. Wisniewski said he would be happy and then Vice Chairman Lesser replied that he wanted to know where was the rest of the money.

Mr. Wisniewski can verify that there was a fifty percent increase at Mariners Bay.

Mr. Wisnewski said that the Department conducts a premises maintenance inspection on the water every six weeks and on the land every eight weeks. He added that if the Lessee is not responsive to correcting the deficiency, the Department issues default notices. He guesses that the Department has issued six to ten notices in the four to five months. In the new leases, we require the Lessees to pay us one hundred dollars per day per violation that they go pass the deadline that the Department sets.

Commissioner Delgado said the two situations that were most prevalent were the Bay Club and Mariners Bay. She asked if the Department had done everything that they can.

Vice-Chairman Lesser commented that the picture of the Bay Club bathroom was disgusting. He asked Mr. Wisniewski if the Lessee does not correct the deficiency and cannot be charged money though the lease, then what can the Department do.

Mr. Wisniewski replied that once the lease default notice goes out, then the lender can enter the game and insist that the violations be corrected.

Vice-Chairman Lesser asked if default notices have gone out to these Lessees.

Mr. Wisniewski replied that he didn't know when those pictures had been taken.

Commissioner Delgado asked that the Commission get some follow up on the bathroom item in the picture.

Mr. Wisniewski said that the Department would be happy to follow up on that specific item, and asked if that item was at the Bay Club?

Commissioner Delgado replied yes.

Commissioner Landini said while there was a great deal said, there was not a lot of focus as to what was said in terms of a call to action. He has summarized what he has heard and has put them into two motions that he would place before this Commission to act on.

1) The County Board of Supervisors call for an independent investigation and audit of boat slip rental rates within Marina del Rey and that the results of that investigation and audit be made Pubic.

Vice-Chairman Lesser replied that audits cost a lot of money and if we already know the rental rates in Marina del Rey, then why do we have to spend money to have an audit.

Mr. Wisniewski replied that the numbers are correct. What are you going to want to use as an investment base. Do you want a Santa Monica style rent control here? He further added the Board of Supervisors decided that Marina del Rey was going to be a market driven structure.

Mr. Faughnan explained the County of Los Angeles does not have rent control provisions for the unincorporated areas. We did have rent control back in the eighties, when the Board determined there was a housing storage but those provisions expired around 1985 and since then, there has been no rent control in Marina del Rey or anywhere else in the unincorporated areas. What we do have in Marina del Rey is a price control provision in the leases which provides the County, specifically the Director the right to determine if the prices are fair and reasonable under the lease given the factors that are set forth in that provision and the Lessees have the right to appeal a determination of the Director to the Board of Supervisors. Your Board only has the right to make recommendations to the Board regarding prices if the Board has actually requested you to do so. You can certainly make recommendations to the Board as we have talked about before. You are an advisory commission to the Board of Supervisors. You can make a motion or recommendation that the Board follows some particular action but the Commission does not have any independent right to review prices or undertake an investigation of price review.

Chairman Searcy thanked Mr. Faughnan and said that he understood. He continued to explain that Deauville was tied up in litigation for several years, which was one of the reasons for the cause of the delay. Some slips were out of commission, some were being refurbished, some had spent the money and they wanted to get their money back, some renters did not receive rent increase for a long time and when they did, they got it all at once. This is creating an issue and a problem and this is something that the Board of Supervisors needs to be aware of. This is part of the Commission's responsibility and asked how do we make them aware of this problem.

Commissioner Landini replied that with the comments that the Director has made, he could withdraw this motion if the Director would be so good as to create something as a motion that the Commission could do.

Mr. Faughnan said that this Commission is a advisory commission to the Board and that the Commission can approve a memo or communication to the Board of Supervisors, which raises the concerns that have been raised from the public; which you believe have validity and should be further investigated.

Chairman Searcy replied that the Commission couldn't just sit and let this pass. We have got to let them know there is a problem. The Commission wants to see something at the next meeting.

Mr. Wisniewski replied that we will draft a report from your Commission to the Board of Supervisors and we will have it at the next meeting.

Commissioner Landini gave his Motion Number #2

2) Board of Supervisors to establish a policy to 1) exclude boat slips from all future leases of County land within Marina del Rey. 2) Establish the Department of Beaches and Harbors as the operator in charge of renting, maintaining, and operating boat slips as current leases affecting the boats slips comes to an end of term. 3) That the Small Craft Harbor Commission be designated as the oversight commission approving slip rental rates for slips directly under County control.

Vice-Chairman Lesser said he would like to get the pros and cons before voting on this motion.

Commissioner Landini replied maybe the best way to handle motion number two is to have the Director to prepare a report that we could look at for transmission to the Board of Supervisors with the pro and cons of all three points.

Vice-Chairman Lesser replied that this sounded great but the County has to maintain and repair the slips when they fall apart. Vice-Chairman Lesser was on the City Council for Manhattan Beach. Manhattan Beach had civil service city employees doing their landscaping. When they brought in private industry in to do the job, the cost went from $450,000 a year to $150,000 a year and private industry did a better job. When Manhattan Beach got rid of the city trash business, everyone saved twenty five percent. Government is not notoriously efficient at doing things.

Commissioner Delgaldo replied that the only thing that she is willing to support is the review of what the pros and cons are.

Chairman Searcy asked Mr. Wisniewski if he had enough time between now and then to do an exhaustive review of the County taking over the operation of the boat slips.

Mr. Wisniewski replied that he didn't think that they were going to end up having an exhaustive review but we'll do the best that we can by the next meeting because this issue has a sense of urgency.

b. Compliant re: Capri Apartments Affordable Unit Rent Overcharges and Refunds

Mr. Faughnan stated that himself and staff from the Community Development Commission met with the Lessee and the Lessee's representatives and that they reached an agreement and understanding on the appropriate rates to be charged for the affordable units and what were not appropriate charges.

The Lessee has prepared information for the CDC to review of what the overcharges are for each individual apartment and the CDC is currently reviewing that information and once they confirm the information is correct, the Lessee will be cutting checks and sending the individuals tenants letters informing them of the appropriate rates and providing them with reimbursement of the overcharge.

Chairman Searcy asked if that would include interest.

Mr. Faughman replied yes.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Nancy Vernon Marino stated that she thought at the last meeting there was an acknowledgement that the lessees had overcharged the tenants and the amounts were pretty much understood. She thought the Commission should recommend that in addition to their money, there should be a penalty

for any more time taken. The overcharging was done illegally to begin with and to just simply give them money back with interest is not adequate in this situation.

Mary Ann Weaver asked Mr. Faughman when is this going to happen.

Mr. Faughman replied the CDC received the information yesterday, as did he. He has not been able to touch base with them, since he is here today. To determine how long the review will take, he doesn't imagine that it will take very long. The Lessee has agreed to send the checks and letters out as soon as they get confirmation from CDC that the numbers are correct.

Ms. Weaver replied that seven tenants including her have gone to the State and that the Lessee is violating State law. The State told her that it should not have taken nineteen months for the County to correct this problem. The gentlemen advised her to put in a complaint and get the State involved.

Carla Andrus stated she was disappointed that the public was not at the CDC meeting. She further stated that she asked Mr. Faughnan if the public could attend and he said, absolutely not. It was important for the public to be at this meeting because something is going on between the County and Goldrich and Kest. There are issues on Parcel 18 that have never been addressed, which is another arrangement between the County and Goldrich and Kest.

Mr. Wisniewski replied that if the Commission is interested, that we could invite the Community Development Commission to a meeting. They receive a fee from Lessees for monitoring the affordable housing issue units in the Marina. Mr. Wisniewski stated he would be interested in them making a presentation to the Commission.

Chairman Searcy replied to please do so.

Chairman Searcy called Mr. Gardner to the table.

Chairman Searcy asked Mr. Faughnan if there was any reason why Mr. Gardner couldn't cut the tenants checks today.

Mr. Faughnan replied there was no legal reason.

Mr. Gardner replied to Chairman Searcy that he told him previously that if they made an error they would fix it. It had taken them a while to get together with CDC, but as promised they did. The calculation that they used which they were initially directed to use was a federal guideline. Those were the rents that we used. We didn't pull them out of the air. When we met with the CDC, they told us we were using state guidelines and they showed us how they made the calculations and we showed them how we made the calculations. Mr. Garner said the only reason that they did not send the checks out was that he did not want the CDC to come back and say the calculation was not correct. Further, within the next couple of days, the residents should receive a check and effective September 1st the tenants will be paying new rents. He is waiting for a phone call back from Mr. Babcock just to clarify that we are on the right track.

Jun Yang said that the tenants have asked for one-year leases and never once have had that opportunity. This is supposed to now go though but if it doesn't, he thinks there should be violations or punishments given to the Lessees.

5. NEW BUSINESS

a. None

6. STAFF REPORTS

a. Ongoing Activities

Mr. Wisniewski suggested given the hour of the day, the Commission receive and file the report unless the Commission had any questions.

Chairman Searcy said he was going to pull the item but would like to go to the Local Coastal Program Periodic Review.

Staff Comment

Mr. Wisniewski said there were about twenty people that spoke before the Commission in San Luis Obispo at their last meeting in July. We identified the issues that were raised and we understand that the Commission will again hear the Marina del Rey periodic review at their October meeting in the Los Angeles area.

Commissioner Landini asked if we would hear any response.

Mr. Wisniewski replied that once the Commission acts, the County has one full year to respond in which the response will go through the Board of Supervisors. The staff report will be brought through this Commission.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Nancy Vernon Marino said the County has already taken more than one year to respond. She stated there was an original draft in June 2005, followed by a one year public comment period in which the County had equal opportunity with the public to submit and language recommendations after which the Commission was supposed to come up with a final draft and have a public hearing to move and vote on that final draft of recommendation. The County for some reason thought it didn't have enough time to respond to that final draft and has had this delayed since July of last time. In the meantime, your Commission, the Department of Beaches of Harbors, the Department of Regional Planning have been moving merrily along with all sorts of projects that have been in violation of the letter of the law of the Costal Commission ordinances, the Specific Plan and many more which are in violation of the spirit of the land use plan. She spoke of a public information request that the County claims is confidential. This was submitted in writing to the Coastal Commission with the request that it be kept confidential. The Commission said no, we can't. It will become public information. The County withdrew it and claims it is confidential.

Jun Yang read a letter into record from Don Klien requesting a state senate investigation regarding boat slips increases.

Carla Andrus asked the Commission to make a public information request for the correspondence between the Director and Andi Culbertson.

Chairman Searcy replied to Ms. Andrus that she needs to put the request into writing.

Mr. Faughnan replied to Ms. Andrus that she needs to submit the request to the Department of Beaches and Harbors and not the Commission.

Chairman Searcy told Ms. Andrus to submit the request to the Department of Beaches and Harbors.

7. COMMUNICATION FROM THE PUBLIC

Katherine Montesano said she is in affordable housing and just received a ninety-dollar increase at the Marina Harbor Apartments. She is on a fixed limited income. She also said they are now reviewing the criteria for 2007.

Commission Searcy asked Mr. Faughnan if staff could look at this matter. We just went through this with Capri Apartments.

Mr. Faughnan replied yes.

Virginia Hardy read a letter that she wrote to Supervisor Knabe about how difficult it is to obtain senior housing.

Nancy Vernon Marino spoke about Sewer System Management Plan Development Schedule. On the third box down under legal authority, item e) enforce any violation of its sewer ordinances. She thinks that is a slip, she thinks they mean enforce the sewer ordinances or enforce penalties for violations of an ordinance. In the next box down, item d) providing preventative activities and tracking work orders. On Panay Way, she would like to know about the runoff diversion project from Mothers Beach over into the sea basin. That project was approved and there was supposed to be four trucks and seventy thousand cubic yards of asphalt removed. After talking to an engineer over there, she found out there has only been one truck and seventeen thousand cubic yards of asphalt removed. If the project was approved at the cost of using four trucks and extra tens of thousands of cubic yards of asphalt, then where is the money? Was it spent? Did it disappear? She would like this tracked and made a part of the official record. She wants an official investigation and for the department to report back to the Small Craft Harbor Commission at the next meeting. She thanked the Commission and asked them to demand a master plan before this Commission gives any approvals for any more projects.

William Vaeszk said the boats are legal second homes and boat owners are getting the shaft. We have to have a legal way to force the County to be more consumer friendly. He feels we should run the marina like a mobile home park.

James Oates spoke about having a better rating system for the boat slip survey.

Mr. Nahas spoke to the Commission about having night and weekend meetings so more members of the public can attend.

Chairman Searcy replied that they would have another night meeting however the last time they had a night meetings everyone left after the development presentation was over.

Lastly, Mr. Nahas commented that you can't give confidential documents to the California Coastal Commission as Los Angeles County did. Mr. Nahas stated he contacted the Coastal Commission and they told him they did not know what was going on when they received the documents. They called their attorneys and the attorneys told the Commission to do nothing and to send it back to Los Angeles County.

Chairman Searcy tried to explain the public information act and tried to tell Mr. Nahas that it is not as cut and dry, as it seems. He advised him to read the public records act and case laws.

ADJOURNMENT

Chairman Searcy adjourned the meeting at 1:23 p.m.

Respectfully submitted by:

Maureen Sterling,

Acting Commission Secretary

SMALL CRAFT HARBOR COMMISSION
SPECIAL MEETING
MINUTES
October 11, 2007

Commissioners

Harley Searcy, Chairman; Russ Lesser, Vice-Chairman; Albert Landini, Ed.D; Vanessa Delgado, MPA, Christopher Chuang-Lin, PhD

Department of Beaches and Harbors

Stan Wisniewski, Director; Santos Kreimann, Deputy Director

Also Present

Thomas Faughnan, Principal Deputy County Counsel; Beverly Moore, MdR Convention and Visitors Bureau; Dusty Crane, Community and Marketing Division; Lt. Roderick Kusch, Sergeant Michael Carriles and Deputy John Rochford of the Sheriff's Department

1. CALL TO ORDER, ACTION ON ABSENCES AND PLEDGE OF ALLEGIANCE

Chairman Searcy called the meeting to order at 6:10 PM. The Commissioners, staff and members of the public stood and recited the Pledge of Allegiance.

2. DRAFT OF MINUTES

Chairman Searcy asked Mr. Wisniewski if there was a reason for a draft of minutes for August 8, 2007 as opposed to approved minutes. Chairman Searcy then stated he had minutes from the August 8th meeting and asked for a motion to approve the minutes.

Commissioner Delgado had about fifteen corrections, very minor but numerous. Mr. Wisniewski asked that the corrections be read into the record and calendar the minutes for the next meeting. Chairman Searcy stated corrections need to be submitted in writing.

Public Comment

Mr. Nahhas would like to have corrections submitted in writing and addressed at a later time.

3. REGULAR REPORTS

a. Marina Sheriff – Crime Statistics

Lt. Kusch informed the public that mail was stolen from an apartment complex on Via Marina. The mail theft led to a series of identity theft cases. Lt. Kusch asked the audience if anyone experienced mail or identity theft in the area, please bring that to the attention of the Marina Sheriff's station. Contact Detective Martinez, who is handling the case and can be reached at (310) 482-6000.

Lt. Kusch revisited crimes he highlighted in the past, for example, thieves breaking into cars and stealing electronic devices and theft of third row back seats from Tahoes and Yukons. He advised the public that LAPD Pacific Division made a significant number of arrests in the last month. There was a search warrant served, and property was recovered. It is likely the suspect in the Marina del Rey area may have been responsible for the LAPD Pacific thefts. Detective Doke at the Marina station has more information and can be reached at (310) 482-6000.

Lt. Kusch reported that crime in the Marina area has remained fairly static. There are the typical auto thefts, burglaries, etc., that occur in the subterranean garages. He advised the public to place electronic items out of sight in their car or take them out of the car and keep garage doors closed.

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

Deputy Rochford stated there has been a significant decrease in liveaboards this month, as expected. Liveaboards that were certified a year ago are expiring at the same time, so there will be some decreases in the number of liveaboards in the marina.

Chairman Searcy asked if the Sheriff expected these expired liveaboard permits to reapply. Deputy Rochford stated in the past, there was not a system of checks and balances. Now, the Sheriff's Department knows when and which permits expire. Notices are being placed on the boats and they are contacting the dockmaster. Chairman Searcy stated the Commission looks at liveaboards as a positive aspect, and would like the Sheriff to let liveaboards know they are part of the community through the permit process.

Public Comments

Ms. Carla Andrus stated there is an increase in liveaboards. She would like the number of evictions added to the report. Chairman Searcy explained neither the Sheriff nor the County has that information because the Board and County are not aware of the evictions when they occur. There is some difficulty in tracking evictions. Mr. Wisniewski stated he has no problem making that request to the lessees and he'll encourage them to provide the information.

b. Marina del Rey Beach and Special Events

Mr. Wisniewski would like the commission to receive and file this report. He encouraged the Argonaut to advertise the special events for Marina del Rey and the beach communities.

c. Marina del Rey Convention and Visitors Bureau

Ms. Moore explained that the Visitor's Bureau has a strong relationship with the media. Specifically, the travel media is helpful in making sure events, attractions, sight seeing opportunities, hotels, restaurants, private charters, public tours, rentals, and all the things people can do in the marina are included in stories. Ms. Moore shared new media clippings that were published as a result of the Visitor Bureau's efforts.

Commissioner Lesser stated Beverly is doing a fabulous job. She is a real asset to this community and we should all thank her.

Public Comments

Ms. Andrus stated that more outreach to the community is needed and that Burton Chace Park is a place for people in the Marina to meet.

4. Old Business

a. County Review of Boat Slip Rental Rates

Mr. Wisniewski made a presentation of the revised boat slip survey report which included updated September 2007 data and addressed the mathematical anomaly identified in the previous report that caused some confusion at the last SCHC meeting. The mathematical anomaly resulted from lessees charging a flat rate for a standard slip size which was divided over the actual size of the boat. As a result, the lineal foot rate reported for a 12' boat appeared higher than the lineal foot rate charged for a 25' boat, as the slip fee was distributed over a smaller base. Mr. Wisniewski indicated that the revised report format addressed this concern by providing rate information on slip sizes available in the Marina only.

Mr. Wisniewski further reported that the new data shows the September 2007 slip rental rates in Marina del Rey for the 25, 30, 35 and 45 ft. categories are below the average rate charged in other Southern California harbors. MDR Slip fees in the 40' and 50' categories have a higher rate average rate that those in other harbors, but are well within the range of the rates at other Southern California marinas.

Vice-Chairman Lesser stated page two of the report in item 4a is a summary of all the marinas. These are all the marinas as far north as Ventura as far south as Dana Point. He explained for the 25 ft. slip, the Marina del Rey average is $12.24 and the average for Southern California is $12.63, which means Marina del Rey is about 4 percent less. Also, on the average, 30 ft. slips there about 9 percent less in Marina del Rey, 35 ft. slips are about 4 percent less. The 40 ft. slips are more. The 45 ft. slips are about 1 percent under the average and then the 50 ft. slip is 12 percent above the average.

Vice-Chairman Lesser further stated smaller boat slips are less than the average; the only ones that are substantial are the ones for 50 ft. boats or larger. Mr. Wisneiwski replied correct. He confirmed the average for 40 ft. in Marina del Rey is above the average for 40 ft. from outside marinas.

Commissioner Delgado asked if the formula error or issue is anywhere else on the chart. Mr. Wisniewski said the information that was presented before was not wrong, it was just counter intuitive, and was not presented well.

Public Comments

Mr. George Cook is a legal liveaboard at the Mariners Bay. He spoke about the recent rent increase, the lack of heaters in the concrete bathrooms, and dock conditions. He stated that there is no money appropriated for the next three months for any repairs to the dock. He would like standardized criteria to assess the condition of the docks and the corresponding amount of rent.

Mr. Wisneiwski explained to Mr. Cook that he is looking into the heaters, and aware of the condition of the Pier 44 docks. The department has been tough in terms of maintenance and bringing up the condition on those docks.

Ms. Andrus stated the 18-25 ft. slips are being eliminated. Panay Way has one hundred and twelve 18-25 ft. slips with a permit pending to demolish all but six. She explained the solution will be dry stack storage.

Mr. Wisniewski replied that the comment that there will not be boat slips in the 18-25 ft. category when marinas are rebuilt is incorrect. He explained Parcel 111 and 112 Marina Harbor have quite a few 25 ft. slips. He will survey the number of slips for the commission.

Mr. Wisniewski said slip construction project requires a Coastal Commission permit. He stated the Coastal Commission and Department are concerned about having a good allocation of slips that meets the market demand. The State Department of Boating and Waterways issued a report that gives guidelines regarding new anchorages. Beaches and Harbors are compliant with those standards and are held to them by the California Coastal Commission.

Robert Olsburg has been in Pier 44 since 1996. He stated there are conditions that exist that are untenable. There is human and animal feces in the water and the docks have not been improved since 1996. He was concerned about the 25 percent increase, and the fact that he was told he will be thrown out in February 08. Chairman Searcy replied there were some severe conditions. The Department will review and report back.

Andy Besset is a spokesperson for the Marina Boat Owners Association. She would like to know what the Commission has done about the lessees minimizing the number of boat slips to recapture parking for the apartment rentals.

Mr. Wisniewski replied the reference that parking is being taken away to get fewer slips so parking can support other landside uses is not the reality. The slips that are being built today to meet current market demands are built according to the standards the State Department of Boating and Waterways has issued. In addition, the Coastal Commission has approved each of the development projects in the harbor.

Chairman Searcy asked that the standards be made available to the public. Mr. Wisniewski replied it will be included in the follow up report next month.

John Nahhas stated the data received by the Department is wrong. He has data that is more accurate. Mr. Nahhas asked the Commission to direct Mr. Wisniewski to make it public record how the sampling of data took place. He compared the information he received from Dana Point boat owners association with the chart. Chairman Searcy asked Mr. Nahhas to submit the data for review. Mr. Wisniewski replied he would like to see the data that is in conflict.

Mr. Kreimann explained staff went online for each anchorage to collect rate sheets, for each particular slip size. Phone calls were made to confirm the published rates with the dockmaster for each anchorage. In those instances where there were some discrepancies, staff worked with the docmasters to reconcile those discrepancies. There are ongoing monthly reports in the marina from each one of the lessees or the harbor masters to confirm the rates.

Mr. Riley is a representative of the Marina del Rey Lessees Association. After reviewing the charts, Mr. Riley stated Marina del Rey offers, on average, boat slips at rates more favorable to renters than other marinas in Southern California The County has a more favorable and lenient policy in regards to liveaboards than other marinas in the state. He conducted a survey of marinas, discovered many marinas operated by government agencies do not permit liveaboards or set limits on the number allowed.

David Barish is a former auditor and real estate consultant for Arthur Anderson. He has done numerous real estate consulting reports, site inspections and a number of comparable price reports. Mr. Barish asked if the amenities at the different harbors have been considered in the report.

Mr. Wisniewski replied compared to the other Southern California marinas, there are no other Harbors with a rigorous inspection and maintenance compliance as Marina del Rey. The new leases in Marina del Rey effect liquidated damages of $100 per day per deficiency.

Mr. Wisniewski stated amenities throughout the marinas are generally compliant throughout Southern California. Amenity levels are roughly the same and in some cases they are lower than Marina del Rey. Mr. Wisniewski said the amenities that are provided here in terms of parking, restrooms and access to other facilities are on par with what others charge.

John Rizzo, President of the Marina Tenants Association, spoke about dissemination of incorrect information. Mr. Rizzo stated that he had not been given information he requested.

Nancy Marino commented the County did not explain the methodology for this survey. Ms. Marino stated there is not adequate information to make a qualitative judgment based on that data. Ms. Marino asked the Commission to conduct an independent investigation.

Chairman Searcy explained they are an advisory commission. He explained they need to go to the County Board of Supervisors to take action on an item.

Ron Hart explained his rent was raised 64.3% last week, and advised the public to write a letter, make calls and send e-mails to the Board of Supervisors.

Mr. Wisniewski explained market rental rates exist and that he would never recommend to the Board to underwrite lower rental rates in Marina del Rey for an apartment or slip. He thinks it is inappropriate for the 10 million taxpayers that own Marina del Rey to subsidize the recreational boaters and the slip tenants as well as the apartment tenants.

Jun Yang explained the boaters from Ventura to Dana Point do not feel the increase is fair and reasonable. The Commission has a responsibility to the boaters. Mr.Yang asked Mr. Wisniewski how often lessees are fined, how often they are compliant, and are there compliance reports that the public can see. Mr. Wisniewski replied the maintenance inspection reports are available. The deficiency reports are public records. Mr. Wisniewski said Mr. Kreimann will open the files and the notices to the public that have been issued to lessees.

Helen Garrett asked Mr. Wisniewski to prove there are small boat slips available. Mr. Wisniewski replied that a report will be available. She believes the intent of the owners in the Marina is to get rid of small boats, and stated the Marina should be a resource for affordable housing.

Donald Klein responded to comments made by Vice-Chairman Lesser. Mr. Klein stated that if the slip fees in Marina del Rey were higher than other marinas, it would be price gouging. Mr. Klein further stated if the rates were lower to have a boat in other marinas then the taxpayers of Los Angeles County would be subsidizing the boaters of Marina del Rey. Marina del Rey was sold to a non-profit corporation in 1993 for $187 million dollars for the purpose of covering the County budget. Mr. Klein thinks there is a need for a financial audit.

Vice-Chairman Lesser clarified his comments stating that if lessees were charging more for Marina del Rey slips than other marinas in the area, that would be price gouging. If they were charging less, residents of Los Angeles County would be in fact subsidizing. If marinas are charging less than fair market value, taxpayers are not getting money that would go into the general fund for public services. Vice-Chairman Lesser agrees that the tenants and boat owners are supporting this marina. However, if tenants are paying less than fair market value, the rest of the taxpayers and the County are subsidizing them. Mr. Lesser said he has not seen any data that proves the comparable slip rentals report is incorrect.

Mr. Wisniewski stated there are ongoing financial audits of marina lessees to ensure that they are compliant with the terms of their lease and paying their appropriate rents to the County. Mr. Wisniewski explained the percentage rents the County gets is 25 percent and higher on slip rental gross receipts.

Mr. Wisniewski concluded that it is important for everyone to know that there are periodic fair market rental value appraisals. He stated they renegotiate every ten years, and will find that the percentage rents the County charges in Marina del Rey are very aggressive and the County is assured of getting its fair market return.

b. Proposed Letter to the Board of Supervisors to Express Commissioner Concern Regarding Boat Slip Rental Rate Increases

Chairman Searcy explained it is a proposed letter, a draft to be discussed.

Mr. Wisniewski explained this letter is a summary of what occurred at the August 2007 meeting. The letter includes the effort the County has taken to assure there is aggressive maintenance inspections as well as inclusion of a liquidated damages clause in extended leases.

Commissioner Landini asked Mr. Nahhas if he was going to provide the hard data that was discussed earlier about alternative rental rates, and when he will present that to the Director. Mr. Nahhas responded in the next couple of days.

Commissioner Landini made a motion to hold off on the draft letter, until such time that Mr. Wisniewski can look at Mr. Nahhas' new data. Commissioner Landini stated it seems inappropriate to discuss the letter if Mr. Nahhas' data would lead to alternative conclusions. Commissioner Delgado replied there are a lot of people that made time to attend the meeting. These people should be heard; the draft does not have to be acted on tonight.

Chairman Searcy said he will hear them. He does not feel the letter captures the sense of outrage of the community. Chairman Searcy will make some edits to the letter, but not until the additional information is received from Mr. Nahhas.

Vice-Chairman Lesser agrees that it doesn't express the outrage. But, he would like to know what is wrong with the letter. He said the question is are they being gouged or are they paying fair market value, which is what the Board of Supervisors is going to want to know.

Chairman Searcy explained there will be no action on the letter, because they are going to allow several representatives to submit data, which will impact the letter.\

Public Comments

David De Lange spoke about the standard of how rent is determined. It should be based on the principle of low cost boating opportunities being expanded.

Vice-Chairman Lesser asked County Counsel if this gentleman is correct in saying that the County law is to provide low cost boating opportunities. Mr. Faughnan stated that was incorrect and could report back on what is in the LCP. The LCP is a planning document and there are a number of policies discussed in the LCP to make available low cost boating opportunities and low cost accommodations for affordable housing. The fact that those opportunities are supposed to be encouraged does not mandate that all boating activities in the marina be subsidized or all housing in the marina be subsidized or all hotel accommodations be subsidized.

Ms. Marino referred to Mr. Lesser's comments that if boaters are paying less than fair market value, the other taxpayers in the County are subsidizing the boaters, commented on the amount of money Marina del Rey contributes to the County general fund, and why the Commissioners allowed the Department of Beaches and Harbors to draft a letter. Clearly, they are not an impartial party in this process and have

written this letter to their advantage. It sounded as if Mr. Nahhas was the individual man with one opinion. Mr. Nahhas has been supported by many boaters who wish to remain anonymous because of their fear of reprisals from marina lessees. She would like the Commission to draft their own letter. She finds it highly offensive that the Department of Beaches and Harbors is writing letters for the Commission.

Chairman Searcy stated he will be the repository for receiving comments, and asked Commissioner Landini to forward any comments to him.

Ms. Andrus stated the marina is mandated as a Small Craft Harbor, and it is mandated for affordable housing. The Department is trying to replace the mandate with their asset management strategy. There should be a firm reasonable cost for everyone on a fair and equal basis, this is house document 389. There are amendments that this Department is asking the California Coastal Commission to make amendments to the land use plan that would be illegal for the coastal act to do.

Chairman Searcy stated it was not a final document, the cover letter says this is a draft for discussion. The letter will be worked on and made better. That's the bottom line.

Mr. Nahhas stated this letter in no way reflects what took place on August 8, 2007. He thought all the commissioners knew that. Mr. Nahhas also stated there was a leading expert in boating economics that gave a presentation. There was much documentation from Dr. Ed Mahoney from Michigan State University. There have never been any studies on boat slips. There has never been any kind of pricing index on boat slips. There is no way anyone can calculate a boat slip price, a 45 year old dock, and the current price of it. The boating community is suffering, 50 percent increases are not normal.

Vice-Chairman Lesser asked if the survey reflects rents after the rate increases. Mr. Wisniewski replied correct.

Vice-Chairman Lesser said after the rate increases, they're still comparable to all the other marinas. Since the rent wasn't raised for a long time, they were well below market.

Vice-Chairman Lesser asked how do MDR marinas stay within comparable cost to all the other marinas in the area.

Mr. Wisniewski explained it's a policy issue. The policy determination has been made that rents in Marina del Rey will be market rental rates. What is being heard today is that people are interpreting it as fair and reasonable which means there should be a return to the lessee based on some cost basis they have in the leasehold. That is a fundamental disagreement with the Department and the proponents you hear tonight. It has nothing to do with the accuracy of our administration of the policy.

Chairman Searcy explained a letter from this Commission is advisory. An earlier speaker said the ultimate body that has the power and the authority is the Board of Supervisors.

Commissioner Chuang Lin stated he thinks this Commission, especially the Chair, has been trying to work together with the audience as a team. Together, hopefully they will be able to bring something to the attention of the Supervisors.

Donald Klein stated one of the problems with writing letters to governmental agencies and entities, is people get evicted for things like this. People start writing to the Board of Supervisors and Beaches and Harbors, somehow gets back to the lessee and the guy gets a 30 day notice.

c. **Commissioner Landini's Request to Study Potential County Takeover of Private Docks**

5. **New Business**

a. **Vice-Chairman Lesser's Response to Slip Rate Concerns and Commissioner Landini's Suggestion that the County Take Over Operation and Maintenance of Private Docks**

Mr. Wisniewski asked Chairman Searcy to take new business item 5a first, because that will engender a discussion on the County's take over and whether that's appropriate or not. Mr. Wisniewski provided a very brief overview.

Commissioner Landini discussed boater rights and his desire to to bring this issue from the public before the Board of Supervisors, who has the authority to act on the matter of the boaters right under the guidance of County Counsel. It appeared the only avenue open to the County was to create new legislation at the State level that would grant homeowner rights to liveaboards in boatslips. That failed to move past this board. Now in this second effort, he is trying to respond to the public points of view, regarding the slip rental rates. There seems to be at least two opposing points of view. Mr. Wisniewski pointed out clearly there seems to be a fundamental difference between what is called the private sector model, for lack of a better name, a public utility model. Under the private sector model, the driving force seems to get a return on value as value of the land increases, to get greater rental rates and keeping with those increases in lands. As the primary controlling force under the private sector model is market demand, if people are willing to come in and pay those rates the market will sustain, if not then the prices will fall. In doing this, it seems as though the fundamental philosophy that the County's ten million residents are best served by a high-income rate of return to help fund other County activities, and this part comes from high rents being charged for boat slips. This is called the market model. The other model is the public sector model. When the public sector builds a building, they don't look for a return of value when they issue a bond, they are only seeking to reclaim the construction cost on the building. So we call that a return on investment, that being a hard core dollars going in, so even though the market value of the underlying land might go up, the only rate of return looked at in this kind of a model, is a return on the cost of construction.

Mr. Wisniewski explained the rates that the Department charges for any newly acquired slips will have to go to the Board of Supervisors for approval. He will recommend the Department charge the average rate in Marina del Rey. He wants a formula established for it, so there is no pressure on the County to keep the rents lower than market.

Public Comments

Ms. Andrus stated default notices should have been issued long ago. Panay Way has one hundred and twelve 18-25 foot slips and they want to eliminate all but six of them, according to this pending permit. The marina was built as a Small Craft Harbor, not like Long Beach where you have bigger boats. Look at house document 389; you need to know where your mandate comes from.

Mr. Tim Riley stated he believes bringing proposals to exclude boat slips from all future leases of County property and to make the Department the operator in charge of renting, maintaining, operating boat slips whose current leases expire is short sighted. Mr. Riley further stated Vice-Chairman Lesser's experience in city government is instructive and worthy of consideration by this body. His letter cites specific examples of transferring non-essential services to private contractors. Landscaping and trash hauling services are provided at a reduced cost by private enterprise. The operation of boat docks and slips is another non-essential service that is more cost-effective when provided by the private sector,

since recreation boating is not an essential government service such as law enforcement and fire protection.

Mr. Rizzo stated Mr. Landini's proposal is a step in the right direction, and the County is not getting its fair share of revenue.

Ms. Marino discussed fair market value and a ballot measure.

Chairman Searcy stated drafting the board letter is an important issue and he will not be rushed He asked to indicate on the website that the Chairman asked for comments from the public, and the letter will be on the December agenda of the SCHC meeting.

6. STAFF REPORTS

a. Ongoing Activities

Chairman Searcy received and filed the report.

Public Comments

Ms. Marino stated she would like to talk about the local coastal program periodic review update. It was continued one more time at the behest of the County who now wishes to challenge the Coastal Commission's biologist's report. She believes this is a pattern of delays that has been engineered by the County.

Mr. Wisniewski stated the Coastal Commissions periodic review of the marina's LCP is completely under their control. The Coastal Commission staff and the Coastal Commission are in control of the timeline.

Vice Chairman Lesser made a motion that the Commission authorize the Chairman to send a letter to the Coastal Commission requesting they hold their January meeting in Marina del Rey.

Commissioner Delgado seconded the motion.

Chairman Searcy asked if the maker of the motion would entertain a friendly amendment to request not postponing the meeting again. Vice-Chairman Lesser responded yes.

Commissioner Landini asked if the letter was to be signed by the SCHC or the Director. Commissioner Delgado responded SCHC.

Chairman Searcy asked Mr. Faughnan if there were any issues, since it's an advisory letter. Mr. Faughnan replied no.

The motion passed unanimously as amended.

7. COMMUNICATION FROM THE PUBLIC

Nancy Marino asked for an investigation or an audit to determine the number of large and small boat slips available for rent.

Dee Dee Ardette discussed fair market value, free market, and income generated by the marina.

David Barish talked about the state of the marina, including Mothers Beach, funding recreation, and subsidizing private developers.

Dorothy Franklin talked about revenue generation in the marina, parking, dock conditions and amenities.

Robert Williams spoke about increases in liveaboard fees and creating the City of Marina del Rey.

Rick Davidson discussed a problem he was having with securing boat rental space in Marina Harbor. Mr. Wisniewski told Mr. Davidson and the Commission he would speak to the lessee about Mr. Davidson's situation, and report back to the Commission at the next meeting.

John Lucero disputed a $575 bill he received from Beaches and Harbors for mooring adjacent to the entrance of Marina del Rey, which is an anchorage that has been taken from the public. Mr. Wisniewski responded the entrance to Marina del Rey is not an anchorage, and has encouraged the Sheriff to enforce removing vessels from the area. Mr. Wisniewski further explained that moored vessels at the entrance to Marina del Rey is dangerous to navigation.

Jun Yang commented about the cancelled September meeting, where Goldrich and Kest, the owner of Capri, was to return to the Commission with correct rental rates in their lease. Mr. Yang further stated that Legal Aid sent Tom Faughnan a letter about the situation, to which Mr. Faughnan replied he sent a response letter to Legal Aid. Mr. Yang also stated there is senior discrimination in that building, to which Mr. Faughnan disagreed and offered to check into any other problems.

Lori Herai and Mr. Nahhas compared the docks at Pier 44 and Villa del Mar.

Nancy Ruben discussed a fire she had on her floating home, and ultimately received a thirty day notice to remove her boat from Mariners Bay after she repaired her floating home. Mr. Wisniewski indicated there was more to the story, and will report on this situation at the next meeting. Ms. Ruben also alleged a black market situation exists in the marina in reference to boat slips. Vice-Chairman Lesser stated he understands the dilemma with these floating homes.

Brian Harr discussed improper evictions, temporary mooring at Chace Park, and a 'Federal Anchorage Area'.

Mr. Sobel explained that Alamedas Bay has empty slips and they are losing a fortune. They remove their boats from the water every nine months.

Mr. Nahhas explained that discrimination is extremely prevalent. Mr. Nahhas would like Mr. Wisniewski to find out the federal regulations of what constitutes safe harbor.

Vice Chairman Lesser asked that five things be put on the agenda; Mr. Rizzo's questions, the survey of the vacancies, people being evicted because they are writing letters, Mr. Nahhas' data on the slip rental rates, and information about dockmasters taking money under the table.

ADJOURNMENT

Chairman Searcy adjourned the meeting at 10:30 pm

Respectfully submitted by:

Cynthia Brown

Acting Commission Secretary

SMALL CRAFT HARBOR COMMISSION
MINUTES
November 14, 2007

Commissioners Present

Harley Searcy, Chairman; Russ Lesser, Vice-Chairman; Albert Landini, Ed.D; Vanessa Delgado, MPA

Commissioners Absent

Christopher Chuang-Lin, PhD

Department of Beaches and Harbors

Stan Wisniewski, Director; Santos Kreimann, Deputy Director

City Staff

Thomas Faughnan, Principal Deputy County Counsel; Beverly Moore, MdR Convention and Visitors Bureau; Deputy John Rochford from the Sheriff's Department

CALL TO ORDER, ACTION ON ABSENCES AND PLEDGE OF ALLEGIANCE

Chairman Searcy called the meeting to order at 9:47 a.m. The Commissioners, staff and members of the public stood and recited the Pledge of Allegiance.

APPROVAL OF MINUTES

Chairman Searcy opened the floor to public comments.

George Cook commented that the minutes should say there is no heat in the bathroom at Mariners Bay.

REGULAR REPORTS

Marina Sheriff – Crime Statistics

Lt. Kusch reported a robbery at knife point on November 5th at 4143 Via Marina. Lt. Kusch advised the public to be aware of their surroundings, and hand over property during a robbery to avoid being assaulted.

There has been an increase in motorcycle thefts. Locked up motorcycles are being stolen by being loaded onto trucks. Lt. Kusch asks the public to contact the Sheriff's Department if a vehicle containing motorcycles is observed.

The Sheriff's Department will be putting into service a 42 foot offshore patrol boat for the Santa Monica bay and the Harbor. The boat will be previewed in the December holiday boat parade.

Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance

Deputy Rochford stated there are no significant changes. There is a small increase in the total reported liveaboards.

Chairman Searcy opened the floor to public comments.

Mr. Nahhas wanted to know if the Sheriff's Department served or evicted any liveaboards.

Marina del Rey and Beach Special Events

Dusty Crane gave the public an overview of the upcoming special events for the local beaches.

Marina del Rey Convention and Visitors Bureau

Ms. Beverly Moore, Director of Marina del Rey Convention and Visitor's Bureau, explained one of the roles of the visitor's bureau is to solicit meeting, group, and event business in the Marina. This is done by attending tradeshows, advertising, website promotions and direct mailing campaigns. The visitor's bureau publishes a newsletter that is sent out to over 3000 meeting planners in the Western United States.

Chairman Searcy opened the floor to public comments.

Ms. Nancy Marino commented on the closure of the Harbor House and Edie's Diner restaurants in the Marina. She asked why the restaurants were closed when the lease requires continuous occupancy until there is a permit to demolish, and what is the County doing to do to fill the restaurant vacancies. She asked the commission to ask for remedy and action, not reports. Ms. Marino wants enforcement of ongoing maintenance until the permits to teardown and rebuild are issued.

Mr. Kreimann gave an update on the lessee's efforts to reopen the restaurants. He stated the Department is negotiating an agreement with the lessee. The lessee is having a difficult time attracting an operator for such a short period of time, and has demonstrated to the Department they are diligently pursuing an operator for both facilities.

Chairman Searcy asked Mr. Kreimann what the lessee is paying the County for rent. Mr. Kreimann stated the lessee has paid minimum rent for the past three years, and the amount has been verified through audit.

Ms. Marino asked why there wasn't a 'for rent' sign on the property. Chairman Searcy replied in terms of commercial property, there may be a sign on the building, but a lessor usually has their broker make phone calls. Commissioner Lesser stated a vacant building is not in the best interests of the County or lessee.

OLD BUSINESS

Item 4 A: Proposed Letter to Board of Supervisors Regarding Boat Slip Rental Rate Increase

Chairman Searcy explained the letter will contain a variety of issues about the Marina, with the boat slip rental rate increase as the proposed main point. Many comments were submitted to aid in composing the proposed letter to the Board of Supervisors. The proposed letter to the Board of Supervisors will be in the next meeting packet and the letter will not be final until the Commission has discussed and acted on it.

Chairman Searcy opened the floor to public comments.

Carla Andrus would like to see the slip price study that was completed in 2004 which the County paid for. Ms. Andrus believes there was a 2001 study as well. She will submit a public request for the report to the Department of Beaches and Harbors.

Mr. Faughnan explained there was a boat slip study in 2001 commissioned by the County, which was provided to the public in the past. There was an amendment to the 2001 study, commissioned by one of the lessees for use in negotiations with the County. The document is not subject to disclosure, because it is not a County document. It would only be subject to disclosure once negotiations have been concluded and a recommendation was made to the Board of Supervisors. Chairman Searcy asked if the negotiations had been concluded, and Mr. Faughnan replied no.

George Cook asked Mr. Searcy to include in the letter a request for an investigation of the slip rates by a third party.

Ina Barish read a letter with concerns about the amount of slips decreasing and price increases. She believes small craft boaters are being displaced.

Vice-Chairman Lesser followed up with Mr. Nahhas regarding the boat slip rate survey results presented at the last meeting. The survey showed Marina del Rey fees for slips less than 50 feet were 2.62% lower than the average in Southern California, while fees for slips greater than 50 feet were 13.59% higher than the average. Vice-Chairman Lesser asked Mr. Nahhas how could he be paying fair market rent if after a 50% price increase, his rent is still within the average. Referring to previous meeting minutes, Mr. Nahhas stated Mariners Bay had a 50% rent increase this year and a 3.5% increase every year since 2002. Vice-Chairman Lesser asked Mr. Nahhas when he moved into Mariners Bay. Mr. Nahhas replied 1999 or 2000, and he received increases every year since 2002. Vice-Chairman Lesser stated that was not correct. Based on available information, Vice-Chairman Lesser performed an analysis showing Mr. Nahhas moved into Mariners Bay on May 1, 2001, and did not receive an increase in years one through four. In the fifth year, there was an increase of $18, no increase the next year, and the year in issue there was a 50% rent increase. Vice-Chairman Lesser felt the landlord should have increased rental fees yearly between 7% and 8%, due to rising costs, instead of no increase for four years, a small increase the following year followed by no increase, then the 50% rent increase. Vice-Chairman Lesser pointed out that even after the increase to $545 per month, Mr. Nahhas was still paying 11% less than the average in Southern California, and before the increase, Mr. Nahhas was paying 40% less than the average in Southern California and 38% less than the average in Marina del Rey. Vice-Chairman Lesser also pointed out had the landlord raised Mr. Nahhas on a yearly basis, Mr. Nahhas would have paid $5,000 more in slip fees.

Chairman Searcy thanked Mr. Lesser for his information. He stated at the prerogative of the Chair he will accept the information.

Mr. Nahhas stated the data was incorrect, and will submit his own data to the Commission. In addition, Mr. Nahhas stated he didn't have time to submit data, as stated at a prior meeting, that would refute the comparable price sheets. Chairman Searcy stated the task was simple; the Department submits slip data, Mr. Nahhas refutes the data and states additional data will be provided to the Commission. Chairman Searcy is not looking for a feasibility study from Mr. Nahhas, just copies of statements or receipts. Mr. Nahhas stated his intention was to provide qualitative data, and when the Commission looks at data from a certain source, it is inaccurate. Mr. Nahhas also made the following points:

- Online price sheets are about 30% higher then offline price sheets.
- He would like all the financial documents from Beaches and Harbors to calculate the ROI and determine if there is price gouging.

Chairman Searcy again reiterated if Mr. Nahhas needed more time to demonstrate the data the Commission received is flawed, Mr. Nahhas should take additional time to produce correct data.

Mr. Nahhas referenced a statement made by Vice-Chairman Lesser in the draft relating to Item 4 A, which states some people believe land that is owned by the County should pay less rent. However, Commissioner Landini's draft addresses the recovery model, which should be used. Boaters are subsidizing the $32 million that is going downtown.

Chairman Searcy explained he will review all material submitted to him in formulating a draft letter to the Board of Supervisors for the Commissions consideration. Members of the public have made statements that boat slips and apartments are a public facility, and they should pay less. However, when lessees are involved, it is not a public facility; it is public property leased out by the County subject to a business transaction that the Board of Supervisors have to deal with, not the Commission.

Mr. Scott Ganary wrote a response to Vice-Chairman Lesser's draft letter. Mr. Ganary stated the marina ran out of boat slips, and landlords started raising slip rates to a high rate. The question is, did the rates go above or below market rate. Mr. Ganary is looking for an independent appraisal/audit of boat slip rates.

Mr. Kreimann stated the Department undertook the slip rate survey by being independent and just reporting the facts. The Department accurately reported what the rates were as reported to the Department. The methodology used was solid; there was no manipulation, just the facts. The Department is looking forward to receiving any information from any member of the public that will assist in reporting accurate information.

Chairman Searcy stated:

- the Department of Beaches and Harbors has a very difficult job.
- the Department of Beaches and Harbors is not a market analysis group.
- the survey could have considered other factors but it did not.
- the survey could have been done by someone who is perhaps more professional.
- the Board of Supervisors will be made aware of the issues.
- some people would rather chew on the issues instead of finding solutions.

Mr. Ron Hart stated he received a $270 rent increase. He also believes the marina has lost its essence, since the number of boat slips is being cut back by 33%. This is due to developers building higher density projects and having to accommodate parking requirements. A project being constructed across from Mr. Hart has experienced a cutback from about 700 to 400 boat slips, probably due to parking. Mr. Hart asks if anything can be done to lessen the density and new construction projects so the boat owners will still have boat slips. It's a supply and demand situation where less slips will cause the price of remaining slips to increase. Mr. Hart referenced John Flynn, a member of the Ventura County Board of Supervisors, who is working with State Senator Kuehl to set forth a state bill of rights for boat renters.

Mr. Landini said there have been discussions with County Counsel regarding a Boaters Bill of Rights. According to Mr. Landini, County Counsel said there is a commercial relationship between a tenant and the slip owner. Mr. Landini wrote a memo as a draft to send to the County Board of Supervisors to request the exploration of initiating a Boaters Bill of Rights. The memo did not receive approval from the Commission. A sponsor is needed within the State of California, and once the Boaters Bill of Rights is put into statewide legislation, that will have an impact at Marina del Rey.

Mr. Kreimann stated that parking is just one element of any development plan. The Department takes preserving public parking very seriously and always has that in mind when negotiating lease agreements.

Mr. Darrell Steffey suggested the Board of Supervisors and the related County Departments can do a better job as steward of the marina, as public lands and as a public asset. The perception is that the marina has been turned over to a few select developers to maximize their gross rents and profits. Mr. Steffey gave an example of how apartment rent increased by 526% from 1979 to the present, and boat slip rent increased by 733% during the same period. Developers should have a fair rate of return on investment; probably 10%, 15% or 20%. Now, the policy of fair market value is false logic when it comes to public lands that private developers have the opportunity to develop.

Ms. Marino stated, in reference to the slip survey, that asking price and realized price is not necessarily the same thing. The data gathered is not the data needed to make a proper assessment. Returning to Ms. Andrus' comment on Policy 27, slips are not in plentiful supply in California or the country. If an intensive review is required, sufficient data will be compiled to determine if new prices charged by the lessee is within the range of prices for like facilities and services, and what is the quality or quantity of Marina del Rey services. Chairman Searcy asked for proof that some people pay different rates than stated in the slip survey. Ms. Marino responded that the people paying higher rates are afraid to come forward. Chairman Searcy stated that a receipt could be submitted with identifying information blocked out, and engaged in dialogue with Ms. Marino about market prices, long term leases, private developers and land use issues.

Commissioner Landini discussed different pricing models, dual operation of slips in the marina by current lessees, and County operation of boat slips as leases expire. Once the County manages boat slips, he would like to see them operated under the 'Return on Investment' model.

Mr. Rizzo talked about after Marina del Rey was completed, the land was bid out to be developed for boat slips and apartments so the County would get a fair return on the market value of the land. There was protection for the public to use the facilities in that the prices would be controlled by giving the boat slips and apartment operators a fair return on their investment. There were charges that Burton Chace was giving the leases to his friends, so a commission was formed to oversee the operation of the marina. There have been complaints from tenants and stories of corruption with non-enforcement of terms and conditions of leases. The public is being defrauded out of approximately $150 million dollars a year, which goes to the lessees. Mr. Rizzo continued to discuss the response he received from the County.

David Levine, President of the Marina del Rey Lessees Association, read a letter which included slip rental fees in Marina del Rey were in the range of rates charged at other marinas in Southern California. In addition, the County taking over administration of boat slips was not a good idea, and discussed a public policy question of whether the County of Los Angeles should be in the business of devoting scarce public resources to building anchorages as opposed to other public facilities throughout Los Angeles County.

Mr. Donald Klein, President of the Coalition to Save the Marina, stated in reference to the slip survey, the core issue is not whether Marina del Rey is comparable to any other marina, but rather where the figures came from. What is the derivation of how the boat slip prices are determined? Also, the federal participation in the building of the marina required there be sufficient land area for proper functioning of the harbor. If the parking lots are removed, people will not be able to come to the harbor, which would be a violation of the federal agreement with the County of Los Angeles. In addition, lease extensions are illegal, since there is no provision in the lease for renegotiating the terms of length of the lease.

5. NEW BUSINESS

Item 5A: Approval of Negotiated Rent- Amendment 9 to Lease No. 6051- Parcel 65 (UCLA Boathouse) - Marina del Rey

This is a rental renegotiation amendment to the existing lease that requires rent be renegotiated after a 10 year period. The report, which will go the Board of Supervisors, recommends the rent be adjusted to $16,000 per year, effective March 1, 2007 through February of 2012. The rent will be readjusted again in 2012 if the CPI has experienced any increase. The new rent is an increase from the current rent of $13,800 per year. The rent adjustment is based on an independent appraisal that verified the rates are within market.

Chairman Searcy opened the floor to public comments.

Mr. Nahhas asked what the percentage increase was based on. Mr. Kreimann responded the rate was based on an appraisal, not the Consumer Price Index (CPI). In March 2012, the CPI will be used to calculate another rent increase.

The Chair entertained motions. Move to approve (Delgado). Seconded. All in favor (Searcy). Aye (Group). Passed unanimously (Searcy).

Item 4 B: Dock Condition at Parcel 44

Mr. Kreimann stated Item 4B is in response to a request from the Commission at the October 2007 meeting to look into the condition of the Pier 44 docks as a result of public comments. The Department staff inspected the dock, looked at the deficiency reports, identified items that were completed and those still outstanding. The Department then contacted the lessee and inquired about the status of those repairs. The lessee was diligently trying to complete the improvements by working on the docks systematically and retaining a dock repair company to aid in such repairs. The Department has encouraged the lessee to proceed as quickly as possible in redeveloping the docks since they have outlived their useful life.

Chairman Searcy opened the floor to public comments.

Ms. Andrus stated Parcel 44 should have been found in default, and leases should come up for bid. Ms. Andrus also asked if Doug Ring was paying minimum rent.

Mr. Nahhas commented Parcel 44 has 261 deficiencies, and wants to know how slip fee increases are justified with a large number of deficiencies. In addition, why will the leaseholder of Parcel 44 be permitted to develop Fisherman's Wharf when there are many deficiencies with Parcel 44?

Mr. Landini inquired if the Parcel 44 corrections of deficiencies were moving along at an acceptable rate. Mr. Kreimann responded that sufficient manpower has been allocated to the problems. It is physically impossible to correct everything at one time. The Department never said the conditions of the docks were perfect, and certain areas are in disrepair. The Department is diligent in identifying deficiencies, so the lessees can assign the resources to complete the repairs.

Item 4 C: Request California Coastal Commission to Hold Its January 2008 Meeting in Marina del Rey.

Mr. Kreimann sent the letter signed by Chairman Searcy to the Coastal Commission, and also contacted them. The Coastal Commission is seriously considering holding the meeting in Marina del Rey. There will be other discussions with the Coastal Commission concerning logistical issues.

Chairman Searcy opened the floor to public comments.

Mr. Nahhas commented the reason a meeting wasn't held with the Coastal Commission was due to a delay by the County. Mr. Nahhas also commented that according to the State's Attorney's office, the confidential documents that go from Department of Beaches and Harbors to a review board like the

California Coastal Commission is inappropriate. Mr. Nahhas requested the confidential documents, and only received the initial sheet.

Ms. Andrus submitted one sheet of paper titled; Small Craft Harbor Commission, Meeting of March 19, 2003, Page 3.

Item 4 D: Chart on Slip Size by Parcel

Chairman Searcy stated the item was requested to be received and filed.

Chairman Searcy opened the floor to public comments.

Ms. Marino referenced the chart on slip size, and asked how many slips were occupied by yacht brokers, and a notation be made if the project is proposed for something different. Ms. Marino also requested the County to withdraw or place a hold on the application for the Holiday Harbor redevelopment, which is proposing a massive change in the proportion of boat slips.

Mr. Nahhas asked if the slip chart could be color coded and show the availability of slips, as well as the age of the docks.

Mr. Darrell Steffey stated the small boat owner can't afford the monthly slip fees, and is being priced out of the market. The fair market concept is bogus, return on investment for the County is the only logical way, and return on investment for the developers would be appropriate.

Mr. Wisniewski stated there will always be a substantial number of small slips remaining during the redevelopment process, since it is too costly to move the pilings. Many lessees are choosing to construct new slips that are the same size as they currently have.

Mr. Jun Yang stated he saw a copy of the permit for Holiday Harbor, and the 122 small slips will be replaced with six small slips.

Item 5 B: Request to Lessees to Report on Evictions of Liveaboard Tenants

Commissioner Searcy encouraged Marina del Rey lessees to submit a form to the Department whenever an Unlawful Detainer action is filed against a liveaboard tenant.

Mr. David Levine, President of the Marina del Rey Lessees Association, believes notifying the Department when an Unlawful Detainer is filed may not be permissible from the lessees' perspective, and will encourage his association's members to seek legal consultation.

Chairman Searcy recommended that County Counsel develop a format to request data from lessees regarding filing Unlawful Detainers without violating the confidentiality of any parties.

Chairman Searcy opened the floor to public comments.

Ms. Marino states it is the perception and the fear of retribution that prevent the boat tenants from coming forward. There needs to be a public policy that the dockmaster cannot arbitrarily evict a tenant.

Chairman Searcy stated the way to overcome the perception issue is to track the evictions.

Ms. Shawna Forbes, an attorney who represents Pacifica Corporation, wants to know who the leaseholder is on the Esprit I project. Mr. Wisniewski replied Doug Ring. Ms. Forbes asked how the Esprit project will be zoned with reference to the traffic pattern. Mr. Wisniewski stated entitlements have gone through the traffic studies and have been approved.

Mr. Nahhas commented that Item 5B should not be limited to liveaboards, but anyone who is evicted from a boat slip.

Item 6 A: Ongoing Activities

Mr. Wisniewski suggested due to the late hour, the report be received and filed. Mr. Wisniewski offered to answer any questions from the Commission and the public.

Mr. Wisniewski stated the Department intervened successfully in the case of a seriously ill boat slip tenant.

Mr. Nahhas commended the Department for intervening on behalf of the boat slip tenant.

Ms. Marino commented that parking lots FF and LLS are both public parking lots and the existing LCP states only a park or parking is allowed. The applicants for these projects are taking over the parcels, and will be using the parking lots to satisfy the parking requirements for their parcels.

Chairman Searcy opened the floor to public comments.

Robert Korbrin stated he owns a Corsair F31 boat. From 1998 to 2000, he was a tenant in mast up storage. He returned to the area and was told by the Department that F31 boats were not being accepted in mast up storage. Mr. Korbrin walked through mast up storage on the morning of the meeting, and identified 12 Corsairs, 3 of which were F31's. In addition, there were over one dozen empty spots, including the spot he occupied when he was a tenant. Mr. Kreimann stated he would look into the situation.

George Cook wants to purchase a larger boat, and can't find a slip. He stated Mariner's Bay wanted a new contract and would have to qualify with five times the slip fee and income.

Nancy Marino commented the Commission has been silent on her request for a motion for a moratorium on projects until the slip fee and land use issues are resolved. She would like this placed on the agenda for the next meeting. She discussed the procedures for amendments, public notice of meetings, and other items.

John Nahhas requested the Commission write a letter to the Board of Supervisors about everything that was reflected in the last six months, including slips that are slated for redevelopment. In addition, it should be determined how many evictions and Unlawful Detainers have been filed, incorporate the existence of a black market, policy 27, and the situation at Pier 44 into the board letter.

Ina Barish stated a comprehensive EIR that looks at all the proposed redevelopment in Marina del Rey might be one solution to ending a moratorium on new projects in Marina del Rey.

David Barish commented the County does not need to maximize revenue in every area of the marina. The projects in the marina only make sense for the County and lessees.

Darrell Steffey restated his earlier position that the Board of Supervisors and the related County organizations could do a better stewardship of the marina as public lands and as a public asset.

ADJOURNMENT

Chairman Searcy adjourned the meeting at 1:25 p.m.

Respectfully submitted by: Ron Frisch
on behalf of the Commission Secretary

To enrich lives through effective and caring service

LOS ANGELES COUNTY
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

December 6, 2007

To: Small Craft Harbor Commission

From: Stan Wisniewski, Director Stan

Subject: **ITEM 4a – PROPOSED LETTER TO BOARD OF SUPERVISORS REGARDING BOAT SLIP RENTAL RATE INCREASES**

During the October 2007 meeting, Chairman Searcy agreed to draft a letter for your Commission to send to the Board of Supervisors regarding boat slip rental rate increases in Marina del Rey. Your Commission received public comments at the November 14, 2007 meeting. Chairman Searcy used the input from the public comments and other submitted materials to formulate the following letter for discussion.

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://marinadelrey.lacounty.gov

DRAFT

EXHIBIT

December 12, 2007

TO: Each Supervisor

FROM: Harley A. Searcy, Chairman
Small Craft Harbor Commission
Marina del Rey

SUBJECT: **MARINA DEL REY COMMUNITY CONCERNS OVER BOAT SLIP RATE INCREASES AND MAINTENANCE OF BOATER-RELATED FACILITIES**

For the past several months, the Small Craft Harbor Commission (SCHC) has heard considerable public testimony from a number of seriously concerned and indignant boat slip tenants, other boat owners and concerned County residents regarding the trends of recent boat slip rental rate increases and the conditions of some boater-related facilities on private leaseholds. Testimony has been given from outraged tenants fearful that low-cost recreational small craft boating is in danger of disappearing from Marina del Rey.

This testimony and public input, while providing an opportunity for the public to be heard and present evidence, has disclosed that many local Marina del Rey boaters strongly feel the concept of "fair market price/rates" the County of Los Angeles allows Lessees to charge is a flawed concept that must be re-examined in light of the real marketplace. Repeatedly, members of the public raised the issue of "fair return on investment" versus "fair market price/rates". A statement by Michigan State University professor Dr. Ed Mahoney, Co-Director of the Recreational Marine Research Center, was read into the record which stated his opinion that there is no way to calculate a fair market price when it comes to marina slip pricing and that often it is simply the estimate of "willingness to pay" made by marina operators.

The Mariners Bay (Parcel 28) Lessee's recent implementation of up to 50% increases in its boat slip rates has upset many boaters and served as an example and focal point for organized protests at recent SCHC meetings. While a 50% one time increase is onerous, one slip tenant's rental history shows his rent has increased an average of 7.8% per year since he began his occupancy of the slip and his new rent is still 11% less than the average slip rent in Southern California.

Extremely upset members of the public repeatedly took issue with County rent surveys that they feel do not appropriately differentiate dock conditions, amenities provided, and

public vs. for-profit facilities. The Mariners Bay and Pier 44 (Parcel 44) leaseholds were presented by members of the public as examples of price gouging and deficient boat facilities. Community members have requested independent audits of slip fees and practices.

Although this Commission is sympathetic to these concerns, it is noteworthy that the issue of whether Lessees should be permitted to charge rates that yield either a "fair return on investment" or "fair market price/rates" is a policy determination made by the Board of Supervisors. Currently, the County policy determination is that Lessees are permitted to charge "fair market price/rates", and return on investment will only be considered where it is determined that prices are over-market. In this regard, the Department of Beaches and Harbors routinely conducts a survey of slip rental rates comparing the prevailing rates in Marina del Rey with other marinas located within 60 miles of Marina del Rey. In a current survey, based on the concept of "fair market price/rates", these comparisons did not find any incidences of price gouging in Marina del Rey, and no further analysis of return on investment was determined to be necessary. A copy of the most recent survey is attached.

It has been requested by members of the public that the Board of Supervisors re-examine its policy on pricing in Marina del Rey. SCHC Commissioner Al Landini proposed having the County consider assuming control of the privately-owned docks in the Marina and having some of the boat slips in Marina del Rey treated to some lesser standard than maximizing rents under the fair market model. Commissioner Russ Lesser disagreed, believing that whether building new slips or operating old slips, it would cost the County more than it does a private lessee. Moreover, Commissioner Lesser felt that unless County policy is changed, Lessees in Marina del Rey should be encouraged to keep slip rental rates comparable to other marinas.

Regarding the condition of boater facilities, the Commission is ensuring that the Department of Beaches and Harbors reviews all maintenance complaints. Significant new staffing attention has been dedicated to enforcing leasehold premises maintenance since the beginning of 2007. While conditions still need to improve, Lessees have responded positively with improved maintenance, which the Department expects will continue. Additionally, newly negotiated leases contain a provision allowing the County to assess liquidated damages of $100 **per** item per day for deficiencies that are not cured within the prescribed time for repair.

The subject of Marina del Rey boat slip rental rates was agendized for public discussion at our meetings of July 11, August 8, October 11, and November 14, 2007. Thirty-two different individuals spoke on this agenda item at one or more of these meetings, in

opposition to current Board policy regarding slip rental rates. Some but not all of these speakers are among the approximately 4,560 slip tenants here in Marina del Rey.

While we understand the desire for cheaper slip rents, we have determined that Marina del Rey slip rates are well within the range of rates at other Southern California harbors. The Department of Beaches and Harbors continues to monitor the slip rental market and unless the Board wishes to adopt a County subsidized slip rental program, which we do not recommend, there is no reasonable basis for recommending any change to current policy of the Board of Supervisors.

c: Chief Executive Officer
County Counsel
Attachment

Survey of Slip Rental Rates in Marina del Rey - September 2007

SLIP SIZE

Parcel #	ANCHORAGE	25' Rent	25' $/Foot	30' Rent	30' $/Foot	35' Rent	35' $/Foot	40' Rent	40' $/Foot	45' Rent	45' $/Foot	50' Rent	50' $/Foot
15	Ber Harbor Marina	$294	$11.75	$383	$12.75	$516	$14.75	$660	$16.50	$878	$19.50	$938	$18.75
8	Bay Club Apts Marina			$380	$12.65	$495	$14.14	$638	$15.95	$765	$16.99		
132	California Yacht Club	$286	$11.45	$419	$13.95	$604	$17.25	$798	$19.95	$898	$19.95	$1,083	$21.66
41	Catalina Yacht	$200	$8.00	$300	$10.00	$368	$10.50						
30	Del Rey Club			$225	$7.51	$322	$9.21	$382	$9.55	$444	$9.87	$509	$10.18
18	Dolphin Marina	$319	$12.76	$425	$14.17	$526	$15.03	$690	$17.25	$833	$18.51	$1,080	$21.60
21	Holiday Harbor Marina	$319	$12.76	$425	$14.17	$526	$15.03	$690	$17.25	$833	$18.51	$1,080	$21.60
125I	Marina City Slips	$355	$14.20	$435	$14.50	$555	$15.86	$715	$17.88	$845	$18.78		
42/43	Marina del Rey Hotel	$341	$13.64	$445	$14.83	$592	$16.91	$770	$19.25	$905	$20.11	$1,177	$23.54
111	Marina Harbor P111	$287.50	$11.50	$450	$15.00	$525	$15.00	$800	$20.00	$900	$20.00	$1,150	$23.00
112	Marina Harbor P112	$287.50	$11.50	$450	$15.00	$525	$15.00	$800	$20.00	$900	$20.00	$1,150	$23.00
28	Mariners Bay			$425	$14.17	$575	$16.43	$750	$18.75			$1,000	$20.00
10	Neptune Marina	$262.50	$10.50	$345	$11.50			$500	$12.50				
20	Panay Way Marina	$319	$12.76	$425	$14.17	$526	$15.03	$690	$17.25	$833	$18.51	$1,080	$21.60
44	Pier 44	$425	$17.00	$540	$18.00	$665	$19.00			$900	$20.00		
7	Tahiti Marina	$310	$12.40	$400	$13.33			$720	$18.00				
53	The Boat Yard	$313	$12.50	$450	$15.00	$612.50	$17.50	$760	$19.00			$1,150	$23.00
13	Villa Del Mar Marina			$468	$15.60	$613	$17.50	$700	$17.50	$907	$20.15	$1,008	$20.15
47	Windjammers Yacht	$281	$11.24	$329	$10.97	$437	$12.49	$578	$14.45				
54	Windward Yacht Club	$295	$11.80	$425	$14.16	$496	$14.16	$660	$16.51	$743	$16.51		
	HIGH	$425.00	$17.00	$540.00	$18.00	$665.00	$19.00	$800.00	$20.00	$908.75	$20.15	$1,177.00	$23.54
	AVERAGE	$305.88	$12.24	$407.13	$13.57	$526.53	$15.04	$683.41	$17.09	$827.33	$18.39	$1,033.63	$20.67
	LOW	$200.00	$8.00	$225.30	$7.51	$322.35	$9.21	$382.00	$9.55	$444.15	$9.87	$509.00	$10.18

Note 1	Parcel 30, Del Rey Yacht Club charges its members a below market rate, however, County rent is based on a higher imputed gross receipt designed to replicate the market rate.

Survey of Slip Rental Rates of Other Harbors in Southern California - September 2007

SLIP SIZE

#	ANCHORAGE	City	25' Rent	25' $/Foot	30' Rent	30' $/Foot	35' Rent	35' $/Foot	40' Rent	40' $/Foot	45' Rent	45' $/Foot	50' Rent	50' $/Foot
1	Anacapa Isle Marina	Channel Islands	$337.00	$13.48	$439.00	$14.63	$564.00	$16.11	$696.00	$17.40	$818.00	$18.18	$943.00	$18.86
2	Harbor Marina	Channel Islands			$381.00	$12.70			$609.00	$15.23				
3	Dana West Marina	Dana Point	$336.00	$13.44	$487.00	$16.23	$602.00	$17.20	$704.00	$17.60	$807.00	$17.93	$929.00	$18.58
4	Dana Point Marina	Dana Point	$336.00	$13.44	$487.00	$16.23	$602.00	$17.20	$704.00	$17.60	$807.00	$17.93	$929.00	$18.58
5	Peter's Landing	Huntington Beach	$312.50	$12.50	$375.00	$12.50	$437.50	$12.50	$620.00	$15.50	$697.50	$15.50	$925.00	$18.50
6	Sunset Aquatic Marina	Huntington Beach	$364.00	$14.56	$462.00	$15.40	$606.00	$17.37	$688.00	$17.20	$864.00	$19.20	$954.00	$19.08
7	Cerritos Yacht Anchorage	LA/LB Harbor	$250.00	$10.00	$300.00	$10.00	$350.00	$10.00	$400.00	$10.00	$450.00	$10.00	$500.00	$10.00
8	Holiday Harbor-Wilmington	LA/LB Harbor	$212.50	$8.50	$277.50	$9.25	$367.50	$10.50	$440.00	$11.00				
9	Pacific Yacht Landing	LA/LB Harbor	$200.00	$8.00	$285.00	$9.50	$332.50	$9.50	$400.00	$10.00	$460.00	$10.00	$575.00	$11.50
10	Island Yacht Ancorage	LA/LB Harbor	$300.00	$12.00			$420.00	$12.00	$480.00	$12.00	$540.00	$12.00	$600.00	$12.00
11	San Pedro Marina	LA/LB Harbor	$250.00	$10.00	$300.00	$10.00	$350.00	$10.00	$400.00	$10.00	$450.00	$10.00	$500.00	$10.00
12	Alamitos Bay Marina	Long Beach	$248.75	$9.95	$328.50	$10.96	$423.50	$12.10	$484.00	$12.10	$598.50	$13.30	$725.00	$14.50
13	Lido Yacht Anchorage	Newport Beach	$443.75	$17.75	$592.50	$19.75	$796.25	$22.75	$1,010.00	$25.25			$1,325.00	$26.50
14	Balboa Marina	Newport Beach	$527.00	$21.08	$730.00	$24.33	$858.00	$24.51	$1,184.00	$29.60	$1,378.00	$30.62	$1,657.00	$33.14
15	Bayside Marina	Newport Beach			$922.00	$30.73	$1,075.00	$30.71			$1,741.00	$38.69		
16	Villa Cove Marina	Newport Beach			$789.00	$26.30					$1,547.00	$34.38		
17	Channel Islands Harbor	Oxnard	$301.00	$12.04	$381.00	$12.70	$493.00	$14.09	$609.00	$15.23	$709.00	$15.76	$854.00	$17.08
18	Penninsula Yacht Marina	Oxnard	$280.00	$11.20	$365.00	$12.17	$468.00	$13.37					$783.00	$15.66
19	Bahia Marina	Oxnard					$530.00	$15.14	$654.00	$16.35	$769.00	$17.09	$886.00	$17.72
20	Redondo Beach Marina	Redondo Beach			$345.00	$11.50								
21	Port Royal Marina	Redondo Beach	$291.25	$11.65	$403.50	$13.45	$542.50	$15.50	$640.00	$16.00	$814.50	$18.10	$905.00	$18.10
22	Swales Anchorage	Newport Bay			$510.00	$17.00			$720.00	$18.00	$900.00	$20.00		
23	King Harbor Marina	King Harbor	$264.00	$10.56	$338.00	$11.27			$582.00	$14.55	$752.00	$16.71		
24	Bayside Villgage Marina	Newport Beach	$506.25	$20.25	$740.00	$24.67	$857.50	$24.50	$1,256.00	$31.38	$1,406.25	$31.25	$1,595.00	$31.90
25	Cabrillo Marina	San Pedro	$271.25	$10.85	$356.40	$11.88	$497.00	$14.20	$568.00	$14.20	$720.45	$16.01	$800.50	$16.01
26	Ventura Isle Marina	Ventura	$286.00	$11.44	$373.00	$12.43	$480.00	$13.71	$593.00	$14.83	$695.00	$15.44	$801.00	$16.02
27	Ventura West Marina	Ventura			$354.00	$11.80	$427.00	$12.20	$504.00	$12.60	$585.00	$13.00	$670.00	$13.40
		HIGH	$527.00	$21.08	$922.00	$30.73	$1,075.00	$30.71	$1,255.00	$31.38	$1,741.00	$38.69	$1,657.00	$33.14
		AVERAGE	$316.86	$12.63	$452.86	$15.10	$549.15	$15.69	$649.74	$16.24	$840.87	$18.69	$892.83	$17.86
		LOW	$200.00	$8.00	$277.50	$9.25	$332.50	$9.50	$400.00	$10.00	$450.00	$10.00	$500.00	$10.00

To enrich lives through effective and caring service

LOS ANGELES COUNTY
Caring for Your Coast
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

December 6, 2007

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan

SUBJECT: **ITEM 5a – APPROVAL OF RENEWAL OF OPTION TO AMEND LEASE AGREEMENT - LEASE NO. 6573 PARCEL 27R (JAMAICA BAY INN) – MARINA DEL REY**

Item 5a on your agenda pertains to an amendment to the Option to Amend Lease No, 6573 in order to facilitate development of an expanded Jamaica Bay Inn.

Attached is a copy of the Board letter that explains the details of the proposed recommendation. The exhibit to the Board letter is a copy of amendment to the option being recommended.

Your Commission's endorsement of Chief Executive Officer's 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://marinadelrey.lacounty.gov

January 8, 2008

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:

DEPARTMENT OF BEACHES AND HARBORS:
RENEWAL OF OPTION TO AMEND LEASE NO. 6573
PARCEL 27R (JAMAICA BAY INN) - MARINA DEL REY
(FOURTH DISTRICT)
(4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the Renewal of the Option to Amend Lease No. 6573 with respect to Parcel 27R (Jamaica Bay Inn), attached as Exhibit A, is categorically exempt under the California Environmental Quality Act pursuant to classes 1 (r) and 4 (j) of the County's Environmental Document Reporting Procedures and Guidelines.

2. Authorize the Chair to execute the Renewal of Option to Amend Lease No. 6573 reflecting an additional six-month extension of the Option expiration to May 31, 2008, and giving the Director of the Department of Beaches and Harbors the right to grant one or more additional extensions to not later than November 30, 2008 if Lessee is still unable to obtain the necessary entitlements and can demonstrate it has diligently pursued those approvals.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The County is the lessor of a ground lease for Parcel 27R, which was originally entered into for a term of 60 years. Your Board previously, on May 30, 2006, approved the Option to Amend Lease No. 6573 ("Option") to facilitate redevelopment and expansion of the Jamaica Bay Inn on Parcel 27R, along with an Amended and Restated Lease

Agreement ("Restated Lease") providing for a 39-year lease extension; payment of a $450,000 lease extension fee; complete renovation of the existing 42-room Jamaica Bay Inn, including room interiors, building facades, interior and exterior common areas, landscaping and hardscape; the addition of 69 new rooms, a business center, and meeting rooms; and a requirement that the Lessee contribute to a common fund established to provide for the cost of constructing new public amenities at Marina Beach on the adjacent non-leased portion of Marina Beach, with Lessee responsible for 25% of the total projected cost of such public facilities. Total development cost to be expended by Lessee is to be not less than $10.5 million.

The Option had an expiration date of May 30, 2007, but allowed for an extension to the Option for up to six additional months upon approval by the Director of the Department of Beaches and Harbors ("Director"), which the Director granted. During the entitlement process, Lessee has worked diligently to obtain the necessary entitlements to permit the exercise of the Option but has encountered numerous delays in processing the entitlement application that were not in its control. Due to these delays, although the Option expired on November 30, 2007, we are recommending the Board's approval of the requested Renewal of Option to Amend Lease No. 6573 ("Renewal") so as to allow for completion of the entitlement process. Approval of the Renewal will allow for faster completion of the project and greater benefit to the County than a delay to construction of the project that would otherwise result if the County instead had to renegotiate a new option agreement with the Lessee.

The Regional Planning Commission approved the Coastal Development Permit ("CDP") and Conditional Use Permit ("CUP") for the project on August 15, 2007, and the final appeal period ended November 24, 2007 with no appeals. Lessee has calculated that it will complete the required design and engineering work in January 2008 and will achieve final Design Control Board approval and building permits by April 2008. The attached Renewal will extend the time within which the Option must be exercised by Lessee by six months to May 31, 2008. If Lessee is unable to obtain all necessary approvals within the six-month extension period, the proposed Renewal will authorize the Director to grant one or more additional extensions to not later than November 30, 2008, if Lessee can demonstrate it has diligently pursued those approvals.

Implementation of Strategic Plan Goals

The recommended action will allow the lessee to proactively redevelop its leasehold improvements, which will result in fulfillment of approved Strategic Plan Goal Nos. 1 and 4, "Service Excellence" and "Fiscal Responsibility", respectively.

FISCAL IMPACT/FINANCING

There is no fiscal impact.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The term of the lease for Parcel 27R commenced on January 1, 1963 and expires on December 31, 2022. If the Option is exercised and the lease extended pursuant to the Restated Lease, the term will expire on December 31, 2061.

County Counsel has approved the Renewal as to form. The Small Craft Harbor Commission will consider the recommendation that your Board approve the attached Renewal at its December 12, 2007 meeting, and we will advise you of the Commission's action prior to your consideration of the Renewal.

ENVIRONMENTAL DOCUMENTATION

Approval of the Renewal is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines. Approval of the Renewal does not authorize construction or reconstruction of any improvements on the parcel. On August 15, 2007, the Regional Planning Commission considered and adopted a negative declaration for the proposed redevelopment/replacement project contemplated by the Restated Lease prior to approving the CDP and CUP for the project.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on other current services or projects.

CONCLUSION

Please authorize the Executive Officer of the Board to send two copies of the executed Renewal to the Department of Beaches and Harbors.

Respectfully submitted,

William T Fujioka
Chief Executive Officer

WTF:SW:SK:GB:ks

Attachments (1)

c: County Counsel
Department of Beaches and Harbors

RENEWAL OF OPTION
TO AMEND LEASE AGREEMENT
(Parcel 27R)

THIS RENEWAL OF THE OPTION TO AMEND LEASE AGREEMENT ("**Renewal**") is made as of January ___, 2008 between COUNTY OF LOS ANGELES ("**County**") and MARINA DEL REY INNVESTORS, a California limited partnership ("**Lessee**").

RECITALS

A. County and Spencer Investment Group, a California corporation (the "**Original Lessee**"), entered into Lease No. 6573 dated February 11, 1963, as amended (the "**Existing Lease**"), regarding the lease from County of certain real property in the Marina del Rey Small Craft Harbor now commonly known as Parcel No. 27R, as more particularly described in the Existing Lease (the "**Premises**").

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

C. County and Lessee entered into that certain Option to Amend Lease Agreement made as of May 30, 2006 (the "**Agreement**"), pursuant to which County granted Lessee the right to extend the term of the Existing Lease through December 31, 2061 on the terms and conditions set forth in the Agreement (the "**Option**").

D. According to the terms of the Agreement, the latest date for the exercise of the Option (referenced in the Agreement as the "Outside Expiration Date") was May 30, 2007.

E. Pursuant to Director's authority under Section 6.1 of the Agreement, Director has previously extended the Outside Expiration Date to November 30, 2007.

F. County and Lessee desire to renew the Option by providing for the further extension of the Outside Expiration Date in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, Lessee and County hereby agree as follows:

1. Capitalized Terms. All capitalized terms used in this Renewal and not otherwise defined herein shall have the meanings given such terms in the Agreement.

2. Renewal of Option. The Option contained in the Agreement is hereby renewed upon the same terms and conditions set forth in the Agreement, which is incorporated in this Renewal as though fully set forth herein, except that Sections 2 and 6.1 of the Agreement are modified as set forth in Sections 3 and 4 of this Renewal.

3. Further Extension of Outside Expiration Date. Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

> "2. Option Term. The term of the Option (the "**Option Term**") shall commence on the date of the 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 (as defined in Section 3 of the Agreement), or (ii) May 31, 2008 (the date set forth in this clause (ii) is referred to as the "**Outside Expiration Date**")."

4. Further Delays in Receipt of Entitlements. County desires to grant Director the authority to further extend the Outside Expiration Date in accordance with the terms and provisions of Section 6.1 of the Agreement, as such Section 6.1 is hereby deleted in its entirety and replaced with the following:

> "6.1 Delay in Receipt of Entitlements. If Lessee, despite its best efforts, is unable to cause the Entitlement Receipt Date to occur on or before May 31, 2008 as a result of continued delays 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 as long as Lessee has on a continuous basis diligently pursued receipt of the Entitlements, Director may, in the exercise of his reasonable discretion, grant Lessee one or more further extensions of the Outside 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 November 30, 2008. 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."

Any extension of the Outside Expiration Date beyond May 31, 2008 pursuant to Section 6.1 of the Agreement, as modified above, shall be subject to the terms, conditions and limitations set forth in Section 6.3 of the Agreement.

5. No Other Modifications. This Renewal incorporates all other terms and conditions of the Agreement, which shall continue in full force and effect.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the undersigned have executed this Renewal as of the date first written above.

LESSEE:

MARINA DEL REY INNVESTORS, a California limited partnership

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

COUNTY:

THE COUNTY OF LOS ANGELES

By: _____
Chairman, Board of Supervisors

ATTEST:

SACHI A. HAMAI, Executive Officer of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR., County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

3827008.1

To enrich lives through effective and caring service

LOS ANGELES COUNTY
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

December 6, 2007

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan

SUBJECT: ITEM 5b - APPROVAL OF OPTION FOR LEASE AND LEASE TO FACILITATE REDEVELOPMENT – PARCEL OT (PARKING LOT) (FUTURE PARCEL 147) - MARINA DEL REY

Item 5b on your agenda pertains to an option to lease Parcel OT (parking lot) (Future Parcel 147), in order to facilitate development of a seniors-only retirement residence with 5,000 square feet of retail space.

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 for Lease and a copy of the proposed Lease.

Your Commission's endorsement of the Chief Executive Officer's 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://marinadelrey.lacounty.gov

January 15, 2008

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:

DEPARTMENT OF BEACHES AND HARBORS: APPROVAL OF OPTION FOR LEASE AND LEASE TO FACILITATE REDEVELOPMENT – PARCEL OT (PARKING LOT) (FUTURE PARCEL 147) - MARINA DEL REY (4th DISTRICT) (4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed Option for Lease Agreement, attached as Exhibit A, is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.

2. Approve and authorize the Chair of the Board to sign the attached Option for Lease Agreement granting to MDR Oceana, LLC, a California limited partnership, upon fulfillment of stated conditions, the right to lease Parcel OT (Future Parcel 147) for 60 years.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Your Board previously authorized the Department of Beaches and Harbors ("Department") to release the Request for Proposals of Hotel/Motel, Restaurant, Retail and/or Other Uses on County Parcels GR, IR, NR, OT, AL-1, K-6 and LLS ("RFP"), which sought competitive proposals for the use of available additional 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) that best maximize the County's benefit from those entitlements. The proposed Option for Lease Agreement ("Option") for Parcel OT with the proposed lessee, MDR Oceana, LLC ("Lessee"), is the result of negotiations arising out of that RFP process. The attached Option would allow the Lessee to exercise its option and receive the benefits of the Lease ("Lease") attached as Exhibit B, upon demonstration that it has satisfied all of the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from

governmental authorities for the construction of the redevelopment project. The Option must be exercised concurrently with another option with Lessee's affiliate for Parcel 21 (Holiday Harbor) and only after entitlements for each project are received.

The Lease provides for a 60-year term; development and construction of a new 5-story, 114-unit seniors-only retirement facility with 5,000 square feet of retail space; establishment of a Capital Improvement Fund to be funded by amounts equal to .5% of gross revenues derived from the leasehold for years 4 and 5 of the lease term, .75% of gross revenues from the leasehold for years 6 through 10 of operations and 1.0% of gross revenues thereafter; establishment of a Renovation Fund to be funded by an amount equal to .75% of annual gross revenues that must be fully expended to physically reposition the project to then current market requirements not earlier than 12 months before and not later than 12 months after the 30th year prior to the expiration date of the Lease; establishment of a furniture, fixtures and equipment fund upon the completion of development equal to .75% of annual gross revenues; establishment of minimum and percentage rents; County participation in leasehold sale and/or refinance; "baseball-type" 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 the 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). Additionally, before it may exercise its option, Lessee must satisfy: (a) the conditions pertaining to the replacement parking for Parcel OT; and (b) all conditions to the exercise of the Parcel 21 option. Once Lessee has obtained all necessary project entitlements and has fulfilled all other requirements entitling it to exercise the Option, and has, in fact, exercised the Option, and the Parcel 21 lessee has exercised its option on Parcel 21, we will return to your Board for execution of the Lease in substantially the form attached.

The Department has obtained an appraisal that concludes the return to the County from granting the Lease for Parcel OT is equivalent to, or greater than, fair market value.

Implementation of Strategic Plan Goals

In furtherance of County Goals #1 and #4, "Service Excellence" and "Fiscal Responsibility", respectively, 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 enhancing public access to and enjoyment of the Marina through property redevelopment and modernized lease provisions.

The following chart details the proposed terms of the 60-year Lease as they relate to your Board's existing lease extension policy:

<table>
<tr><th>BOARD POLICY ITEM</th><th>TERMS</th></tr>
<tr><td>DEVELOPMENT
Development of new improvements</td><td>

Mixed-Use Senior Facility: Develop and operate a 5-story, 114-unit seniors-only retirement facility, consisting of 47 two-bedroom and 67 one-bedroom units; with 5,000 square feet of retail space on the ground floor and structured parking for 154 cars, to accommodate 62 cars required by the project uses plus 92 replacement public parking spaces. In addition, 94 replacement public parking spaces will be provided off-site on Parcel 21. In total, Lessee will provide 248 parking spaces, as summarized in the table below.
<table>
<tr><th>Parking Summary</th><th>On-Site</th><th>Off-Site</th><th>Project Total</th></tr>
<tr><td>Project Uses</td><td>62</td><td>0</td><td>62</td></tr>
<tr><td>Replacement Parking</td><td>92</td><td>94</td><td>186</td></tr>
<tr><td>Total Spaces</td><td>154</td><td>94</td><td>248</td></tr>
</table>
Lessee will not be permitted to obtain a Certificate of Occupancy on Parcel OT until the replacement parking required by the County and the Coastal Commission has been completed.
Parking rates for the replacement public parking are subject to County and Coastal Commission approval. The on-site replacement public parking shall be made available as overflow parking for the charter vessel operation at Parcel 125.

Parcel Size Adjustment: The leasehold shall consist of current Parcel OT plus such additional area on the northeasterly side of current Parcel OT as required (1) to satisfy the minimum required setback on the adjusted parcel and (2) to construct a public open space on the adjusted parcel, including, at a minimum, the provision of an ADA-compliant publicly accessible pedestrian walkway linking Admiralty Way and Washington Boulevard. If any area outside the parcel area is disturbed during construction, Lessee shall restore the disturbed area to the satisfaction of the County. Lessee to provide a legal description for County approval prior to lease execution.
Development Budget: Total development cost budget: $29 million (in 2005 dollars).
Construction Schedule: Construction to be completed within 30 months from lease extension, subject to Force Majeure, not to exceed 2 years.

</td></tr>
</table>

BOARD POLICY ITEM	*TERMS*
DEVELOPMENT (continued)	• Capital Improvement Fund: A Capital Improvement Fund to be funded annually by Lessee will be maintained during the term of the lease according to the following schedule: Years 1-3: none Years 4-5: 0.50% of gross revenue Years 6-10: 0.75% of gross revenue Years 11+: 1.00% of gross revenue The Capital Improvement Fund must be fully expended for Permitted Capital Expenditures by 10 years prior to the expiration date of the lease. All Permitted Capital Expenditures are subject to prior approval by the Director of Beaches and Harbors ("Director"), not to be unreasonably withheld. • FF&E Fund: A Furniture, Fixtures and Equipment Fund to be funded annually by Lessee equal to 0.75% of gross revenue will be maintained during the term of the lease. • Renovation Fund: A Renovation Fund to be funded annually by Lessee equal to 0.75% of gross revenue will be maintained during the term of the lease. The Renovation Fund may be maintained in the form of a letter of credit. The Renovation Fund must be fully expended to physically reposition the project to then current market requirements not earlier than 12 months before and not later than 12 months after the 30th year prior to the expiration date of the lease. Thereafter, no Renovation Fund shall be required. Lessee and Director to agree on a renovation plan and budget.
LEASE TERM	• Option for a 60-year lease for Parcel OT.
EXTENSION FEE Fee equal to or commensurate with value of the extension	• Not applicable (new ground lease). • Option Fee of $100,000, payable immediately upon Board approval of Option. Option Fee payment is non-refundable if Option is not exercised.

BOARD POLICY ITEM	*TERMS*
MARKET RATE RENTS Ensure fair market rents	• Minimum annual rent of $75,000 per year commences upon exercise of Option and continues through completion of construction. • Minimum annual rent for the first year following completion of construction shall be $140,000. Minimum annual rent for the second and third years following completion of construction shall be $310,000. • Commencing with the 4th year after completion, and every 3 years thereafter, minimum annual rent reset to 75% of the previous 3 years' average total rent paid to County. • Percentage rents: 20% - Parking – Commissions 5% - Parking – Lessee Operated 20% - Dry Storage All other revenue: 6.75% of the first $8 million of gross revenue; 7.25% of gross revenue over $8 million. • Percentage and minimum rents are subject to renegotiation to fair market rent 10 years after completion of construction 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 upon assignment or other direct or indirect transfer of leasehold. • Refinance Participation: 20% of net loan proceeds not reinvested in leasehold.
COUNTY ADMIN. COSTS Ensure payment for County costs for lease extension	• Lessee agrees to reimburse County for costs associated with lease negotiations, option and lease preparation including all appraisal and consultant legal costs.
COUNTY INCOME CONTINUITY Ensure County revenue flow during development	• Minimum annual rent of $75,000 per year commences upon exercise of Option and continues through completion of construction.
RIGHT TO RECAPTURE	• Provide County with a right to purchase the leasehold interest if Lessee desires to either assign or sell a controlling interest.

BOARD POLICY ITEM	*TERMS*
ARBITRATION	• Arbitration will use rent-a-judge procedure. "Baseball" type arbitration provision.
LEASE ASSIGNMENT - DISCLOSURE ISSUES	• Lease assignment and ownership disclosure requirements in accord with standard County policy.
DOCKMASTER	• Not applicable (no wet lot area).
PROMENADE	• Not applicable (no water frontage).
APPRAISAL	• The Department has obtained an independent appraisal confirming the return to the County from the lease is equivalent to, or greater than, fair market value.
ENTITLEMENTS: SITE COVERAGE, HEIGHT & LAND USES	• Lessee must obtain all regulatory approvals within 18 months of grant of Option by Board of Supervisors. If Lessee is unable to obtain all of the necessary approvals within the 18-month requirement, the Director may grant up to two 6-month extensions if Lessee can demonstrate it has diligently pursued those approvals. If Lessee obtains its approvals within the 18-month (or 24-month or 30-month) period, but such approvals are subject to litigation and appeal by a third party, then the Option exercise date will be tolled pending 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. • Density, site coverage, open space, view corridor, building height, entitlement and land uses are subject to Lessee obtaining all planning and entitlement approvals. • Lessee may pursue County and Coastal Commission planning and entitlement approvals with respect to the provision of interim replacement parking during construction.

Additional Matters

OTHER TERMS	a) Ten years prior to expiration of lease, Lessee to structure funding for removal of improvements (at County's election). b) Rental renegotiation and insurance disputes subject to rent-a-judge procedure pursuant to "baseball" type arbitration. c) Maintenance standards for improvements to conform to Marina del Rey standards as revised from time to time. d) Lease administrative items include: a) late fee of 6% plus interest at prime plus 3% for any late payments; b) security deposit equal to three months' minimum rent; c) insurance levels set upon execution of the lease and renegotiated every five years thereafter; d) County approval rights over all construction plans and specifications; and e) enhanced audit and record-keeping standards. e) 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.

FISCAL IMPACT/FINANCING

The 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 option fee; and 2) revenue increases due to construction of a mixed-use 114-unit senior facility and 5,000 square feet of retail space on a former parking lot. Each component is discussed in detail below.

Option Fee

Lessee shall pay an option fee of $100,000 due prior to grant of the Option by your Board.

Revenue Increase Due to New Construction

The total revenue derived from parking on Parcel OT during fiscal year 2006-2007 was approximately $33,240. After construction, lease-up and stabilization of the new senior facility and retail space, annual County rent is projected to be approximately $513,700, an annual increase of approximately $480,460.

Costs of consultants and primary County staff involved in the negotiation and development of the Option and Lease are being reimbursed by the Lessee.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Parcel OT is a public parking lot located between the Oxford Flood Control Basin and the Marina International Hotel, with frontage on Admiralty Way and Washington Boulevard.

The Lessee has made application to the Department of Regional Planning for discretionary land use entitlements under the applicable standards of the Marina del Rey Local Coastal Program ("LCP"), including those related to the parcel use designation and a transfer of trip generations. The application is still under review. Approval of the Option is without prejudice to the County's full exercise of its regulatory authority in the consideration of the land use entitlements required for the possible exercise of the Option.

At its meeting of December 12, 2007, the Small Craft Harbor Commission _____ the recommendation to approve the Option and the Lease in the form attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

The Option is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines. Approval of the Option does not authorize construction or reconstruction of any improvements on the parcel. The discretionary land use entitlements and the corresponding environmental documentation necessary to implement the proposed redevelopment contemplated by the Option and the Lease are under review by the Department of Regional Planning.

CONTRACTING PROCESS

The Lessee's proposal was received in response to the release of the Board-authorized RFP. The new Lease will be available to the Lessee upon the exercise of the Option. Upon Lessee's demonstration that it has satisfied the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the development project, we will return to your Board with final confirmation that the conditions and approvals for exercise contained in the Option have been satisfied and will at that time request authorization for execution of the 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 two copies of the executed Option to the Department of Beaches and Harbors.

Respectfully submitted,

William T Fujioka

SW:SK:GB:dlg

Attachments (2)

c: County Counsel

LEASE OPTION AGREEMENT
(PARCEL 147)

THIS LEASE OPTION AGREEMENT ("Agreement") is made and entered into as of the _____ day of January, 2008, by and between the COUNTY OF LOS ANGELES ("County") and MDR OCEANA, LLC, a California limited liability company ("Lessee").

RECITALS

A. County owns fee title to certain real property in the Marina del Rey Small Craft Harbor commonly known as Parking Lot 8 or Parcel OT and annexing a portion of Parcel P, and more particularly described on Schedule 1 to Exhibit A to the form of the Lease attached to this Agreement as Exhibit A (the "Premises").

B. County and Lessee desire to enter into this Agreement pursuant to which County grants Lessee an option to lease the Premises from County on the terms and conditions set forth in this Agreement.

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 lease the Premises from County for a term of sixty (60) years in accordance with the terms and conditions set forth in the form of Lease Agreement attached to this Agreement as Exhibit A (the "Lease"). In consideration of County's grant of the Option to Lessee, and as a condition to the effectiveness of the Option, 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.

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 later of the Entitlement Receipt Date under this Agreement and the "Entitlement Receipt Date" under the Parcel 21 Option Agreement, as defined in Section 4.4 of this Agreement (the "Parcel 21 Entitlement Receipt Date"), or (ii) the date that is eighteen (18) months following the date of this Agreement (the "Outside Expiration Date"), except to the extent the Outside Expiration Date is extended pursuant to the express provisions of this Agreement.

For purposes hereof, the "Entitlement Receipt Date" shall mean the first date upon which (a) Lessee has received all discretionary planning and zoning land use entitlements required to be obtained from governmental authorities (including the County and the California Coastal Commission) for the construction of the Development Work (as defined below) and has satisfied all conditions to the issuance of a building permit for the Development Work other than the payment of any applicable building permit fee (the "Entitlements"), (b) any appeal period to contest the issuance of such land use entitlements has lapsed, and (c) there is no proceeding or litigation pending to appeal the

issuance of such Entitlements, or to enjoin or restrain the performance of the Development Work (not including any proceeding or litigation brought by or on behalf of any partner, shareholder or member of, or any other person or entity affiliated with, or otherwise directly or indirectly having an ownership interest in, Lessee or the Parcel 21 Lessee (a "Lessee Affiliate")), or if such a proceeding or litigation is pending, then the date such proceeding or litigation has been dismissed or a decision or judgment rendered thereon, which decision or judgment is not subject to further appeal.

For purposes of this Agreement, the "Development Work" shall mean the demolition of any existing Improvements (as defined in the Lease) currently located on the Premises and the construction of a new 5-story, 114 unit mixed-use senior-only retirement residence facility in accordance with the Development Plan attached to the Lease as Exhibit B (the "Development Plan"), including without limitation, the following Improvements (as defined in the Lease): (i) 47 two-bedroom and 67 one-bedroom residential units; (ii) 5,000 square feet of ground floor retail space; (iii) structured parking for 154 vehicles; and (iv) public open space on the Northeasterly portion of the Premises, including without limitation, a public pedestrian walkway linking Admiralty Way and Washington Boulevard, each as more particularly described in the Development Plan and the Lease.

Notwithstanding any contrary provision hereof, if by that date which is forty five (45) days prior to the Outside Expiration Date (the "Extension Request Date") (1) Lessee and the Parcel 21 Lessee have been unable to cause one or both of the Entitlement Receipt Date or the Parcel 21 Entitlement Receipt Date to occur and one or both of the Entitlement Receipt Date or the Parcel 21 Entitlement Receipt Date is (are) not reasonably expected to occur by the Outside Expiration Date, (2) in the reasonable judgment of the Director of the Department of Beaches and Harbors of the County ("Director") Lessee and the Parcel 21 Lessee have proceeded with diligent efforts to cause the Entitlement Receipt Date and the Parcel 21 Entitlement Receipt Date to occur by the Outside Expiration Date, and (3) on or before the Extension Request Date Lessee submits a written request in writing to Director requesting an extension of the Outside Expiration Date to afford Lessee and the Parcel 21 Lessee (as applicable) with additional time to cause the Entitlement Receipt Date and Parcel 21 Entitlement Receipt Date to occur (as applicable), then the Director may grant, in its discretion, one or more extensions of the Outside Expiration Date, provided that (A) any extension of the Outside Expiration Date shall be limited to that period of time which, in the reasonable judgment of Director, is reasonably necessary to permit the Entitlement Receipt Date and Parcel 21 Entitlement Receipt Date to occur, and (B) Director shall not extend the Outside Expiration Date by more than six (6) months at a time, and in no event shall Director extend the Outside Expiration Date beyond that date which is thirty (30) months following the date of this Agreement. The Outside Expiration Date shall not be extended under this paragraph if Lessee is in breach or default of this Agreement or the Parcel 21 Lessee is in breach or default of the Parcel 21 Option Agreement. Lessee shall not be required to pay to County a fee for any extension of the Outside Expiration Date pursuant to this paragraph.

In addition, if as of forty-five (45) days prior to the Outside Expiration Date (as such date may have been extended pursuant to the immediately preceding paragraph), the Entitlement Receipt Date or Parcel 21 Entitlement Receipt Date has not occurred because (a) the Development Work or the Redevelopment Work under the Parcel 21 Option Agreement (the "Parcel 21 Redevelopment Work") is the subject of a pending proceeding or litigation to appeal the issuance of the Entitlements for such particular work or to enjoin or restrain the performance of the Development Work or the Parcel 21 Redevelopment Work (other than any proceeding or litigation brought by or on behalf of a Lessee Affiliate), or (b) a moratorium, temporary restraining order, injunction or other court order prohibits the issuance of the Entitlements for the Development Work or the Parcel 21 Redevelopment Work, and such moratorium, temporary restraining order, injunction or other court order also pertains to all other similar projects in Marina del Rey on land leased from the County, then as long as Lessee and the Parcel 21 Lessee (as applicable) continue to diligently prosecute or pursue the defense or removal of such proceeding, litigation, moratorium or court order, the Outside Expiration Date shall be extended until not later than forty-five (45) days following the date that such proceeding, litigation, moratorium or court order is resolved in favor of the issuance or validity of the Entitlements for the Development Work and the Parcel 21 Redevelopment Work (as applicable), with no further right of appeal; provided, however, in no event shall the Outside Expiration Date be extended beyond the fourth (4th) anniversary of the date of this Agreement. The Outside Expiration Date shall not be extended under this paragraph if Lessee is in breach or default of this Agreement or the Parcel 21 Lessee is in breach or default of the Parcel 21 Option Agreement. Lessee shall not be required to pay to County a fee for any extension of the Outside Expiration Date pursuant to this paragraph.

3. Exercise of Option. The Option shall be exercisable by Lessee only by Lessee's strict satisfaction on or before the Option Expiration Date (as such date may be extended as expressly provided herein) 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 (A) Lessee's execution and delivery to County of the Lease with any blank or bracketed terms set forth in Exhibit A completed in accordance with the terms and provisions of this Agreement (County hereby agrees to cooperate with Lessee to permit the completion of such blank or bracketed terms), and (B) Lessee's payment of the amount of the Security Deposit required to be delivered by Lessee under Article 7 of the Lease; (iii) the Entitlement Receipt Date shall have occurred and there shall be no action or proceeding pending or, to Lessee's or County's actual knowledge, threatened, to contest the governmental entitlements and approvals issued for the Development Work or to enjoin or restrain the performance of the Development Work; (iv) Lessee shall have provided evidence satisfactory to County of its having sufficient financial resources, as determined by the Director in Director's reasonably judgment, to complete the Development Work; (v) Director shall have approved all plans, specifications and other materials for the Development Work required to be submitted to Director pursuant to Section 4.3 of this Agreement; (vi) the conditions to the exercise of the Option set forth in Section 4.4 pertaining to the Off-Site Replacement Parking Spaces shall have been satisfied; and (vii) all conditions to the exercise of the Parcel 21 Option shall have been satisfied and the Parcel 21 Lessee shall have concurrently exercised the Parcel 21 Option. Upon Lessee's proper and timely

exercise of the Option, County shall execute and deliver the Lease and the Parcel 21 Lease on a concurrent basis not later than forty-five (45) days following the date of Lessee's exercise of the Option.

4. Entitlements and Plan Preparation During Option Term.

4.1 Obtaining Entitlements. During the Option Term, Lessee shall use diligence efforts to obtain as soon as reasonably possible all Entitlements necessary to perform the Development Work. 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.

4.2 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 which may be required in connection with the performance by Lessee of the Development Work. Such cooperative efforts may include the Department's joinder in any application for such approval, consent, permit or variance, where joinder therein by the Department is required or helpful (including without limitation, but only if approved by Director, co-application by County to eliminate or reduce the Off-Site Replacement Public Parking Spaces described in Section 4.4(b) hereof); provided, however, that Lessee shall reimburse County for the Actual Costs (as defined in the 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 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 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 Development 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 Lease do not in any 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 Lease.

4.3 Plans and Specifications for Development Work. The Development Work shall be constructed by Lessee in accordance with and subject to the terms and provisions of Article 5 of the 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 Development Work, as set forth in more detail in Sections 5.2 through 5.4 of the 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 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,

those portions of the plans, specifications and other materials described in Sections 5.2 through 5.4 of the Lease which are required to be submitted to governmental authorities (including the County and the California Coastal Commission) in connection with Lessee's applications for and/or receipt of all discretionary planning and zoning land use entitlements for the Development Work. Lessee shall accompany such plans, specifications and other materials with the construction cost estimates described in such Sections 5.2 through 5.4, as applicable. The standards and time periods for Director's review and approval of the materials submitted by Lessee pursuant to this Section 4.3 shall be in accordance with the terms and provisions of Sections 5.2 through 5.4 of the 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 (as the same may be extended pursuant to the terms hereof).

4.4 Off-Site Replacement Public Parking. The Premises currently contains one hundred eighty-six (186) existing public parking spaces that will be required to be replaced in connection with the development of the Development Work (the "Replacement Public Parking Spaces"). As part of the Development Work, Lessee shall construct a total of one hundred fifty-four (154) parking spaces on the Premises, sixty-two (62) of which shall be used to satisfy the parking requirements for the Improvements to be constructed on the Premises and the remaining ninety-two (92) of which shall be restricted for use as Replacement Public Parking Spaces. Lessee shall satisfy the remaining required Replacement Public Parking Spaces by causing to be constructed at Lessee's expense ninety-four (94) additional parking spaces off-site (the "Off-Site Replacement Public Parking Spaces") on certain property commonly known as Parcel 21 that is leased by County to Lessee's affiliate, Holiday-Panay Way Marina, L.P. (with its successors and assigns, the "Parcel 21 Lessee"). Concurrent or substantially concurrent herewith, County has entered into an Option to Amend Lease Agreement with the Parcel 21 Lessee (the "Parcel 21 Option Agreement") that grants the Parcel 21 Lessee an option (the "Parcel 21 Option") to amend and restated its lease for Parcel 21 (as amended and restated, the "Parcel 21 Lease"), including an extension of the term thereof. As a condition to the extension of the term of the Parcel 21 Lease, the Parcel 21 Lessee is obligated to construct a new parking structure with sufficient capacity to house the Off-Site Replacement Public Parking Spaces. Except as provided in the next paragraph, the right of Lessee to exercise the Option under this Agreement shall be conditioned upon the unconditional commitment of the Parcel 21 Lessee to construct the Off-Site Replacement Public Parking Spaces on Parcel 21. In addition, no temporary or permanent certificate of occupancy permitting the use and occupancy of the Improvements constructed as part of the Development Work shall be issued until a temporary or permanent certificate of occupancy is issued for the use and occupancy of the Off-Site Replacement Public Parking Spaces on Parcel 21. No Force Majeure (as defined in the Restated Lease) event or failure of the Parcel 21 Lessee to obtain all required governmental approvals for the construction of additional parking facilities on Parcel 21 shall have any effect on the terms and provisions of the immediately preceding sentence.

Subject to the approval of Director, at the request of Lessee and the Parcel 21 Lessee, County agrees to be a co-applicant in petitioning the California Coastal Commission to eliminate or reduce the requirement for the Off-Site Replacement Public Parking Spaces. If the California Coastal Commission approves the elimination of the Off-Site Replacement Public Parking Spaces, then (a) the Off-Site Replacement Public Parking Spaces shall not be required to be provided, (b) the exercise of the Parcel 21 Option shall not be a condition precedent to the exercise of the Option under this Agreement, and (c) all references in this Agreement to matters pertaining to the exercise of the Parcel 21 Option or to the Entitlements or Redevelopment Work for Parcel 21, shall be of no further force or application. If the California Coastal Commission approves only a reduction in the number of Off-Site Replacement Public Parking Spaces, then the immediately preceding sentence shall not be applicable, but the number of Off-Site Replacement Public Parking Spaces required to be provided on Parcel 21 shall be reduced accordingly.

5. Contest Delay. If the Entitlements under this Agreement and the Entitlements under the Parcel 21 Option Agreement are obtained on or before the Outside Expiration Date (as the Outside Expiration Date may be extended by Director pursuant to the last paragraph of Section 2 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 or the Parcel 21 Lessee (as applicable) continues to use diligent 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 Outside 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, the Parcel 21 Lessee or any person or entity with any direct or indirect interest in Lessee or the Parcel 21 Lessee, or (b) the governmental agency, commission, board or other instrumentality that issued the Entitlement that is the subject of the appeal or litigation. Lessee shall not be required to pay to County a fee for any extension of the Outside Expiration Date pursuant to this Section 5.

6. County Costs. Regardless of whether Lessee exercises the Option, Lessee shall promptly reimburse County for the Actual Costs (as defined in the Lease) incurred by County in the review, negotiation, preparation and documentation of the Lease, this Agreement and the term sheets and memoranda that preceded the foregoing. 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.

7. Miscellaneous.

7.1 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.

7.2 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.

7.3 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 Lease.

7.4 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.

7.5 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.

7.6 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.

7.7 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.

7.8 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.

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

7.10 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.

7.11 Successors and Assigns. Subject to Section 7.6 above, the rights and obligations of the parties under this Agreement shall be binding upon the parties' respective successors and assigns.

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

8. Affordable Housing. As a condition to the exercise of the Option, Lessee shall satisfy all affordable housing requirements of County applicable to the receipt of the Entitlements and the development on the Premises of the Development Work.

SIGNATURES ON FOLLOWING PAGE

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

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

MDR OCEANA, LLC, a California limited liability company

By: Alta Group GP, LLC, a California limited liability company, a Manager

By: _____
Jona Goldrich, Manager

ATTEST:

SACHI HAMAI,
Executive Officer of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.,
County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

1134121.8

EXHIBIT A

LEASE

LEASE AGREEMENT

by and between

County of Los Angeles

and

MDR Oceana, LLC

(Parcel 147--Lease No. _____)

Dated as of _____, ____

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EXHIBIT B DEVELOPMENT PLAN
EXHIBIT C ASSIGNMENT STANDARDS

LEASE AGREEMENT
PARCEL 147--MARINA DEL REY

THIS LEASE AGREEMENT ("Lease") is made and entered into as of _____, _____ ("Effective Date"), by and between the COUNTY OF LOS ANGELES ("County"), and MDR OCEANA, LLC, a California limited liability company (together with its permitted successors and assigns, "Lessee").

WITNESSETH

WHEREAS, County owns fee title to certain real property in the Marina del Rey Small Craft Harbor commonly known as Parking Lot 8 or Parcel OT and annexing a portion of Parcel P, and more particularly described in Exhibit A attached hereto (the "Premises"); and

WHEREAS, County and Lessee entered into that certain Lease Option Agreement dated January ___, 2008 (the "Option Agreement"), pursuant to which County granted Lessee an option (the "Option") to lease the Premises from County on the terms and conditions set forth in this Lease; 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 as follows:

1. BACKGROUND AND GENERAL.

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

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 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 Section 4.3.

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

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

1.1.9."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 4.4.6, 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.

1.1.10. "APPROVED RESIDENCE LEASE" shall have the meaning set forth in subsection 11.1.2.

1.1.11. "APPROVED FINAL PLANS, SPECIFICATIONS AND COSTS" shall have the meaning set forth in subsection 5.5.1.

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

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

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

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 5.13.

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 mean the date of the receipt of a Temporary Certificate of Occupancy or other applicable governmental permit, certificate or approval for the legal occupancy of the residential space in the building to be constructed on the Premises as part of the Development Work pursuant to Article 5 of this Lease.

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 Counties, 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 WORK" 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. "ENTITLEMENTS" shall mean all entitlements, permits, licenses and other approvals required to be obtained from governmental authorities (including County and the California Coastal Commission) for the construction of the Development Work.

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

1.1.44. "EQUITY FORECLOSURE TRANSFEREE" shall have the meaning set forth in subsection 12.2.1.

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

1.1.46. "EXCESS PERCENTAGE RENT PAYMENT" shall have the meaning set forth in subsection 4.2.2.4.

1.1.47. "EXCLUDED DEFAULTS" shall have the meaning set forth in subsection 12.3.3.

1.1.48. "EXECUTION DATE" shall mean the date of execution of this Lease by County.

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

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

1.1.51. "FF&E FUND" shall have the meaning set forth in Section 5.14.

1.1.52. "FINANCING EVENT" shall have the meaning set forth in Section 12.1.1.

1.1.53. "FIRST ADJUSTMENT DATE" shall have the meaning set forth in Section 4.3.

1.1.54. "FORCE MAJEURE" shall have the meaning set forth in subsection 5.7.3.4.

1.1.55. "FORECLOSURE TRANSFER" shall have the meaning set forth in subsection 12.2.1.

1.1.56. "FORECLOSURE TRANSFEREE" shall have the meaning set forth in subsection 12.2.1.

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

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

1.1.59. "IMPROVEMENTS" means all buildings, structures, fixtures, docks, anchorage facilities, fences, fountains, walls, paving, parking areas, driveways, walkways, plazas, landscaping, permanently affixed utility systems and other improvements now or hereafter located on the Premises, including without limitation, the Development Work.

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

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

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

1.1.63. "INSTITUTIONAL LENDER" shall have the meaning set forth in subsection 12.3.1.

1.1.64. "INSURANCE RENEGOTIATION DATE" shall have the meaning set forth in Section 9.6.

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

1.1.66. "LEASE" shall mean this Lease Agreement.

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

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

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

1.1.70. "LETTER OF CREDIT" shall have the meaning set forth in Section 7.1.

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

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

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

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

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

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

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

1.1.78. "NOTICE OF COMPLETION" shall have the meaning set forth in subsection 5.7.7.

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

1.1.80. "OWNERSHIP INTERESTS" shall have the meaning set forth in subsection 12.1.1.

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

1.1.82. "PAYMENT BOND" shall have the meaning set forth in subsection 5.5.4.2.

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

1.1.84. "PERFORMANCE BOND" shall have the meaning set forth in subsection 5.5.4.1.

1.1.85. "PERMITTED CAPITAL EXPENDITURES" shall have the meaning set forth in Section 5.13.

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

1.1.87. "PREMISES" shall have the meaning set forth in the first recital to this Lease, as more specifically described in Exhibit A hereto.

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

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

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

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

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

1.1.93. "RENOVATION FUND" shall have the meaning set forth in Section 5.15.

1.1.94. "RENOVATION PLAN" shall have the meaning set forth in Section 5.15.

1.1.95. "RENOVATION REQUIREMENT" shall have the meaning set forth in Section 5.15.

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

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

1.1.98. "SECTION" shall mean a Section of this Lease.

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

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

1.1.101. "STATE" shall mean the State of California.

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

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

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

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

1.1.106. "SUBSTANTIAL COMMENCEMENT OF CONSTRUCTION" shall have the meaning set forth in subsection 5.7.1.

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

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

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

1.1.110. "UNREASONABLE COUNTY ACT" shall have the meaning set forth in subsection 5.7.3.2.

1.1.111. "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.

1.2.1. As-Is. 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 County, City, 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. Unless terminated sooner in accordance with the provisions of this Lease, the term of this Lease shall be for the period commencing on the Effective Date and expiring at 11:59 p.m. on _____ [PRIOR TO EXECUTION INSERT DATE THAT IS THE DAY PRECEDING THE 60TH ANNIVERSARY OF THE EFFECTIVE DATE] ("Term"). Each calendar year (or partial calendar year) during the Term is referred to herein as a "Lease Year." The first Lease Year shall be the period from the Effective Date through December 31 of the calendar year during which the Effective Date occurs. The next and each succeeding Lease Year shall be each successive full calendar year thereafter during the Term, except that the last Lease Year shall be the period from January 1 of the calendar year during which the Term expires through the last day of the Term.

2.2 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 hereafter constructed by Lessee upon the Premises, and all alterations, additions, or betterments made thereto by Lessee.

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

2.3.1. 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.

2.3.2.Duty to Remove. No earlier than eleven (11) years, and no later than ten (10) 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 four (4) 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 by not later than four (4) years prior to the expiration of the Term (or concurrently on any earlier termination of the Lease by County) 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.

2.3.3.County's Right to Remove Improvements. If, following an election by County to cause Lessee to remove the structures, buildings and Improvements as described in subsection 2.6.2 above, Lessee in fact fails to so remove said structures, buildings and Improvements and restore the Premises, County may sell, remove or demolish the same, in event of which sale, removal or demolition Lessee shall reimburse County its Actual Costs incurred in connection with such sale, removal or demolition 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.

2.3.4.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.

2.3.5.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) a 114 unit seniors-only retirement residence facility, (ii) approximately 5,000 square feet of ground floor retail space, (iii) structured parking containing approximately 154 parking spaces, 62 of which shall accommodate the parking requirements of the residence facility, retail space and other on-site Improvements, and 92 of which shall be public parking spaces to replace a portion of the existing 186 public parking spaces located on the Premises as of the Effective Date, and (iv) 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 be used for no other purpose 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 governmental or public agency requirements;

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 surface waters and 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

3.2.2.8. The following uses shall not be permitted: (a) fuel sales; (b) boat or vehicle repair; or (c) live bait sales.

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 a seniors-only retirement residence facility with ancillary ground floor retail space and the parking facilities described herein, and that 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 Premises (other than those portions used for private residential purposes) shall be open every day of the year. Any changes in the days and/or hours of operation of the public portions of 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.

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 residential and retail projects and associated parking (including replacement public parking) 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 or City existing as of the Effective Date or otherwise disclosed to or known to Lessee, as their interests 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 or the City to convey such easements and transfer such rights to others.

The Lease of the Premises is also subject to the rights reserved in Sections 15.19 and 15.20 below.

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 4.3 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"), except that any amounts payable for less than a full calendar year or month shall be prorated based on the number of days in such partial year or month as compared to the total number of days in the full calendar year or month during which such period occurs. During the period commencing on the Effective Date and ending on the day preceding the Completion Date, the Annual Minimum Rent shall be Seventy-Five Thousand Dollars ($75,000.00) per year. During the period commencing on the Completion Date and ending on the day preceding the first anniversary of the Completion Date, the Annual Minimum Rent shall be One Hundred Forty Thousand Dollars ($140,000.00) per year. During the period commencing on the first anniversary of the Completion Date and ending on the day preceding the third anniversary of the Completion Date, the Annual Minimum Rent shall be Three Hundred Ten Thousand Dollars ($310,000.00) per year. Commencing on the third anniversary of the Completion Date, the Annual Minimum Rent shall thereafter be calculated in accordance with the provisions of Sections 4.3 and 4.4 below.

Notwithstanding any contrary provision of this Lease, if the Completion Date does not occur on or before the Required Completion Date, then each and every reference in this subsection 4.2.1 to "Completion Date" shall be changed to mean and refer to the "Required Completion Date."

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 amounts set forth in each of categories A., B. and C. of this subsection 4.2.2 below. Gross Receipts (as defined herein) from each transaction, sale or activity of Lessee and/or any sublessee shall be reported under one or more of the following percentage categories, as applicable. Within fifteen (15) days after the close of each and every calendar month of the term hereof, Lessee shall file a report of Gross Receipts and pay to County a sum equal to the total of the following percentages for said previous month, less the amount of Monthly Minimum Rent paid for said previous month as provided herein:

A. TWENTY PERCENT (20%) of Gross Receipts from the rental or other fees charged for the use of dry storage facilities, landside storage space or landside gear lockers;

B. FIVE PERCENT (5%) of Gross Receipts received by Lessee or a Sublessee (or their affiliate) in connection with the operation by Lessee or a Sublessee (or their affiliate) of parking facilities on the Premises, provided that to the extent such parking facilities are not directly operated by Lessee or a Sublessee (or their affiliate) but instead are operated by an unaffiliated third party operator, then in lieu of the above amount, TWENTY PERCENT (20%) of any commissions, fees or other compensation paid to Lessee or a Sublessee by such unaffiliated third party; and

C. SIX AND THREE-FOURTHS PERCENT (6.75%) of the first $8,000,000 of all other Gross Receipts for each Lease Year (other than Gross Receipts under categories A. and B. above), and SEVEN AND ONE-FOURTH PERCENT (7.25%) of all Gross Receipts for each Lease Year (other than those under categories A. and B. above) in excess of $8,000,000; provided that for any Lease Year that is less than a full calendar year, the $8,000,000 threshold set forth in this category C. shall be reduced on a pro rata basis based on the number of days in such Lease Year as compared to a 365-day calendar year.

4.2.2.1. Other Activities. If with the prior approval of County Lessee hereafter engages in a use that is not currently permitted under this Lease, then concurrent with the approval by County of such specific additional use, County and Lessee shall negotiate in good faith with Lessee to establish the specific percentage to be applied to such use. Such percentage shall be the greater of (1) the average percentage received by

County with respect to that category of activities within Marina del Rey, California at the time of approval of the additional or related use, and (2) the most recent agreement between County and a Marina del Rey lessee, whether by arbitration or otherwise, with respect to the appropriate percentage to be applied to that use. The percentage rent for the additional or related use as determined pursuant to this paragraph shall remain in effect until the next Renegotiation Date.

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 all money, cash receipts, or other things of value, including but not limited to gross charges, sales, rentals, common area maintenance payments, operating expense 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 or merchandise.

(i) 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.

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

(iii) 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 by Lessee for amounts owed by subtenants, assignees, licensees concessionaires or permittees 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. Notwithstanding anything to the contrary contained herein, Lessee shall be permitted to make monthly payments of Percentage Rent using the cash method of accounting to determine Gross Receipts, provided that Lessee provides County with an annual reconciliation of its cash basis determination of Gross Receipts to the accrual method (together with payment of any additional Percentage Rent due).

(iv) 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 or Sublessee, 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 Sublessee, or the amount of cash refunded or credit allowed thereon in lieu of Lessee's or Sublessee'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 or Sublessee 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 or Sublessee's stock in trade;

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

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

f. the Cost of Sublesees' submetered electricity, provided (1) each Sublessee's obligation to reimburse Lessee for such Sublessee's electrical charges is separate and apart from such Sublessee's obligation to pay rent for its occupancy of the Premises; (2) the reimbursed sum is in an amount equal to the Cost of the Sublessee's electricity; and (3) the receipt is actually credited against the cost of the Sublessee's electricity. For the purpose of the foregoing sentence, the "Cost" of the Sublessee's electricity shall mean the actual costs incurred

by Lessee, exclusive of overhead and general and administrative expenses, in paying the portion of the respective utility's electric bill that is allocable to the Sublessee based on such Sublessee's submetered consumption of electricity, and in paying the portion of any third party submeter reading and service charge to each submeter that is actually read and a direct allocation of the submeter service charge to each such submeter that is serviced. County shall have the right to approve all submeters and to challenge the legitimacy or amount of any Cost, and all disputes regarding such County approvals or challenges, if not resolved by the parties within thirty (30) days after notice to Lessee of such disapproval or challenge, shall be resolved by arbitration pursuant to Article 16 of this Lease.

4.2.2.4. Excess Payments Credit. If rent payments actually made by Lessee in a particular Lease Year exceed the total rentals actually due for that year as computed on an annual basis at the end of each 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 subsection 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 under category A. or C. of Section 4.2.2, except for an Excluded Office Use (as defined below), Lessee shall report as Gross Receipts whichever of the following results in the greater Percentage Rent: (1) the Gross Receipts received by such Sublessee from its activities under such categories A. and C., or (2) the Gross Receipts received by Lessee from such Sublessee with respect to such Sublessee's activities under categories A. and C. For purposes hereof, an "Excluded Office Use" shall mean space utilized for the operation of a banking, financial or investment business, real estate, stock or insurance brokerage firm, legal, medical, engineering or other professional services, travel agencies, or other similar office uses. In the case of any Excluded Office Use, Percentage Rent shall be based on the Gross Receipts payable by the Sublessee to Lessee.

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 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.

4.3 Adjustments to Annual Minimum Rent. As of the third (3rd) anniversary of the Completion Date (or as of the third (3rd) anniversary of the Required Completion Date if the Completion Date does not occur on or before the Required Completion Date) (the "First Adjustment Date") and as of each third (3rd) anniversary of the First Adjustment Date thereafter (each an "Adjustment Date" and collectively the "Adjustment Dates"), the Annual Minimum Rent shall be adjusted. Until the Renegotiation Date provided in Section 4.4 hereof, 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 scheduled total annual rent due (including Monthly Minimum Rent and Percentage Rent) from Lessee to County under Section 4.2 of this Lease during the thirty-six (36) month period immediately preceding the Adjustment Date; provided, however, if the Completion Date does not occur by the Required Completion Date, then for purposes of determining the average total annual rent that was payable for the thirty-six (36) month period prior to the First Adjustment Date, the total per diem annual rent for the period from the Required Completion Date until the Completion Date shall be deemed to be the same total per diem annual rent that was payable by Lessee for the period from the Completion Date until the next anniversary of the Required Completion Date.

4.4 Renegotiation of Annual Minimum and Percentage Rents. Effective on each tenth (10th) anniversary of the Completion Date (or effective on each tenth (10th) anniversary of the Required Completion Date if the Completion Date does not occur on or before the Required Completion Date) (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. Notwithstanding any contrary provision hereof, in no event shall the Fair Market Rental Value of Percentage Rents ever be less than the specific numeric percentages set forth in subsection 4.2.2 of this Lease.

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, compounded monthly, 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:

(i) 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,

(ii) the interest rate applicable to any period of time in excess of six (6) months following the Renegotiation Date shall be the average daily variable 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.

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 4.2.2.4. 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 within five (5) days after 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 not paid within five (5) days after the date due and payable; provided that the Late Fee shall be waived with respect to the first occurrence during any Lease Year of a late payment if such payment is received by County within one (1) business day following written notice from County that the unpaid amount was not paid by the date due. 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 11 and 12 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, (b) Lessee's granting of a Major Sublease or (c) any transaction or series of related transactions not described in subsections 4.6.1(a) or (b) 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 shall not be deemed to create an obligation to pay County a Net Proceeds Share, and, except for a transfer described in subsection 4.6.2.1, County shall have no approval rights with respect thereto (other than those approval rights set forth below regarding the managing general partner of Lessee), although County shall be provided with prior written notice of the change of ownership and Lessee shall reimburse County for the Actual Cost of its review of such transactions, which review with respect to the transactions described in subsections 4.6.2.2 through 4.6.2.6 shall be limited to confirming that each change of ownership qualifies as an Excluded Transfer under this subsection 4.6.2:

4.6.2.1. a transfer by any direct or indirect member (which for purposes of this subsection 4.6.2 shall also mean partner, shareholder or other interest holder if Lessee becomes an entity other than a limited liability company) of Lessee as of the Execution Date, to any other direct or indirect member of Lessee as of the Execution 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, or a transfer by a direct or indirect member of Lessee directly to a spouse, sibling or descendant; provided, however, that County shall at all times have the right to approve the managing member, or managing

general partner if Lessee becomes a partnership (and the controlling interest in such managing member or managing general partner), of Lessee following such a transfer;

4.6.2.3. a transfer of the existing interests in Lessee held by a direct or indirect member or partner of Lessee to any living trust, by way of gift, devise, intestate succession or operation of law, where the transferee living trust's assets are substantially the same as the transferor and the beneficiaries of said trust are members of the transferor's immediate family (which for the purposes of this subsection shall be limited to the transferor's spouse, children, parents, siblings and grandchildren), together with the subsequent transfer of such interests to such beneficiaries upon the death of such member; provided, however, the parties acknowledge (a) that a subsequent dilution or transfer of said interests shall be subject to County approval and fees as provided herein, and (b) County shall have at all times the right to approve the managing member, or managing general partner if Lessee becomes a partnership (and the controlling interest in such managing member or managing general partner), of Lessee.

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;

4.6.2.5. a mere change in the form, method or status of ownership (other than a transfer of beneficial interests between or among individuals and/or entities controlled by such individuals); provided that this exclusion shall not apply to a single transaction or series of related transactions whereby an Aggregate Transfer of fifty percent (50%) or more of the beneficial interests in Lessee, this Lease or a Major Sublease has occurred, except if the transfer is purely a change in the form of ownership, such as a conversion of Lessee's limited liability company to a corporation or limited partnership, as long as there is a continuity of management; or

4.6.2.6. any transfer resulting from a Condemnation by County or other governmental entity having the power of eminent domain if consented to 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. Failure of County to approve the Calculation Notice in writing within such thirty (30) day period shall be deemed to constitute County's disapproval thereof. Failing mutual agreement within thirty (30) days after the expiration of said thirty (30) day 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. 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"), such note shall be valued at its face amount; 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. Any disputes between County and Lessee as to whether the interest rate on a Purchase Money Note is in excess of a market rate or with respect to the valuation of a Purchase Money Note with an above-market rate of interest, shall be settled by arbitration pursuant to Article 16 below.

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; provided, however, that the transferee shall not be liable for the payment of the Administrative Charge or Net Proceeds Share if the transferor provides County with a deposit, letter of credit or other security satisfactory to County for the payment thereof. 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.

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. (a) the amount of the Option Fee paid by Lessee under the Option Agreement, (b) the actual out-of-pocket costs incurred by Lessee for its third party consultants and attorneys in connection with the negotiation and consummation of the transactions resulting in the execution of this Lease, and (c) the Actual Costs reimbursed by Lessee to County pursuant to Section 15.3 of this Lease (the "Base Value"); plus

4.8.1.2. the final actual construction costs paid by Lessee in connection with the construction of the Development Work or other physical Improvements to the Premises in accordance with Article 5 herein (including future capital redevelopment and rehabilitation work, but not periodic maintenance and repair) to the Premises in accordance with the requirements of this Lease ("Improvement Costs"), whose costs have been submitted to Director within thirty (30) days after the completion of such Improvements and which costs shall have been certified in writing to Director by Lessee to have been incurred, along with evidence reasonably satisfactory to Director that such costs have been incurred. Alternatively, with respect to capital improvements that are not part of the initial Development Work, Lessee shall be entitled to adopt a program of annual submissions to Director within ninety (90) days following the end of each Lease Year. Construction costs shall include all hard and soft costs (including out-of-pocket design and predevelopment costs incurred prior to the date of the Lease for Development Work or other physical Improvements constructed after the Effective Date, construction period interest on Lessee's construction loan, and developer fees incurred by Lessee, as long as such developer fees do not exceed four percent (4%) of hard construction costs); plus

4.8.1.3. commissions, title and escrow costs, documentary transfer taxes, reasonable attorneys' fees, prepayment or yield maintenance premiums and 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 (collectively, "Documented Transaction Costs"); plus

4.8.1.4 That portion of the principal amount of any Financing Event after the Effective Date that constituted Net Refinancing Proceeds on which Lessee paid County a Net Proceeds Share.

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 plus the amount of any Improvement Costs incurred prior to such successor Lessee's acquisition of its leasehold interest in the Premises, (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired (or the fair market value of the interests transferred in connection with the seller's acquisition of the leasehold if utilized in connection with the calculation of Net Transfer Proceeds with respect to that sale) or (c) the original principal amount of any Financing Event or Financing Events (on a non-duplicative basis) after such successor Lessee's acquisition of the leasehold and with respect to which County was paid a Net Proceeds Share, plus the principal amount of any financing existing as of the date on which such seller acquired the leasehold or subsequently obtained by Lessee, if such financing has not been refinanced, but without duplication;

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 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 Improvement Costs in determining Net Transfer Proceeds, the cost to the transferor of the interest being transferred 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 such Net Proceeds Share, 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 Execution Date, minus (i) the greater of (a) the principal amount of Lessee's existing financing as of the Execution Date or (b) the principal amount of any subsequent refinancing by Lessee in connection with which County was

paid a Net Proceeds Share, together with any portion of the proceeds of the Financing Event which shall be used for Improvement Costs, (ii) other Improvement Costs incurred by Lessee and not paid for or repaid with the proceeds of any Financing Event, and (iii) Documented Transaction Costs with respect to such Financing Event.

4.8.6.Effect of Refinancing on Improvement Costs. Upon payment to County of a Net Proceeds Share in connection with a Financing Event, then the Improvement Costs incurred by Lessee prior to such Financing Event shall be increased by the amount of New Refinancing Proceeds derived from such Financing Event and the Documented Transaction Costs in connection therewith and shall be in addition to Improvement Costs incurred by Lessee after such Financing Event.

4.8.7.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.

4.8.8.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 and late fee 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).

4.8.9.Shareholder, Partner, Member, Trustee and Beneficiary List. Prior to the Execution Date, prior to each subsequent 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. CONSTRUCTION OF IMPROVEMENTS.

5.1 Development Work. It is expressly understood and agreed that Lessee shall demolish the existing Improvements located on the Premises, and construct a new 5-story, 114 unit mixed-use senior-only retirement or senior care facility in accordance with the Development Plan attached to this Lease as Exhibit B (the "Development Plan"), including without limitation, the following Improvements: (i) 47 two-bedroom and 67 one-bedroom residential units; (ii) 5,000 square feet of ground floor retail space; (iii) structured parking for 154 vehicles, 62 of which shall be used to satisfy the parking requirements for the Improvements to be constructed on the Premises, and the remaining 92 of which shall be the On-Site Replacement Parking set forth in subsection 15.20.1 hereof; and (iv) public open space on the northeasterly portion of the Premises, including without limitation, an ADA-compliant public pedestrian walkway linking Admiralty Way and Washington Boulevard. The demolition and construction work described in the immediately preceding sentence, along with all associated improvement, hardscape, landscape and other site work approved by County and to be performed in connection with such construction work, are herein collectively referred to as the "Development Work." There shall be no changes, modifications or exceptions to the Development Plan, except as expressly agreed upon in writing by the Director. The design, density, site coverage, layout and open space, view corridors, building height, construction materials, landscaping, hardscaping and other improvement specifications pertaining to the Development 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 Entitlements. Lessee shall be solely responsible for all costs and expenses incurred in connection with the design, entitlement and construction of the Development Work. Lessee shall expend not less than the Minimum Development Cost (as defined below) for the cost of the Development Work, which expenditures shall be subject to the verification and reasonable approval by County. The "Minimum Development Cost" shall mean $29,000,000 increased by the same percentage increase (if any) in the ENR Index from April, 2005 through the date of the commencement of construction of the Development Work. Lessee shall comply with all time deadlines and schedules set forth in this Section 5 relating to the completion of the design and construction of the Development Work. Lessee's failure to do so shall, if not cured within the applicable cure set forth in subsection 13.1.2, constitute an Event of Default.

5.2 Schematics and Narrative. If, and to the extent, not completed by Lessee prior to the Effective Date in accordance with Section 4.3 of the Option Agreement, 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 any and all Improvements to be constructed, altered or modified on the Premises as part of the Development Work. Such plans shall, among other things, clearly delineate the architectural theme or motif of the Improvements 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. The schematic plans and other materials required to be submitted by Lessee after the Effective Date pursuant to this Section 5.2 (i.e., not including those required to be submitted by Lessee during the Option Term pursuant to Section 4.3 of the Option Agreement) shall be submitted by Lessee to Director in accordance with a schedule that facilitates Lessee's completion of the Development Work on or before the Required Completion Date (subject to any extension thereof permitted hereunder) set forth in Section 5.7 below (taking into consideration the other plan submittal and approval periods set forth in this Lease). Director shall have sixty (60) days within which to approve or disapprove Lessee's submission under this Section 5.2. 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 Approved Final Plans, Specifications and Costs, as defined herein) by Director, if changes in such plans are required by conditions of approval of the Improvements 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 Preliminary Plans and Specifications. If, and to the extent, not completed by Lessee prior to the Effective Date in accordance with Section 4.3 of the Option Agreement, Lessee shall submit to Director six (6) sets of preliminary plans, outline specifications and construction cost estimates for the Improvements set forth therein. 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. The preliminary plans, outline specifications and construction cost estimates required to be submitted by Lessee after the Effective Date pursuant to this Section 5.3 (i.e., not including those required to be submitted by Lessee during the Option Term pursuant to Section 4.3 of the Option Agreement) shall be submitted by Lessee to Director in accordance with a schedule that facilitates Lessee's completion of the Development Work on or before the Required Completion Date set forth in Section 5.7 below (taking into consideration the other plan submittal and approval periods set forth in this Lease). Director shall have twenty-one (21) days within which to approve or reasonably disapprove Lessee's submission under this Section 5.3, 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 SECTION 5.3 OF THE 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."

5.4 Final Plans and Specifications. If, and to the extent, not completed by Lessee prior to the Effective Date in accordance with Section 4.3 of the Option Agreement, Lessee shall submit for approval by Director six (6) complete sets of final plans, detailed specifications and a construction cost statement for all Improvements to be constructed, altered or modified by Lessee on the Premises, 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 Improvements from those described in the

approved preliminary plans and specifications shall be separately identified and described. The final plans and other materials required to be submitted by Lessee after the Effective Date pursuant to this Section 5.4 (i.e., not including those, if any, required to be submitted by Lessee during the Option Term pursuant to Section 4.3 of the Option Agreement) shall be submitted by Lessee to Director in accordance with a schedule that facilitates Lessee's completion of the Development Work on or before the Required Completion Date set forth in Section 5.7 below, taking into consideration the Director's approval periods set forth in Section 5.5.1 below.

5.5 Conditions Precedent to the Commencement of Construction. No construction, alteration or modification by Lessee of any Improvements on the Premises shall be commenced until each and all of the following conditions have been satisfied:

5.5.1. Approval of Final Plans and Specifications. The final plans, detailed construction specifications and construction cost statement described in Section 5.4 for the Improvements have been approved by Director ("Approved Final Plans, Specifications and Costs"), which approval shall not be unreasonably withheld provided that the final plans and specifications reflect a natural progression and logical evolution from the approved preliminary plans and specifications. 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 preliminary plans 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 SECTION 5.5.1 OF THE 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 Improvements described in the Approved Final Plans, Specifications and Costs without the prior written approval of Director, which shall not be unreasonably withheld.

5.5.2. Permits and Other Approvals. Lessee shall have received and furnished County with copies of all permits, licenses and other governmental approvals necessary to construct the Improvements described in the Approved Final Plans, Specifications and Costs. Lessee agrees to apply for all such permits, licenses and other governmental approvals at the earliest commercially reasonable time and thereafter shall use diligent efforts (which shall be deemed to include expenditures of funds, including without limitation application fees, travel, architectural, consulting and lobbying fees, as reasonably necessary to expedite the permit, license or other approval process) to procure such permits, licenses and other approvals at the earliest reasonably possible time.

5.5.3. 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 Improvements described in the Approved Final Plans, Specifications and Costs.

5.5.4. 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 or with other security for the construction of the Improvements as set forth in subsection 5.5.5 below:

5.5.4.1. 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 Final Plans, Specifications and Costs. 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, Specifications and Costs.

5.5.4.2. 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 set forth in the Approved Final Plans, Specifications and Costs, 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 5.5.4.

5.5.5.Alternative Security. In lieu of providing the Payment and Performance Bonds, Lessee may (i) deposit a Certificate of Deposit with County or post an additional Letter of Credit in favor of County, equal in amount to one hundred percent (100%) of the construction contract price, which may be drawn upon by County to complete the construction of the Improvements if same have not been completed by Lessee or if an Event of Default has occurred under this Lease, or (ii) provide a payment and performance guaranty from an individual or entity acceptable to County and in form and substance acceptable to County, which guaranty shall guaranty (I) the Lessee's obligation to complete the Improvement described in the Approved Final Plans, Specifications and Costs, and (II) the payment for all materials, provisions, supplies and equipment used in, upon, for or about the performance of said construction work and for labor performed in connection therewith. A condition precedent to Lessee's right to provide the alternative security described in this Section 5.5.5 shall be delivery by Lessee to County of an opinion of counsel from a firm and in a form acceptable to County to the effect that the construction of the Improvements does not constitute a public work of improvement requiring the delivery of the bonds described in Section 5.5.4 above.

5.5.6.Evidence of Financing. Lessee shall have provided evidence satisfactory to County of its having sufficient financial resources, as determined by Director, to complete the Improvements as set forth in the Approved Final Plans, Specifications and Costs. 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, documents evidencing equity contributions, 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, within seven (7) days after such document or instrument becomes effective.

5.5.7. Work Schedule. Lessee shall have provided County with a construction schedule reasonably acceptable to Director. Such construction schedule for the Development Work shall be consistent with the completion of the Development Work, as set forth in the Approved Final Plans, Specifications and Costs, on or before the Required Completion Date set forth in Section 5.7 below, as such date may be extended as provided in this Article 5.

5.6 County Cooperation. In its proprietary capacity, the Department shall cooperate with and assist Lessee, to the extent reasonably requested by Lessee, in Lessee's efforts to obtain the appropriate governmental approvals, consents, permits or variances which may be required in connection with the performance by Lessee of the Development Work. Such cooperative efforts may include the Department's joinder in any application for such approval, consent, permit or variance, where joinder therein by the Department is required or helpful; provided, however, that Lessee shall reimburse County for the Actual Cost 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 Lease are approvals pursuant to its authority under Section 25907 of the California Government Code; that approvals given under this 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 Improvements on the Premises and operation and other use of such Improvements on the Premises; and that the Department's duty to cooperate and County's approvals under this 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 Lease.

5.7 Construction Schedule.

5.7.1 Substantial Commencement of Construction. It is a condition of this Lease that, except to the extent Lessee is prevented from so doing by the events identified in subsection 5.7.3, Lessee shall cause the Substantial Commencement of Construction of the Development Work to have occurred in accordance with the Approved Final Plans, Specifications and Costs by the date therefore set forth in the construction schedule approved by Director pursuant to Section 5.5.7 above, and shall substantially complete the Development Work by not later than thirty (30) months after the Effective Date (the "Required Completion Date"). For the purposes of this Lease, "Substantial Commencement" or "Substantial Commencement of Construction" shall mean that all demolition and excavation work required in connection with the Development Work has been completed and the construction of the new Improvements to be constructed as part of the Development Work has been commenced. The required date for the Substantial Commencement of Construction and the Required Completion Date will only be extended under the specific

circumstances set forth in subsection 5.7.3, and under no other circumstances. Notwithstanding the foregoing, the parties hereto specifically agree that so long as Lessee is otherwise diligently and in good faith attempting to satisfy the condition set forth in the first sentence of this subsection 5.7.1, and as long as it would have been extremely unlikely that any other developer could have caused the subject Improvements to be Substantially Commenced and/or completed within such timeframe, then Lessee will not be in breach of this subsection for its failure to achieve Substantial Commencement by the required date set forth herein or completion of the Development Work by the Required Completion Date.

5.7.2 After Substantial Commencement. Once construction of the Improvements set forth in the Approved Final Plans, Specifications and Costs has been Substantially Commenced, Lessee shall thereafter diligently pursue the completion of such construction by the Required Completion Date in substantial compliance with the Approved Final Plans, Specifications and Costs. Completion of construction of the Improvements following Substantial Commencement will only be extended under the specific circumstances set forth in subsection 5.7.3 and under no other circumstances.

5.7.3 Extension of Dates. The required date for the Substantial Commencement of Construction and the Required Completion Date shall be extended only for the reasons set forth in this subsection 5.7.3.

5.7.3.1 Injunction by Third Party, Nonregulatory Body. The required date for the Substantial Commencement of Construction shall be extended if the construction of the Improvements is the subject of (i) a then current judicial or administrative action, brought by a person or entity (other than Lessee or any affiliate of Lessee, or the County or the California Coastal Commission acting in their governmental capacity) that appeals or otherwise challenges the previous issuance of Entitlements for the Improvements, or seeks to enjoin, restrain, contest or otherwise limit the right of Lessee to construct the Improvements, or (ii) a temporary restraining order ("TRO") or injunction issued in connection therewith. In such case, the required date for the Substantial Commencement of Construction shall be extended until the dismissal, removal or other resolution of any such action or order, and the lapse of any applicable appeal period. Lessee shall diligently pursue the dismissal, removal or other resolution of any such action, TRO, injunction, judgment or order so issued and shall exhaust all commercially reasonable efforts to appeal any adverse TRO, injunction, judgment or order, and any extension of the required date for the Substantial Commencement of Construction shall be expressly conditioned upon such Lessee diligence. In the event that a permanent injunction, order or settlement prohibiting the construction of the Improvements becomes final and is no longer

subject to appeal, then, at County's or Lessee's option, this Lease shall be terminated.

5.7.3.2 Delay Caused by Unreasonable County Acts. The required date for the Substantial Commencement of Construction shall be extended if Lessee has been delayed in the obtaining of any permits or other approvals necessary for the commencement of construction of the Improvements set forth in the Approved Final Plans, Specifications and Costs due to Unreasonable County Activity. For the purposes of this Lease, the following shall be deemed to be "Unreasonable County Activity": County's failure to provide required joinder, if any, in Lessee's proposals for the Improvements described in the Approved Final Plans, Specifications and Costs before any governmental agency; or, County's failure to take such other actions in its proprietary capacity reasonably requested by Lessee, at no cost or expense to County, which are necessary for Lessee to proceed with the permit/approval process or County's having taken such actions without Lessee's consent which adversely affected Lessee's rights and obligations hereunder, which were unreasonable and which actually delayed the Substantial Commencement of Construction and which action or inaction occurred after the date hereof. Nothing contained in this Section or this Lease shall be construed as obliging County to support proposals, issue permits, or otherwise act in a manner inconsistent with County's actions under its regulatory powers. It shall not be Unreasonable County Activity if County fails to accelerate the County's customary regulatory permit/approval process. An extension shall be available under this subsection only if all of the following procedures have been followed:

(i) Within a reasonable time under the circumstances, but in no event to exceed three (3) days after Lessee's discovery of any alleged Unreasonable County Activity, Lessee must notify Director in writing of the specific conduct comprising the alleged Unreasonable County Activity, and the next opportunity, if any, for County to rectify such alleged conduct.

(ii) Within seven (7) days following receipt of the notice alleging Unreasonable County Activity, Director shall meet with Lessee or its authorized representative in order to determine whether Unreasonable County Activity has occurred and, if so, how such Unreasonable County Activity can be rectified and the appropriate length of time of any extension pursuant to this subsection. If Director determines that Unreasonable County Activity has occurred and that County can and will take rectifying action, then the extension time shall equal the amount of actual delay directly caused by the Unreasonable County Activity. If Director determines that Unreasonable County Activity has occurred, but that County cannot

take rectifying action (or if the proposed rectifying action will not produce the results desired by Lessee), then Lessee and Director shall establish the length of time of any extension based on the actual delay of the permit/approval process likely to be caused by the Unreasonable County Activity.

(iii) If, within fourteen (14) days following receipt of notice alleging Unreasonable County Activity, Director and Lessee have not agreed in writing as to whether or not an extension is appropriate, or if appropriate, the length of any such extension, then the matter shall be referred to binding arbitration in accordance with Article 16 of this Lease. The arbitrator shall be instructed that, if Unreasonable County Activity has occurred, then the standards set forth in subsection (b) above will be applied to determine the length of any extension.

The period of any extension pursuant to this subsection shall be equal to the period of the delay caused by the Unreasonable County Activity.

5.7.3.3 Delay in Obtaining Permits or Approvals. Except as otherwise provided in subsection 5.7.3.5, if as of the required date for the Substantial Commencement of Construction (as it may be extended as provided above), Lessee has not obtained a permit or other approval necessary to the commencement of construction from a regulatory body or agency other than County, or such regulatory body has obtained an injunction preventing the commencement of construction, and such permits, approvals or the removal of such injunction constitute(s) the major remaining impediment to the commencement of construction, then the required date for the Substantial Commencement of Construction shall be extended to thirty (30) days after the date upon which such permit is issued or injunction dissolved, provided that (1) Lessee has exhausted and continues to exhaust all commercially reasonable efforts to obtain such approval or permit or dissolution of such injunction, and (2) such extended required date for the Substantial Commencement of Construction shall not be extended for more than two (2) years. If the required date for the Substantial Commencement of Construction is so extended, then the Required Completion Date shall be extended by the same number of days that the required date for the Substantial Commencement of Construction was extended. The extension provided by this subsection shall be the only extension available in a situation where such permits and/or approvals have not been issued or such regulatory body or agency has obtained such an injunction.

5.7.3.4 Force Majeure. Notwithstanding any contrary provision hereof, any date by which Lessee is required to satisfy an

obligation under this Article 5, including, without limitation, the Substantial Commencement of Construction by the date required herein and the completion of the Development Work by the Required Completion Date, shall be extended for delays in the ability of Lessee to comply therewith as a result of fire, earthquake, flood, tornado or other casualty, acts of God, civil riots or disturbance, embargo, war, acts of terrorism, industry wide strike or labor dispute or other unforeseeable event reasonably beyond the control of Lessee ("Force Majeure"); provided, however, that Lessee shall commence and complete the portions, if any, of the Improvements not impacted by such delay within the timeframe set forth in this Lease. Lessee and Director shall discuss and attempt to agree on the length of time of any Force Majeure delay. If they are unable to agree within thirty (30) days after the event or occurrence giving rise to Lessee's claim to a Force Majeure delay under this subsection 5.7.3.4, the matter shall be arbitrated as set forth in Article 16. In no event shall any extensions of any dates under this subsection 5.7.3 exceed two (2) years in the aggregate for any or all of the reasons set forth in this subsection 5.7.3.

5.7.3.5 Limitation of Extensions. Notwithstanding the foregoing, Lessee shall not be entitled to any extension under this subsection 5.7.3 unless Lessee had actually been pursuing the process of obtaining all permits, approvals, financing and other items necessary for the Substantial Commencement of Construction with due diligence, and unless all Improvements specified and plans and specifications submitted by Lessee in connection with any such permit, approval, financing or other item substantially conformed to (i) the Approved Final Plans, Specifications and Costs, and (ii) the land use laws and regulations and the Local Coastal Plan existing as of the date of execution of this Lease by Lessee.

5.7.3.6 No Effect on Rent. Notwithstanding anything to the contrary contained in this Lease, no extension, relaxation or modification of the requirement to Substantially Commence construction of the Improvements by the date required hereunder and complete such Improvements by the Required Completion Date, shall relieve Lessee of its obligation to pay County the Annual Minimum Rent, Percentage Rent and other amounts set forth in Article 4 of this Lease.

5.7.4 Failure to Reach Substantial Commencement. Lessee agrees that the primary purpose for County having entered into this Lease is to provide the public with the opportunity to enjoy the Improvements described in the Approved Final Plans, Specifications and Costs at the earliest practicable date. Therefore, it is understood and agreed that the time periods and requirements for extensions contained in Sections 5.2 through 5.7 shall be strictly enforced and should Lessee, or any party claiming

through Lessee, fail to meet the conditions for Substantial Commencement of Construction within the terms of Sections 5.2 through 5.7 (including the last sentence of subsection 5.7.1), then such failure shall, if not cured within the cure period set forth in subsection 13.1.2, constitute an Event of Default.

5.8 Manner of Construction.

5.8.1. 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 to areas outside of the Premises caused by such work, and shall restore any such damaged areas 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 such deleterious effects associated with construction projects in well populated and developed areas of southern California.

5.8.2. 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.

5.8.3. 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.

5.8.4. 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.

5.8.5.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.

5.8.6.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, but at no cost or expense to Lessee, 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.

5.8.7.Notice of Completion. Upon completion of the Improvements set forth in the Approved Final Plans, Specifications and Costs, 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 such 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 such Improvements.

5.9 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.

5.10 Additional Construction. Lessee may, at its own expense, make or construct, or cause to be made or constructed, Improvements during the Term in addition to the Development Work, including such alterations, modifications or changes to Improvements as Lessee may desire; provided, however, that all such additional Improvements, and all alterations, modifications or changes to Improvements shall be (i) consistent with, and within the scope of, the Permitted Uses set forth in Article 3, (ii) first approved in writing by the Director, except as otherwise provided in Section 5.11 below, which approval shall not be unreasonably withheld, conditioned or delayed, and (iii) made in accordance and compliance with all terms and provisions set forth in Sections 5.2 through 5.5 (other than as provided in Section 5.11), and Sections 5.8, 5.9 and 5.12. Lessee acknowledges that, except to the extent set forth in a prior written approval or agreement by Director or County, Director may refuse permission for the construction of any proposed Improvement, addition, alteration, modification or change, and such decision, if reasonable, will be final and binding upon Lessee. Lessee acknowledges that such proposed Improvement, addition, alteration, modification or change will also be subject to other governmental requirements and conditions, including those of the California Coastal Commission and other governmental authorities that may have jurisdiction.

5.11 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 Sections 5.2 through 5.5) where all of the following conditions are satisfied: (1) none of the proposed construction activity is structural in nature; (2) none of the proposed construction, additions, modifications or changes affect or are visible from the exterior of the Premises; (3) the proposed construction, additions, modifications or changes will not lessen the value of the Improvements; and (4) the Improvements will remain in compliance with the Permitted Uses; provided, however, that whenever Lessee makes or constructs or permits any Improvements in or to the Premises, Lessee shall (i) give written notice thereof (including a description of the work to be done and the permits obtained for such work), and (ii) furnish a copy of "as-built" plans upon completion of such work to County.

5.12 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.

5.12.1. 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.

5.12.2. 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.

5.12.3. 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.

5.13 Capital Improvement Fund. Commencing with the first calendar month during the fourth (4th) Lease Year and continuing through the end of the Term, Lessee shall establish and maintain a reserve fund (the "Capital Improvement Fund") in accordance with the provisions of this Section 5.13 for the cost of capital renovations to the Premises and Improvements. Lessee and County agree and acknowledge that the purpose of the Capital Improvement Fund shall be to provide funds for the ongoing revitalization of the Improvements on the Premises through the replacement, renovation, rehabilitation, upgrading, addition and installation of physical Improvements to the Premises after the completion of the Development Work. The Capital Improvement Fund shall be used only for Permitted Capital Expenditures. "Permitted Capital Expenditures" shall mean expenditures by Lessee for an addition, replacement, renovation or significant upgrade of or to the buildings on the Premises, including building exteriors or 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 buildings or their major systems, as applicable. Permitted Capital Expenditures do not include periodic, recurring or ordinary expenditures, repairs or replacements that keep the Improvements in an orderly efficient operating condition, but that do not significantly add to their value or appreciably prolong their useful life good. Permitted Capital Expenditures must be for items that are considered capital replacements, improvements and equipment under generally accepted accounting principles, consistently applied. All 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. Notwithstanding any contrary provision hereof, no portion of the Capital Improvement Fund shall be used for the Development Work or for the Renovation Requirement described in Section 5.15 below.

The Capital Improvement Fund shall be an account established with a reputable financial institution (including Lessee's Encumbrance Holder) acceptable to Director into which deposits shall be made by Lessee (and/or into which Lessee's Encumbrance Holder shall provide funds) pursuant to this Section 5.13. The amounts to be added to the Capital Improvement Fund shall be inclusive of amounts required to be deposited with and held by an Encumbrance Holder, provided that the Encumbrance Holder acknowledges that such amounts are subject to the requirements and shall be made available for the purposes of this Section 5.13. Lessee shall commence deposits to the Capital Improvement Fund on the first calendar month of the fourth (4th) Lease Year. The Capital Improvement Fund deposits shall be made on or before the fifteenth (15th) day of each calendar month based on Gross Receipts for the immediately preceding month. During Lease Years four (4) and five (5), the monthly deposits shall be equal to one-half percent (0.5%) of Gross Receipts. During Lease Years six (6) through ten (10), the monthly deposits shall be equal to three-fourths of one percent (0.75%) of Gross Receipts. Commencing with Lease Year eleven (11) and continuing during the remaining Term of the Lease, the monthly deposit shall be equal to one percent (1.0%) of Gross Receipts. All interest and earnings on the Capital Improvement Fund shall be added to the Capital Improvement Fund and held in accordance with the provisions of this Section 5.13, but shall not be treated as a credit against the Capital Improvement Fund deposits required to be made by Lessee pursuant to this Section 5.13.

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 5.13. If Lessee desires to obtain advance approval from Director for Capital Improvement Fund disbursements on an annual basis, Lessee shall have the right to submit to Director on an annual basis a renovation plan for the upcoming year which details the amount and purpose of anticipated Capital Improvement Fund expenditures for which Lessee requests Director's advance approval, which approval shall not be unreasonably withheld. Any anticipated expenditure set forth in such renovation 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 renovation 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 renovation plan in effect for such year or individual expenditures not noted on any previously approved renovation plan for such year. 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. Funds in the Capital Improvement Fund must be used for Permitted Capital Expenditures from time to time during the Term of the Lease.

As of the date that is ten (10) years prior to the expiration of the Term of the Lease, all (or substantially all) of the amounts required to have been deposited in the Capital Improvement Fund prior to such date shall have been expended for Permitted Capital Expenditures. Capital Improvement Fund deposits made after such date shall continue to be used for Permitted Capital Expenditure purposes under this Section 5.13; provided, however, if County elects to have Lessee remove the Improvements from the Premises at the end of the Term pursuant to subsection 2.3.2 of this Lease, then Lessee shall thereafter have the right to apply future deposits under this Section 5.13 to fund the security required for such removal costs as provided in subsection 2.3.2 if and to the extent that deposits under this Section 5.13 are not thereafter required for Capital Improvement Fund purposes.

5.14 FF&E Fund. Commencing with the month following the month during which the Completion Date occurs, and continuing each month thereafter during the remaining Term of the Lease, Lessee shall establish and maintain a reserve fund (the "FF&E Fund") in accordance with the provisions of this Section 5.14. The FF&E Fund deposits shall be made on or before the fifteenth (15th) day of each calendar month in an amount equal to three-fourths of one percent (0.75%) of the Gross Receipts for the immediately preceding month. All interest and earnings on the FF&E Fund shall be added to the FF&E Fund and held in accordance with the provisions of this Section 5.14, but shall not be treated as a credit against the FF&E Fund deposits required to be made by Lessee pursuant to this Section 5.14.

The FF&E Fund shall be used to fund the cost of the purchase and installment of replacements, additions or upgrades of or to the furniture, fixtures and equipment used in the Improvements. The FF&E Fund shall not be used for (a) maintenance or repair purposes, (b) the cost of the Development Work or the initial furniture, fixtures and equipment to be installed in the Premises in connection with the Development Work, (c) the cost of the Renovation Requirement, or (d) the cost of Permitted Capital Expenditures to be funded by the Capital Improvement Fund. All specific purposes and costs for which Lessee desires to utilize amounts from the FF&E Fund shall be subject to Director's approval, which approval shall not be unreasonably withheld.

The FF&E Fund shall be held in an account established with a reputable financial institution (including Lessee's Encumbrance Holder) acceptable to Director into which deposits shall be made by Lessee (and/or into which Lessee's Encumbrance Holder shall provide funds) pursuant to this Section 5.14. The amounts to be added to the FF&E Fund shall be inclusive of amounts required to be deposited with and held by an Encumbrance Holder, provided that the Encumbrance Holder acknowledges that such amounts are

subject to the requirements and shall be made available for the purposes of this Section 5.14.

Disbursements shall be made from the FF&E Fund only for costs which have been approved by Director and which satisfy the requirements of this Section 5.14. For the purpose of obtaining Director's prior approval of any FF&E Fund disbursements, Lessee shall submit to Director on an annual calendar year basis a furniture, fixtures and equipment expenditure plan for the upcoming year which details the amount and purpose of anticipated FF&E Fund expenditures for which Lessee requests Director's approval, which approval shall not be unreasonably withheld. Any anticipated expenditure set forth in such furniture, fixtures and equipment expenditure plan which is approved by Director as an acceptable FF&E Fund disbursement shall be considered pre-approved by Director (but only up to the amount of such expenditure set forth in the annual furniture, fixtures and equipment 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 furniture, fixtures and equipment expenditure plan in effect for such year, or individual expenditures not noted on the previously submitted furniture, fixtures and equipment expenditure plan. Prior to the disbursement of any amounts from the FF&E 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 FF&E Fund.

Amounts in the FF&E Fund shall be expended periodically as necessary for Lessee to comply with the standard of operation for the Premises applicable under this Lease. If County elects to have Lessee remove the Improvements from the Premises at the end of the Term pursuant to subsection 2.3.2 of this Lease, then Lessee shall thereafter have the right to apply future deposits under this Section 5.14 to fund the security required for such removal costs as provided in subsection 2.3.2 if and to the extent that deposits under this Section 5.14 are not thereafter required for FF&E Fund purposes.

5.15 Renovation Requirement. During the period between the first day of the twenty-ninth (29th) Lease Year and the last day of the thirty-first (31st) Lease Year, Lessee shall be required to complete a renovation of the Improvements (the "Renovation Requirement"). The Renovation Requirement shall consist of such renovation and construction work as necessary in the reasonable judgment of Director to reposition the Improvements to a condition and appearance at least equal to then-existing residential apartment projects in Marina del Rey (taking into consideration renovations then being made or required to be made within three (3) years thereafter by other lessees). Substantial Commencement of Construction of the Renovation Requirement shall be commenced not earlier than January 1 of the twenty-ninth (29th) Lease Year and be completed not later than December 31 of the thirty-first (31st) Lease Year.

Prior to the commencement of the Renovation Requirement, Lessee shall submit to Director a renovation plan ("Renovation Plan"), which renovation plan shall (a) describe the proposed renovation work in such detail as reasonably acceptable to 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 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 5.15 and Sections 5.2 through 5.5 above, the estimated time required to obtain all necessary governmental approvals and permits, and the estimated time required to complete the work, will permit the completion by Lessee of the Renovation Requirement by not later than December 31 of the thirty-first (31st) Lease Year. Director shall have sixty (60) days within which to reasonably approve or disapprove the Renovation Plan, or to approve the 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 Renovation Plan shall be deemed Director's disapproval of the Renovation Plan. Upon Director's approval of the Renovation Plan, Lessee shall proceed to satisfy all conditions in this Article 5 to the commencement of the Renovation Requirement and to commence and complete the Renovation Requirement in accordance with the Renovation Plan and the terms and conditions of this Article 5. Director's approval of the actual plans and specifications for the Renovation Requirement shall proceed in accordance with the protocol for plan submission and approval set forth in Sections 5.2 through 5.5 of this Lease, except that the schematic plan submittal requirements set forth in Section 5.2 shall not be applicable to the extent that the Renovation Plan approved by Director satisfies the requirements of such Section 5.2.

Lessee's failure to comply with the schedule approved by Director as part of Renovation Plan and/or to meet the construction commencement and completion deadlines pertaining to the Renovation Requirement set forth in this Section 5.15 (as extended by any permitted extension under subsection 5.7.3 above) 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 Renovation Plan shall be submitted to arbitration pursuant to Article 16 of this Lease. If the arbitrator determines that Director failed to exercise reasonable judgment in the approval or disapproval of the Renovation Plan and as a result thereof Lessee is delayed in the completion of the Renovation Requirement by the required completion date set forth in the first paragraph of this Section 5.15, then the required date for the completion of such Renovation Requirement shall be extended by the duration of the delay caused by Director's failure to reasonably approve the Renovation Plan, provided that the required date for the completion of the Renovation Requirement shall not be extended beyond the date reasonably required for the completion by Lessee of the Renovation Requirement.

Commencing with the month following the month during which the Completion Date occurs, and continuing each month thereafter until the Substantial Commencement of Construction of the Renovation Requirement (but at least through the end of the twenty-eighth (28th) Lease Year), Lessee shall establish and make monthly deposits to a reserve fund (the "Renovation Fund") in accordance with the provisions of this Section 5.15 for the purpose of funding a portion of the cost of the Renovation Requirement. Renovation Fund deposits shall be made on or before the fifteenth (15th) day of each calendar month in an amount equal to three-fourths of one percent (0.75%) of the Gross Receipts for the immediately preceding month. All interest and earnings on the

Renovation Fund shall be added to the Renovation Fund and held in accordance with the provisions of this Section 5.15, but shall not be treated as a credit against the Renovation Fund deposits required to be made by Lessee pursuant to this Section 5.15. The Renovation Fund shall be held in an account established with a reputable financial institution (including Lessee's Encumbrance Holder) acceptable to Director into which deposits shall be made by Lessee (and/or into which Lessee's Encumbrance Holder shall provide funds) pursuant to this Section 5.15. The amounts to be deposited into the Renovation Fund shall be inclusive of amounts required to be deposited with and held by an Encumbrance Holder, provided that the Encumbrance Holder acknowledges that such amounts are subject to the requirements and shall be made available for the purposes of this Section 5.15. Lessee shall have the right to fund or replace amounts deposited in the Renovation Fund with a letter(s) of credit in form and issued by an institutional issuer reasonably satisfactory to Director.

Disbursements shall be made from the Renovation Fund only for costs which have been approved by Director and which satisfy the requirements of this Section 5.15. Prior to the disbursement of any amounts from the Renovation 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 Renovation Fund. Director shall have no obligation to approve the disbursement of amounts from the Renovation Fund unless and until Director has approved Lessee's Renovation Plan and Lessee has furnished to Director evidence reasonably satisfactory to Director that Lessee has sufficient financial resources to pay for all costs of the Renovation Requirement.

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 Annual Minimum Rent Adjustment Date, as described in Section 4.3 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 taken 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, 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. Concurrent with the execution of this Lease, Lessee shall deliver to County, in the form of a cashier's check, wire transfer of immediately available funds, certificate of deposit or irrevocable letter of credit ("Letter of Credit") acceptable to County with respect to form, content and issuer a security deposit in an amount which represents three (3) times the current Monthly Minimum Rent (the "Security Deposit"). Within thirty (30) days after any adjustment of the Monthly Minimum Rent, the Security Deposit shall be increased by Lessee or may be reduced such that it at all times (other than during said thirty (30) day period) is equal to three (3) times the current Monthly Minimum Rent. 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 delinquent rent not paid by Lessee within any applicable notice and cure period

and any other Events of Default of Lessee under this Lease. The Security Deposit shall be applied at the discretion of County. 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 or a Letter of Credit, 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 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 the 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, Lessee, its agents, officers, employees, licensees, concessionaires, permittees or Sublessees, beyond the expiration of the Term or other termination of this Lease.

9. INSURANCE.

9.1 Lessee's Insurance. Without limiting Lessee's indemnification of County, during the Term of this Lease Lessee shall provide and maintain the following insurance issued by companies authorized to transact business in the State of California by the Insurance Commissioner and having a "general policyholders rating" of at least A-VII (or such higher rating as may be required by an Encumbrance Holder) as set forth in the most current issue of "A.M. Best's Key Rating Guide" or an equivalent rating from another industry-accepted rating agency.

9.1.1 General Liability insurance (written on ISO policy form CG 00 01 or its equivalent) and endorsed to name County as an additional insured, with limits of not less than the following:

General Aggregate:	$20 million
Products/Completed Operations Aggregate:	$20 million
Personal and Advertising Injury:	$ 10 million
Each Occurrence:	$ 10 million

Lessee may satisfy the above coverage limits with a combination of primary coverage and excess liability/umbrella coverage as long as (a) Lessee's primary coverage is at least One Million Dollars ($1,000,000) per occurrence, One Million Dollars ($1,000,000) annual aggregate, (b) the excess liability/umbrella coverage is for an aggregate limit of at least Fifty Million Dollars ($50,000,000), which limits may, at Lessee's election, be carried in the form of two separate policies, (c) the primary coverage and all excess liability/umbrella coverages are issued by the same insurer and such insurer is reasonably satisfactory to County, and (d) the combination of such primary coverage and excess liability/umbrella coverage provides County with at least the same protection in all respects as if Lessee had carried

primary coverage for the entire limits listed above in this Section 9.1.1 and in accordance with the other terms and provisions set forth herein applicable to such coverage.

9.1.2 Automobile Liability insurance (written on ISO form CA 00 01 or its equivalent) with a limit of liability of not less than $2 million for each accident and providing coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto." Lessee also shall provide Garagekeeper's Legal Liability coverage, (written on ISO form CA 99 37 or its equivalent) with limits of not less than $3 million for this location.

9.1.3 Workers Compensation and Employers' Liability insurance providing workers compensation benefits, as required by the Labor Code of the State of California and for which Lessee is responsible, and including Employers' Liability coverage with limits of not less than the following:

Each Accident:	$1 million
Disease - policy limit:	$1 million
Disease - each employee:	$1 million

9.1.4 Commercial Property insurance covering damage to the Premises, including improvements and betterments, from perils covered by the Causes-of-Loss Special Form (ISO form CP 10 30), excluding earthquake, and including Ordinance or Law Coverage, written for the full replacement value of the property, with a deductible no greater than $250,000 or 5% of the property value, which ever is less, and also including business interruption, including loss of rent, equal to two (2) years annual rent, with proceeds payable to Lessee and County as their interests may appear and utilized for repair and restoration of the Premises and Improvements.

9.1.5 For construction projects, including any Alterations or restoration, on the Premises, Lessee or Lessee's contractor will provide the following insurance (County reserves the right to determine the coverage and coverage limit required on a project by project basis.):

9.1.5.1 Builder's Risk Course of Construction to insure against damage from perils covered by the Causes-of-Loss Special Form (ISO form CP 10 30). This insurance shall be endorsed to include ordinance or law coverage, coverage for temporary offsite storage, debris removal, pollutant cleanup and removal, testing, preservation of property, excavation costs, landscaping, shrubs and plants and full collapse coverage during construction (without restricting collapse coverage to specified perils. This insurance shall be written on a completed-value basis and cover the entire value of the construction project, including

County furnished materials and equipment, against loss or damage until completion and acceptance by Lessee.

9.1.5.2 General Liability. Such insurance shall be written on ISO policy form CG 00 01 or its equivalent with limits as required by the County for the Alterations. The products/completed operations coverage shall continue to be maintained for a period to be determined by the County from the date the Alterations are completed and accepted by the Lessee.

9.1.5.3 Automobile Liability. Such coverage shall be written on ISO policy form CA 00 01 or its equivalent with a limit of liability as required by the County for the Alterations. Such insurance shall include coverage for all "owned," "hired" and "non-owned" automobiles, or coverage for "any auto."

9.1.5.4 Professional Liability. Such insurance shall cover liability arising from any error, omission, negligent or wrongful act of the contractor and/or licensed professional (i.e. architects, engineers, surveyors, etc.) with limits as required by the County for the Alterations. This coverage shall also provide an extended two-year reporting period commencing upon termination or cancellation of the construction project.

9.1.5.5 Asbestos Liability or Contractors Pollution Liability insurance, if construction requires remediation of asbestos or pollutants. Such insurance shall cover liability for personal injury and property damage arising from the release, discharge, escape, dispersal or emission of asbestos or pollutants, whether gradual or sudden, and include coverage for the costs and expenses associated with voluntary clean-up, testing, monitoring and treatment of asbestos in compliance with governmental mandate or requests. If the asbestos or pollutant will be removed from the construction site, asbestos or pollution liability is also required under the contractor's of subcontractor's Automobile Liability Insurance. Contractor shall maintain limits as required by the County for the Alterations.

9.1.6 If the use of the Premises or Improvements involves any manufacture, distribution or service of alcoholic beverages, Liquor Liability insurance (written on ISO policy form CG 00 33 or 34 or their equivalent) with a liability limit of not less than Five Million Dollars ($5,000,000) per occurrence and an annual aggregate of Ten Million Dollars ($10,000,000). If written on a claims made form, the coverage shall also provide an extended two-year reporting period commencing upon the termination or cancellation of the Lease.

9.2 Provisions Pertaining to Property Insurance. The insurance coverage required in Sections 9.1.4 and 9.1.5.1 shall name the County as an additional insured and

any Encumbrance Holder as loss payee. Subject to Section 12.8, upon the occurrence of any loss, the proceeds of property and builder's risk 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; provided, however, that if the insurance proceeds received with respect to a loss are less than $500,000 (as adjusted to reflect any increase in the ENR Index during the period from the Effective Date through the date of the loss), the Encumbrance Holder shall have the right to hold and disburse such proceeds to pay the renovation and repair of Improvements in accordance with the terms of the loan agreement or deed of trust with Lessee's Encumbrance Holder. In the event of a 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. Subject to Section 12.8, any surplus or proceeds after said rebuilding or replacement shall be distributed to Lessee.

9.3 General Insurance Requirements. Subject to the immediately following grammatical paragraph, a duplicate policy or policies (or certificates of insurance) evidencing the insurance coverage required under this Article 9, in such form as shall be reasonably acceptable to County, shall be filed with Director no later than the Effective Date, provided that the evidence of the insurance coverage required under Section 9.1.5 shall be required to be delivered by Lessee prior to the commencement of any Alterations. All certificates of insurance shall (a) specifically identify the Lease; (b) clearly evidence all coverages required under the Lease; (c) identify any deductibles or self-insured retentions exceeding $25,000; and (d) evidence all other requirements under this Article 9. The policy or policies of insurance 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 insurance coverage may be issued in the form of a blanket policy insuring other properties, in form, amount and content reasonably satisfactory to County such that such coverage provides the same protection as required under this Article 9 as if the insurance had been procured on an individual property basis.

9.4 Additional 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 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 any liability insurance policy or policies;

(b) that the full amount of any losses to the extent property 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;

(c) 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;

(d) 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;

(e) the property and commercial general liability insurance policies shall provide coverage on a primary and non-contributory 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;

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

(g) 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;

(h) that the commercial general liability 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,

(i) that the property and commercial general liability insurance 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.

9.5 Failure to Procure Insurance. If Lessee fails to procure or renew the herein required insurance and does not cure such failure within five (5) business days after written notice from County, 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. All monies so paid by County shall be repaid by Lessee, with interest thereon at the Applicable Rate, to County within five (5) business days after Lessee's receipt of written demand therefor.

9.6 Adjustment to Amount of Liability Coverage. The amounts of liability insurance required under Section 9.1.1, 9.1.2 and 9.1.3 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.

9.7 Notification of Incidents, Claims or Suits. Lessee shall report to County any accident or incident on or about the Premises which involves injury or property damage which might reasonably be thought to result in the filing of a claim or lawsuit against Lessee and/or County. Such report shall be made in writing within 72 hours of Lessee's knowledge of such occurrence.

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 residential apartment buildings and ground floor retail facilities 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 health or safety related 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, 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. 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 of the deficiency notice. 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 10.3.1. 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 10.3.1 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 loss, Lessee delivers to County a 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 10.3.1, 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, 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 sometimes referred to in this Lease as a "Major Sublease" and the Sublessee under such agreement is sometimes 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 an Approved Residence Lease, 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.

Notwithstanding any contrary provision of this Article 11, Lessee shall not be required to obtain County's approval of any Sublease of an individual residential unit in the ordinary course (but not the master lease of multiple

units) to a person or persons who will physically occupy the subleased unit, as long as such Sublease is in the form of the standard residential lease, hereafter submitted to and approved by County and the term of such Sublease does not exceed one (1) year (each, an "Approved Residence Lease"). The terms and provisions of Sections 11.2 and 11.3 of this Lease shall not be applicable to Approved Residence Leases. Upon request by County, Lessee shall furnish County with a current rent roll respecting the Approved Residence Leases and a copy of all of such Approved Residence Leases.

11.1.3. Major Sublease. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable residential apartment and marina 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 the 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 acts of Lessee shall require the prior written consent of County to be effective, unless they are Excluded Transfers: (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 in a partnership 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.

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 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:

(i) 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;

(ii) 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.

(iii) 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.

(iv) 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. Subject to the requirements of the Public Records Act, County shall use its good faith efforts to keep such business plan confidential.

(v) 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.

(vi) 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.

(vii) 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.

(viii) 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. Other than in connection with an Excluded Transfer as described in subsection 4.6.2, if Lessee proposes to assign its interest in this Lease or the Premises, or proposes to enter into any Major Sublease affecting the Premises (with either such proposed transaction herein referred to as a "Proposed Transfer"), it shall provide County with written notice of such desire and the sale price ("Lessee Sale Price") at which it is willing to consummate the Proposed Transfer. Within thirty (30) days thereafter, the 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, Lessee shall deliver to County 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. 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 cause Lessee to issue 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 Lessee shall be entitled to consummate the Proposed Transfer with a third party (subject to County's approval rights as otherwise set forth in this Lease) during the ensuing nine (9) month period so long as the Proposed Transfer price is equal to or greater than the Lessee Sale Price last offered to County and upon no more favorable material terms to the assignee. In the event of a proposed Sublease or other permitted assignment of less than all of the Premises, County's election shall pertain to

such portion of the Premises subject to the proposed 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. County's rights pursuant to this subsection 11.2.4 shall not apply to Financing Events or those events identified in subsection 4.6.2 of this Lease.

11.2.5. County Credits Toward Purchase Price. 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.

12.1.1 Definitions. For the purposes of this Lease, including without limitation the provisions of Sections 4.6 through 4.8 hereof: (i) a "Financing Event" shall mean any financing or refinancing consummated by Lessee or by the holders of partnership interests or other direct or indirect ownership interests in Lessee (collectively, "Ownership Interests"), whether with private or institutional investors or lenders, where such financing or refinancing is an Encumbrance (as defined below); for purposes of subsection 12.1.2 below and Sections 4.6 through 4.8 above, a "Financing Event" shall also include all of the foregoing actions involving the granting of a mortgage, deed of trust or other security interest in a Major Sublease; and (ii) an "Encumbrance" shall mean any direct or indirect grant, pledge, assignment, transfer, mortgage, hypothecation, grant of control, grant of security interest, or other encumbrance, of or in all or any portion of (A) 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) or (B) Ownership Interests if an absolute assignment from the holder of such Ownership Interests to the holder of the Encumbrance would have required County's consent under this Lease, to a lender (upon County approval of the Encumbrance and consummation thereof, the "Encumbrance Holder") as security for a loan. The term "Encumbrance Holder" shall also be deemed to include any successors and assigns of such Encumbrance Holder which have succeeded by assignment or otherwise to any rights, interests or liabilities of the Encumbrance Holder with respect to the Encumbrance, or any designee which has been designated by the Encumbrance Holder to exercise any rights or remedies under the Encumbrance or to take title to the leasehold estate under this Lease or to Ownership Interests, and such permitted successors, assigns or designees shall enjoy all of the rights and protections given to Encumbrance Holders under this Lease; provided, however, no successor, assign or designee of an Encumbrance Holder that is affiliated with Lessee or any person or entity with a direct or indirect ownership interest in Lessee shall be entitled to any of the rights or protections granted to Encumbrance Holders under this Lease. The term "Equity Encumbrance Holder" shall mean an Encumbrance Holder holding an Encumbrance with respect to Ownership Interests.

12.1.2 County Approval Required. Lessee may, with the prior written consent of Director, which shall not be unreasonably withheld, and subject to any specific conditions which may be reasonably imposed by Director, consummate

one or more Financing Events. Lessee shall submit to Director a preliminary loan package and thereafter a complete set of all proposed transaction documents in connection with each proposed Financing Event. The preliminary loan package shall include the loan commitment (or the so-called "loan application" if the loan commitment is styled as a loan application) and any other documents, materials or other information reasonably requested by Director. Lessee shall have the right, but not the obligation, to include draft loan documents in the preliminary loan package. Director shall have sixty (60) days to grant or withhold approval of the preliminary loan package. Director shall have sixty (60) days after receipt of substantially complete loan documents conforming to the approved preliminary loan package in which to grant or withhold final approval of the Financing Event; provided, however, that if the preliminary loan package included draft loan documents, then the foregoing sixty (60) day period shall be reduced to thirty (30) days. If not approved by Director in writing within the foregoing periods, the proposed Financing Event shall be deemed disapproved by Director (and, if so requested in writing by Lessee), Director shall within thirty (30) days of such request deliver to Lessee a written description of Director's objections to said proposed Financing Event). Lessee shall reimburse County for County's Actual Cost incurred in connection with its review of the proposed Financing Event. One 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. The same rights and obligations set forth above in this subsection 12.1.2 shall inure to the benefit of and shall be binding upon any holder of Ownership Interests with respect to any proposed Financing Event involving Ownership Interests.

12.2 Consent Requirements In The Event of a Foreclosure Transfer.

12.2.1 Definitions. As used herein, a "Foreclosure Transfer" shall mean any transfer of the entire leasehold estate under this Lease or of all of the Ownership Interests in Lessee pursuant to any judicial or nonjudicial foreclosure or other enforcement of remedies under or with respect to an Encumbrance, or by voluntary deed or other transfer in lieu thereof. A "Foreclosure Transferee" shall mean any transferee (including without limitation an Encumbrance Holder) which acquires title to the entire leasehold estate under this Lease or to all of the Ownership Interests in Lessee pursuant to a Foreclosure Transfer. An "Equity Foreclosure Transferee" shall mean a Foreclosure Transferee whose acquired interest consists of all of the Ownership Interests in Lessee.

12.2.2 Foreclosure Transfer. The consent of County shall not be required with respect to any Foreclosure Transfer. In addition, no Foreclosure Transfer, and no single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall trigger the obligation to pay a Net Proceeds Share to County or any recapture right of County under subsection 11.2.4 of this Lease.

12.2.3 Subsequent Transfer By Encumbrance Holder. For each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder, with respect to a single subsequent transfer of this Lease or the Ownership Interests (as applicable) by such Encumbrance Holder to any third party, (i) County's consent to such transfer shall be required, but shall not be unreasonably withheld or delayed, and the scope of such consent (notwithstanding anything in this Lease to the contrary) shall be limited to County's confirmation (which must be reasonable) that the Lessee following such transfer has sufficient financial capability to perform its remaining obligations under this Lease as they come due, along with any obligation of Lessee for which the Foreclosure Transferee from whom its receives such transfer is released under subsection 12.3.1 below, and (ii) such transferee (other than a transferee of Ownership Interests) shall expressly agree in writing to assume and to perform all of the obligations under this Lease, other than Excluded Defaults (as defined below). For clarification purposes, the right to a single transfer under this Section shall apply to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder, so that there may be more than one "single transfer" under this Section.

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

12.3.1 Any Encumbrance Holder which is a commercial bank, savings bank, savings and loan institution, insurance company, pension fund, investment bank, opportunity fund, mortgage conduit, real estate investment trust, commercial finance lender or other similar financial institution which ordinarily engages in the business of making, holding or servicing commercial real estate loans, including any affiliate thereof (an "Institutional Lender"), shall, upon becoming a Foreclosure Transferee (other than an Equity Foreclosure Transferee), become liable to perform the full obligations of Lessee under this Lease (other than Excluded Defaults as defined below) accruing during its period of ownership of the leasehold. Upon a subsequent transfer of the leasehold in accordance with subsection 12.2.3 above, such Institutional Lender shall be automatically released of any further liability with respect to this Lease, other than for (i) rent payments, property tax payments, reserve account payments and other monetary obligations under specific terms of the Lease that accrue solely during such Institutional Lender's period of ownership of the leasehold, and (ii) Lessee's indemnification obligations under this Lease with respect to matters pertaining to or arising during such Institutional Lender's period of ownership of leasehold title.

12.3.2 Any other Foreclosure Transferee (i.e., other than an Institutional Lender as provided in subsection 12.3.1 above) shall, upon becoming a Foreclosure Transferee (other than an Equity Foreclosure Transferee), become liable to perform the full obligations of Lessee under this Lease (other than

Excluded Defaults), subject to possible release of liability upon a subsequent transfer pursuant to Section 11.3 of this Lease.

12.3.3 Following any Foreclosure Transfer which is a transfer of the leasehold interest under the Lease, County shall recognize the Foreclosure Transferee as the Lessee under the Lease and shall not disturb its use and enjoyment of the Premises, and the Foreclosure Transferee shall succeed to all rights of Lessee under this Lease as a direct lease between County and such Foreclosure Transferee, provided that the Foreclosure Transferee cures any pre-existing Event of Default other than any such pre-existing Event of Default that (i) is an incurable non-monetary default, (ii) is a non-monetary default that can only be cured by a prior lessee, (iii) is a non-monetary default that is not reasonably susceptible of being cured by such transferee, or (iv) relates to any obligation of a prior lessee to pay any Net Proceeds Share (collectively, "Excluded Defaults"), and thereafter performs the full obligations of Lessee under this Lease. Pursuant to subsection 12.3.7 below, following any Foreclosure Transfer which is a transfer of Ownership Interests, the foregoing rights under this subsection 12.3.3 shall also inure to the benefit of the Lessee.

12.3.4 No Encumbrance Holder shall become liable for any of Lessee's obligations under this Lease unless and until such Encumbrance Holder becomes a Foreclosure Transferee with respect to Lessee's leasehold interest under the Lease.

12.3.5 No Foreclosure Transfer, and no single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall trigger (i) any obligation to pay an Administrative Charge nor any Net Proceeds Share, (ii) any recapture right on the part of County, or (iii) any termination right under this Lease. Any Foreclosure Transfer, and any single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall be deemed to be excluded from the definitions of "Change of Ownership" for all purposes of this Lease. For clarification purposes, the "single subsequent transfer" referred to above applies to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder (as more fully explained in subsection 12.2.3), so that there may be more than one "single subsequent transfer" benefited by this Section.

12.3.6 In the event that an Institutional Lender becomes a Foreclosure Transferee, all obligations with respect to the construction work described in Sections 5.1, 5.14 or 5.15 above shall be tolled for a period of time, not to exceed twelve months, until such Institutional Lender completes a subsequent transfer of its foreclosed interest in the Lease or Ownership Interests, provided that such Institutional Lender is making commercially reasonable and diligent efforts to market and sell its foreclosed interest. Nothing in this subsection 12.3.6 shall be construed as a limit or outside date on any cure periods provided to Encumbrance Holders under this Lease.

12.3.7 Following a Foreclosure Transfer with respect to all of the Ownership Interests in Lessee, (i) any and all rights, privileges and/or liability limitations afforded to Foreclosure Transferees in this Article 12 or any other provision of this Lease shall also be afforded to Lessee from and after such Foreclosure Transfer, to the same extent as if the Foreclosure Transferee had acquired the leasehold interest of Lessee directly and became the Lessee under this Lease, and (ii) if the Foreclosure Transferee was also an Equity Encumbrance Holder, then any and all rights, privileges and/or liability limitations afforded to Foreclosure Transferees who are Encumbrance Holders in this Article 12 or any other provision of this Lease shall also be afforded to Lessee from and after such Foreclosure Transfer, to the same extent as if the Foreclosure Transferee had acquired the leasehold interest of Lessee directly and became the Lessee under this Lease.

12.4 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 subsection 12.1.2, 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 (other than Excluded Defaults or as otherwise provided herein).

12.5 Modification or Termination of Lease. This Lease shall not be modified or amended without the prior written consent in its sole discretion of each then existing Encumbrance Holder with respect to Lessee's entire leasehold interest in this Lease or all of the Ownership Interests in Lessee. Further, this Lease may not be surrendered or terminated (except with respect to the Partial Termination Premises pursuant to the Partial Termination Option set forth in Section 2.2 above, or in accordance with the provisions of this Article 12) without the prior written consent of each such Encumbrance Holder in its sole discretion. No such modification, amendment, surrender or termination (other than a termination pursuant to the Partial Termination Option in Section 2.2 above, or in accordance with the provisions of this Article 12) without the prior written consent of each such then existing Encumbrance Holder shall be binding on any such Encumbrance Holder or any other person who acquires title to its foreclosed interest pursuant to a Foreclosure Transfer.

12.6 Notice and Cure Rights of Encumbrance Holders and Major Sublessees.

12.6.1 Right to Cure. Each Encumbrance Holder and Major Sublessee shall have the right, at any time during the term of its Encumbrance or Major

Sublease, as applicable, and in accordance with the provisions of this Article 12, 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.

12.6.2 Notice of Default. County shall not exercise any remedy available to it upon the occurrence of an Event of Default (other than exercising County's self-help remedies pursuant to Section 13.5 or imposing the daily payment set forth in Section 10.2), and no such exercise shall be effective, unless it first shall have given written notice of such default to each and every then existing Major Sublessee and Encumbrance Holder which has 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 herein. If such Event or Events of Default are so cured, this Lease shall remain in full force and effect. Notwithstanding any contrary provision hereof, the Lender's cure rights set forth in this Section 12.6 shall not delay or toll the County's right to impose the daily payment for Lessee breaches set forth in Section 10.2.

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

(a) 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 its receipt of the aforesaid notice of default. 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.

(b) 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:

(1) The Encumbrance Holder or Major Sublessee may cure the default within sixty (60) days after the end of Lessee's cure period as provided in Section 13.1 hereof (or, if the default involves health, safety or sanitation issues, County may by written notice reduce such sixty (60) day period to thirty (30) days, such 60 or 30 day period, as applicable, being referred to herein as the "initial cure period"), provided, however, if the curing of such default reasonably requires activity over a longer period of time, the initial cure period shall be extended for such additional time as may be reasonably necessary to cure such default, so long as the

Encumbrance Holder or Major Sublessee commences a cure within the initial cure period 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 initial cure 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.

(2) With respect to an Encumbrance Holder, but not a Major Sublessee, if before the expiration of the initial cure 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, the initial cure period shall be extended by the time necessary to complete such foreclosure proceedings, or (ii) if said Encumbrance Holder is prevented from commencing or continuing foreclosure proceedings by any bankruptcy stay, or 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 stay, order, judgment or decree, the initial cure period shall be extended by the time necessary to obtain such release or reversal and thereafter to complete such foreclosure proceedings. Within thirty (30) days after a Foreclosure Transfer is completed, the Foreclosure Transferee shall (if such default has not been cured) commence to cure, remedy or correct the default and thereafter diligently pursue such cure until completed in the same manner as provided in subsection (a) above. The Encumbrance Holder shall have the right to terminate its foreclosure proceeding, and the extension of any relevant cure period shall lapse, in the event of a cure by Lessee.

12.7 New Lease.

12.7.1 Obligation to Enter Into New Lease. In the event that this Lease is terminated by reasons of bankruptcy, assignment for the benefit of creditors, insolvency or any similar proceedings, operation of law, an Excluded Default or other event beyond the reasonable ability of an Encumbrance Holder to cure or remedy, or if the Lease otherwise terminates for any reason, except in each case other than the partial termination of the Lease pursuant to the Partial Termination Option set forth in Section 2.2, County shall, upon the written request of any Encumbrance Holder with respect to Lessee's entire leasehold estate under this Lease or all of the Ownership Interests in Lessee (according to the priority described below if there are multiple Encumbrance Holders), enter into a new lease (which shall be effective as of the date of termination of this Lease) with the

Encumbrance Holder or an affiliate thereof for the then remaining Term of this Lease on the same terms and conditions as shall then be contained in this Lease, provided that the Encumbrance Holder cures all then existing monetary defaults under this Lease, and agrees to commence a cure of all then existing non-monetary Events of Default within sixty (60) days after the new lease is entered into, and thereafter diligently pursues such cure until completion. In no event, however, shall the Encumbrance Holder be obligated to cure any Excluded Defaults. County shall notify the most junior Encumbrance Holder of a termination described in this Section 12.7 within thirty (30) days after the occurrence of such termination, which notice shall state (i) that the Lease has terminated in accordance with Section 12.7 of this Lease, and (ii) that such Encumbrance Holder has sixty (60) days following receipt of such notice within which to exercise its right to a new lease under this Section 12.7, or else it will lose such right. An Encumbrance Holder's election shall be made by giving County written notice of such election within sixty (60) days after such Encumbrance Holder has received the above-described written notice from the County. Within a reasonable period after request therefor, County shall execute and return to the Encumbrance Holder any and all documents reasonably necessary to secure or evidence the Encumbrance Holder's interest in the new lease or the Premises. From and after the effective date of the new lease, the Encumbrance Holder (or its affiliate) shall have the same rights to a single transfer that are provided in subsection 12.2.3 above, and shall enjoy all of the other rights and protections that are provided to a Foreclosure Transferee in this Article 12. Any other subsequent transfer or assignment of such new lease shall be subject to all of the requirements of Article 11 of this Lease. If there are multiple Encumbrance Holders, this right shall inure to the most junior Encumbrance Holder in order of priority; provided, however, if such junior Encumbrance Holder shall accept the new lease, the priority of each of the more senior Encumbrance Holders shall be restored in accordance with all terms and conditions of such Encumbrances(s). If a junior Encumbrance Holder does not elect to accept the new lease within thirty (30) days of receipt of notice from County, the right to enter into a new lease shall be provided to the next most junior Encumbrance Holder, under the terms and conditions described herein, until an Encumbrance Holder either elects to accept a new lease, or no Encumbrance Holder so elects.

12.7.2 Priority of New Lease. The new lease made pursuant to this Section 12.7 shall be prior to any mortgage or other lien, charge or encumbrance (except for easements or other matters to which this Lease is subject) on County's fee interest in the Premises (except for easements or other matters to which this Lease is subject), and any future fee mortgagee or other future holder of any lien on the fee interest in the Premises is hereby given notice of the provisions hereof.

12.8 Holding of Funds. Any Encumbrance Holder with respect to Lessee's entire leasehold interest in this Lease or all of the Ownership Interests in Lessee that is an Institutional Lender shall have the right to hold and control the disbursement of (i) any

insurance or condemnation proceeds to which Lessee is entitled under this Lease and that are required by the terms of this Lease to be applied to restoration of the improvements on the Premises (provided that such funds shall be used for such restoration in accordance with the requirements of the Lease), and (ii) any funds required to be held in the Capital Improvement Fund or Renovation Fund (provided that such funds shall be used for the purposes required by this Lease). If more than one such Encumbrance Holder desires to exercise the foregoing right, the most senior Encumbrance Holder shall have priority in the exercise of such right.

12.9 Participation in Certain Proceedings and Decisions. Any Encumbrance Holder shall have the right to intervene and become a party in any arbitration, litigation, condemnation or other proceeding affecting this Lease. Lessee's right to make any election or decision under this Lease with respect to any condemnation settlement, insurance settlement or restoration of the Premises following a casualty or condemnation shall be subject to the prior written approval of each then existing Encumbrance Holder.

12.10 Fee Mortgages and Encumbrances. Any mortgage, deed of trust or other similar encumbrance granted by County upon its fee interest in the Premises shall be subject and subordinate to all of the provisions of this Lease and to all Encumbrances. County shall require each such fee encumbrance holder to confirm the same in writing (in a form reasonably approved by each Encumbrance Holder or its title insurer) as a condition to granting such encumbrance, although the foregoing subordination shall be automatic and self-executing whether or not such written confirmation is obtained.

12.11 No Merger. Without the written consent of each Encumbrance Holder, the leasehold interest created by this Lease shall not merge with the fee interest in all or any portion of the Premises, notwithstanding that the fee and leasehold interests are held at any time by the same person or entity.

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, 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.

13.1.3. Maintenance of Security Deposit. The failure of Lessee to maintain and/or replenish the Security Deposit required pursuant to Article 8 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.

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 12.6 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 having a recorded interest pertaining to County's interest in this Lease or the Premises. Such person shall then have the right to cure such default, and County shall not be deemed in default if such person 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.

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 or, at its option, may utilize the cash method of accounting, provided Lessee reconciles its filings, records and reports to an accrual method to the extent requested by County; notwithstanding the foregoing, Lessee shall be permitted to make monthly payments of Percentage Rent using the cash method of accounting to determine Gross Receipts, provided that Lessee provides County with an annual reconciliation of its cash basis Gross Receipts to the accrual method (together with payment of any additional Percentage Rent due).

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 will not be unreasonably withheld.

The requirements of this paragraph may be waived or modified in advance by Director upon submission by Lessee of a substitute plan acceptable to Director for recording sales and other income.

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 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 Additional Accounting Methods. County may require the installation of any additional accounting methods or machines which are typically used by major office buildings and major parking service companies and which County reasonably deems necessary if the system then being used by Lessee does not adequately verify sales for audit or customer receipt purposes.

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

14.8 Annual Financial Statements. Within six (6) months after the end of each Accounting Year or, at Lessee's election, after the completion of Lessee's fiscal year, Lessee shall deliver to County a set of audited and certified financial statements prepared by a Certified Public Accountant who is a member of the American Institute of Certified Public Accountants and is satisfactory to County, setting forth Lessee's financial condition and the result of Lessee's operations for such Accounting Year and shall include a certification of and unqualified opinion concerning Lessee's Gross Receipts (including a breakdown by category). All financial statements prepared by or on behalf of Lessee shall be prepared in a manner that permits County to determine the financial results of operations in connection with Lessee's activities at, from or relating to the Premises, notwithstanding that Lessee may have income and expenses from other activities unrelated to its activities on the Premises.

14.9 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 and the delivery to County of audited certified financial statements and unqualified opinions as to Gross Receipts.

14.10 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 Execution Date.

15.4 County Disclosure and Lessee's Waiver.

15.4.1. Disclosures and Waiver.

15.4.1.1. "AS IS". 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 in effect at the end of the Term shall be increased to one hundred twenty five percent (125%) 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:	MDR Oceana, LLC c/o Goldrich & Kest Industries 5150 Overland Avenue Culver City, California 90230 Attn: Warren Breslow Phone: 310/204-2050 Fax: 310/204-1900
With a Copy to:	MDR Oceana, LLC c/o Goldrich & Kest Industries 5150 Overland Avenue Culver City, California 90230 Attn: William Yerrick, General Counsel Phone: 310/280-5043 Fax: 310/280-5014

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. No amendment, other than an amendment to implement an arbitration judgment, shall be binding upon an Encumbrance Holder as to which County has been notified in writing, unless the consent of such Encumbrance Holder is obtained with respect to such amendment.

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.

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 an affirmative vote of one or more of County's boards or commissions or County's Board of Supervisors, the time period for County performance of such action shall be extended as is necessary in order to secure such affirmative vote or approval 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: (1) that this Lease is in full force and effect and is unmodified (or stating otherwise, if true); (2) 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); (3) the dates, if any, to which all rental due thereunder has been paid; and (4) whether the certifying party is then aware of any charges, offsets or defenses against the enforcement by the other party of any agreement, covenant or condition hereof to be performed or observed by the certifying party (and, if so, specifying the same). 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 Pedestrian Walkway. As part of the Development Work Lessee agrees to provide an ADA-compliant public pedestrian walkway approved by County linking Admiralty Way and Washington Boulevard (the "Public Walkway"). County hereby reserves a public easement for access over and use of the Public Walkway for pedestrian purposes in accordance with such rules and regulations as are promulgated from time to time by the County regulating such public use. Lessee shall be responsible for the maintenance and repair of the Public Walkway in accordance with maintenance and repair standards established by the County from time to time. The exact legal description of the Premises encumbered by the public easement reserved herein shall be established based upon the final as-built drawings for the Public Walkway to be delivered by Lessee upon the completion thereof in accordance with the terms and provisions of Article 5 of this Lease. At the request of either party such legal description shall be recorded in the Official Records of the County as a supplement to this Lease.

15.20 Replacement Parking. In connection with the Lease of the Premises and the development by Lessee of the Improvements comprising the Development Work, Lessee is required to construct or cause to be constructed parking facilities to replace the one hundred eighty-six (186) public parking spaces that existed on the Premises prior to the Effective Date to the extent that the requirement for such replacement public parking spaces is not eliminated or reduced in connection with the receipt of the Entitlements. Lessee's obligations with respect to such replacement parking are set forth in subsections 15.20.1 and 15.20.2 below. Lessee shall also comply with any requirements imposed in connection with the receipt by Lessee of County, California Coastal Commission, Design Control Board and other governmental entitlement and land use approvals for the Development Work, including any requirements pertaining to the provision of interim replacement parking.

15.20.1 On Site Replacement Parking. The Development Work includes the construction by Lessee of one hundred fifty-four (154) on-site parking spaces, sixty-two (62) of which shall serve the Improvements on the Premises and ninety-two (92) of which shall constitute on-site replacement public parking (the "On-Site Replacement Parking"). The On-Site Replacement Parking shall be constructed at Lessee's sole cost and expense. County hereby reserves a public easement on, over and across those portions of the Premises and Improvements required for access to and from the On-Site Replacement Parking (including without limitation driveways, ramps, aisles, entrances, exits, sidewalks, stairs, elevators and other Improvements) for vehicular and pedestrian access to and use of the On-Site Replacement Parking for public parking purposes. Without limitation of the foregoing, the On-Site Replacement Parking shall be made available as overflow parking for the charter vessel operation at Parcel 125. The On-Site Replacement Parking shall be open to the public seven (7) days per week in

accordance with such rules and regulations (including hours of public access) as are promulgated from time to time by County regulating such public use. Lessee shall make no use of the Premises, including without limitation the other parking located thereon, that interferes with the public easement described in this subsection 15.20.1 or is prohibited under or in conflict with the rules and regulations established by County for public use of the On-Site Replacement Parking. Lessee shall be responsible for the operation, maintenance and repair of the On-Site Replacement Parking in accordance with commercially reasonable operation, maintenance and repair standards established by County from time to time on a non-discriminatory basis for other similar public parking areas in the Marina. Director shall have the right to approve the exact location of the On-Site Replacement Parking and the access ways and circulation plan for public use of the On-Site Replacement Parking. County shall not be obligated to pay Lessee any compensation for the On-Site Replacement Parking. Lessee shall have the right to charge the users of the On-Site Replacement Parking for the use thereof in accordance with rates approved by County (with California Coastal Commission approval as required under Applicable Law) consistent with the public parking rates established (as modified from time to time) for other similar public parking in Marina del Rey. At Director's election, County and Lessee shall execute in recordable form any covenant or restriction required by the California Coastal Commission or other governmental authority to further evidence the terms of the use and operation of the On-Site Replacement Parking.

15.20.2 Off-Site Replacement Parking. In addition to the On-Site Replacement Parking to be provided by Lessee pursuant to subsection 15.20.1 above, a condition to the demolition of the public parking spaces existing on the Premises as of the date of this Lease shall be the construction by Lessee's affiliate, Holiday-Panay Way Marina, L.P., on property commonly known as Parcel 21 in the Marina del Rey Small Craft Harbor ("Parcel 21") of an additional ninety-four (94) off-site replacement public parking spaces (the "Off-Site Replacement Parking") such that the Off-Site Replacement Parking in combination with the On-Site Replacement Parking satisfies the requirement to construct a total of one hundred eight-six (186) replacement public parking spaces. The Off-Site Replacement Parking shall be constructed at no cost to County and County shall receive an easement or covenant acceptable to County for the public use of the Off-Site Replacement Parking spaces, all on such terms and in accordance with such schedule as acceptable to County. Lessee shall not be entitled to use and occupy the Improvements constructed as the Development Work (or receive a temporary or permanent certificate of occupancy) unless and until a certificate of occupancy (either temporary or permanent) is issued for the lawful use and occupancy of the Off-Site Replacement Parking spaces on Parcel 21. Notwithstanding any contrary provision of this Lease, no Force Majeure event or other failure of the Parcel 21 Lessee to construct the Off-Site Replacement Parking spaces on Parcel 21, including without limitation,

any failure to obtain all required governmental approvals for the construction of additional parking facilities on Parcel 21, shall have any effect on the terms and provisions of the immediately preceding sentence. In addition, the failure of the Parcel 21 Lessee to complete the Off-Site Replacement Parking spaces by the Required Completion Date under this Lease shall constitute an Event of Default under this Lease.

15.21 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.

15.22 No Merger. If, prior to the expiration of the Term, County or Lessee shall acquire the interest of the other in the Promises, or any portion thereof, there shall be no merger of the leasehold estate into (a) the fee simple estate in the Premises, (b) the sub-reversionary interest held by County or (c) any leasehold estate superior to that held by Lessee.

15.23 365 Election. County and Lessee agree, for the benefit of any Encumbrance Holder, that for so long as an Encumbrance shall encumber Lessee's interest in the Premises, the right of election arising under Section 365(h)(1) of the Bankruptcy Code may be exercised solely by Encumbrance Holder and not by Lessee. Any exercise or attempted exercise of such right of election by Lessee shall be void.

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:

(a) 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.

(b) 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:

(1) 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;

(2) 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;

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

(4) 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.

(c) 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:

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

(2) 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;

(3) 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);

(4) 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

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

(d) 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:

(a) 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.

(b) 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, etc.

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 sign the amendment and return the executed copy to the County, which shall thereafter be approved by the Board of Supervisors and 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.

16.15 Notice.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE ARBITRATION OF DISPUTES PROVISION TO NEUTRAL ARBITRATION.

_____	_____
Initials of Lessee	Initials of County

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 Sections 25536 and 25907 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, in recordable form and otherwise satisfactory to the parties hereto, for recording as soon as is practicable on or following the Execution Date.

IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this Lease to be subscribed by the Chairman of said Board and attested by the Clerk thereof, and Lessee has executed the same the day and year first hereinabove written.

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

MDR OCEANA, LLC
a California limited liability company

By: _____
Name: _____
Its: _____

ATTEST:

SACHI HAMAI,
Executive Officer of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.,
OFFICE OF COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

[PRIOR TO LEASE EXECUTION THE PARTIES SHALL FINALIZE AND INSERT THE LEGAL DESCRIPTION FOR THE PREMISES. THE LEGAL DESCRIPTION SHALL DESCRIBE THE AREA DEPICTED ON SCHEDULE 1 TO THIS EXHIBIT A, WHICH SCHEDULE SHALL BE REPLACED BY SUCH LEGAL DESCRIPTION AND REMOVED FROM THE LEASE PRIOR TO EXECUTION. THE PREMISES SHALL INCLUDE SUCH ADDITIONAL AREA ON THE NORTHEASTERLY SIDE OF CURRENT PARCEL OT SUCH THAT (A) THE MINIMUM REQUIRED SETBACK IS FULLY CONTAINED IN THE PREMISES, AND (B) THE ADDITIONAL AREA ON THE NORTHEASTERLY SIDE OF THE PARCEL IS SUFFICIENT TO CONSTRUCT A PUBLIC OPEN SPACE, INCLUDING, AT A MINIMUM, THE PROVISION OF AN ADA-COMPLIANT PUBLICLY ACCESSIBLE PEDESTRIAN WALKWAY LINKING ADMIRALTY WAY AND WASHINGTON BOULEVARD. LESSEE SHALL PREPARE THE LEGAL DESCRIPTION FOR THE PREMISES AND SUBMIT SUCH LEGAL DESCRIPTION FOR COUNTY APPROVAL PRIOR TO LEASE EXECUTION.]

SCHEDULE 1 TO EXHIBIT A

DEPICTION OF LOCATION OF PREMISES
FOR PURPOSES OF PREPARATION OF LEGAL DESCRIPTION

EXHIBIT B

DEVELOPMENT PLAN

EXHIBIT C

ASSIGNMENT STANDARDS

These standards are to apply to Proposed Transfers of Lessee's interest in this Lease and/or the Premises and to any Major Sublease. 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 pursuant to the specific lease involved (e.g. 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. If the proposed transferee's net worth is materially less than the transferor's, County may disapprove the assignment or require additional security such as that described in the previous sentence.

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. Changes in the providers of such services and changes to the contractual arrangements must be approved by the County. All 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 own entity which will so acquire Lessee's interest, irrespective of the tier at which 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 Proposed Transfer shall not result in a financing obligation of the proposed transferee which jeopardizes its ability to meet 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 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.

To enrich lives through effective and caring service

LOS ANGELES COUNTY
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

December 10, 2007

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan

SUBJECT: ITEM 5c – APPROVAL OF OPTION FOR AMENDED AND RESTATED LEASE TO FACILITATE REDEVELOPMENT – PARCEL 21 (HOLIDAY HARBOR) - MARINA DEL REY

Item 5c on your agenda pertains to an option to extend the Parcel 21 (Holiday Harbor) lease, in order to facilitate development of a new marina and a parking structure for 447 cars that also contains 29,000 square feet of commercial space.

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.

Your Commission's endorsement of the Chief Executive Officer's 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 310.821.6515 • internet: http://marinadelrey.lacounty.gov

January 15, 2008

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:

DEPARTMENT OF BEACHES AND HARBORS: APPROVAL OF OPTION FOR AMENDED AND RESTATED LEASE TO FACILITATE REDEVELOPMENT – PARCEL 21 (HOLIDAY HARBOR) - MARINA DEL REY
(4th DISTRICT)
(4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed Option to Amend Lease Agreement, attached as Exhibit A, is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.

2. Approve and authorize the Chair of the Board to sign the attached Option to Amend Lease Agreement granting to the current lessee, upon fulfillment of stated conditions, the right to extend the terms of its existing ground lease on Parcel 21 by 39 years.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Parcel 21 lessee, Goldrich & Kest Industries ("Lessee"), has an affiliate that is the Parcel OT lessee. As part of the Parcel OT development plan, a portion of the required replacement public parking is to be placed in a parking garage to be constructed on Parcel 21. Additionally, the Department of Beaches and Harbors ("Department") desires to reacquire that portion of Parcel 21 immediately adjacent to a County-owned public parking lot (Parcel GR) in order to provide for additional public parking as a component of the master plan being developed for Marina Beach public improvements. Accordingly, an agreement was negotiated with Lessee for the redevelopment of the Parcel 21 property.

The proposed Option to Amend Lease Agreement ("Option") will allow Lessee to exercise its option and receive the benefits of the Amended and Restated Lease

("Restated Lease") attached as Exhibit B, upon demonstration that it has satisfied all of the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the redevelopment project.

Whether or not ultimately exercised, the Parcel 21 Option puts into effect modern lease provisions that have been negotiated in new and extended leases previously presented for your Board's consideration, including: a) reimbursement of County administrative/negotiating costs; b) payment of a non-refundable $100,000 option fee (which shall be credited against the extension fee if the Option is exercised); c) establishment of a sinking fund to remove leasehold improvements at lease termination; d) modernized "baseball" type arbitration; e) lease assignment and ownership disclosure requirements; f) a 6% late fee plus interest for any late payments; g) security deposit in the amount of 3 months' minimum rent; h) new insurance requirements with insurance levels renegotiated each 5th lease anniversary date; i) County approval rights over construction plans and specifications; j) CPA-certified annual gross revenue reports; k) required maintenance in conformance with Marina standards; and l) liquidated damages of $100 per day (adjusted for inflation) per cited maintenance deficiency for each deficiency that remains uncorrected after a specified cure period.

If the Option is exercised, in addition to the terms identified just above, the Restated Lease for Parcel 21 also provides for a 39-year lease extension; payment of a $100,000 lease extension fee (already paid as a non-refundable option fee); demolition of the existing landside improvements; construction of a new commercial building containing not less than 29,000 square feet and an attached parking structure of 447 parking spaces to accommodate boater parking for not only Parcel 21, but also Parcel 20 (the leasehold of another Lessee affiliate), parking for the commercial uses in the new commercial building, and 94 replacement parking spaces for Parcel OT; complete dock replacement of the existing 182 slips with 87 new slips; construction and maintenance of a new waterfront promenade; reconveyance to County at a specified date of the westerly 207 feet of the current leasehold to be used as additional County parking; establishment of a Capital Improvement Fund to be funded by amounts equal to 1.0% of gross revenues derived from the leasehold for years 4 and 5 following completion of the improvements, 1.25% of gross revenues derived from the leasehold for years 6 through 10 and 1.5% of gross revenues thereafter; establishment of a Renovation Fund in the amount of 1.0% of gross revenues annually that must be fully expended to physically reposition the project to then current market requirements between 2034 and 2036, with funding ceasing thereafter; a second complete replacement of the anchorage improvements between years 30 and 35 after the effective date of the Restated Lease; County participation in leasehold sale and/or refinance; County right to recapture the leasehold if the Lessee pursues its sale; and other miscellaneous improvements to the lease (e.g., enhanced audit and record-keeping standards).

Lessee must complete the parking structure as a condition to issuance of the certificate of occupancy for Parcel OT. Once the Lessee and the Parcel OT optionee have obtained all necessary project entitlements and have fulfilled the other requirements entitling them to exercise the Options for both parcels, we will return to your Board for authority to execute the Restated Lease in substantially the form attached.

The Department has obtained an appraisal that concludes the return to the County from the lease extension for Parcel 21 is equivalent to, or greater than, fair market value.

Implementation of Strategic Plan Goals

In furtherance of County Goals #1 and #4, "Service Excellence" and "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 enhancing public access to and enjoyment of the Marina through property redevelopment and modernized lease provisions.

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:

REDEVELOPMENT
Development of new improvements

• Redevelopment Work: Lessee shall demolish the existing improvements on the premises and construct the following new improvements within five years of receipt of entitlements:

(i) New Commercial Building: A new commercial building containing not less than 29,000 square feet of rentable space and an attached parking structure to accommodate 447 cars. The new commercial building will provide replacement space for all existing landside uses on Parcel 21 and will provide replacement space for the yacht club and office uses presently on Parcel 20. The attached parking structure shall provide parking for the uses contained in the new commercial building, boater parking for Parcels 20 and 21, and 94 replacement parking spaces for Parcel OT. The square footage to be provided for each use and the parking to be provided for each use are summarized in the table below:

New Commercial Building	Sq. Ft. Provided	Parking Provided
Yacht Club	5,000	106
Health Club	10,000	20
Retail	6,000	23
Office	8,000	21
Parcel 20 Boater Parking	--	112
Parcel 21 Boater Parking	--	71
Parcel OT Replacement Parking	--	94
Total	29,000	447

REDEVELOPMENT (continued)	(ii) Dock Replacement: Complete replacement of existing docks containing 182 slips with 87 slips made of concrete or other material acceptable to the Department Director, with a second dock replacement between the 30th and 35th year from the effective date of the Restated Lease; (iii) Waterfront Promenade: Construction and maintenance of a waterfront promenade to run the length of the bulkhead. • Parcel Size Adjustment: The leasehold area shall be reduced by removing the approximately westerly 207 linear feet from the landside area, excluding the Waterfront Promenade area. The parcel size adjustment shall occur up to six months following the completion of construction of the replacement parking for Parcel OT. • Total development cost not less than $13 million ($1.35 million for Dock Replacement; $11.65 million for New Commercial Building and Waterfront Promenade) in 2005 dollars. • Construction of Redevelopment Work to be completed within five years from effective date of the Restated Lease, subject to force majeure, which in no event shall exceed two years. • Capital Improvement Fund. A Capital Improvement Fund to be funded annually by Lessee will be maintained during the term of the lease according to the following schedule: Years 1-3 after completion: none; Years 4-5: 1% of gross revenue; Years 6-10: 1.25% of gross revenue; Years 11+: 1.50% of gross revenue. The Capital Improvement Fund must be fully expended for capital expenditures by ten years prior to the expiration date of the lease, which expenditures are subject to prior approval by the Department Director, not to be unreasonably withheld. • Renovation Fund. A Renovation Fund equal to 1% of gross revenue to be funded annually by Lessee and maintained during the term of the Restated Lease; must be fully expended to physically reposition the project to then current market requirements between 2034 and 2036. Thereafter, no Renovation Fund shall be required. The Renovation Fund may be maintained in the form of a letter of credit. Lessee to provide a renovation plan and budget, subject to County approval.
LEASE TERM	• Option to extend lease on Parcel 21 by 39 years from 8/31/2026 to 8/31/2065.
EXTENSION FEE Fee equal to or commensurate with value of the extension	• The amount of the extension fee shall be $100,000, payable as set forth below. • Lessee shall pay a non-refundable option fee of $100,000 prior to the granting of the Option. Such payment shall be credited against the extension fee if the Option is exercised, but shall be non-refundable in the event the Option is not exercised.

MARKET RATE RENTS Ensure fair market rents	• Minimum annual rent during construction to be reset at the beginning of construction equal to 75% of Lessee's previous three years' average total annual rent paid to County. • Minimum annual rent upon earlier of the date of receipt of the first Certificate of Occupancy (temporary) following commencement of construction ("CO Date") or Required Completion Date equal to $215,000. Thereafter, minimum rent reset every three years equal to 75% of previous three years' average total annual rent paid to County until first renegotiation. • Percentage and minimum rents are subject to renegotiation to fair market rent ten years after earlier of CO Date or Required Completion Date and every ten 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 upon assignment or other direct or indirect transfer of leasehold. • Refinance Participation: 20% of net loan proceeds not reinvested in leasehold.
COUNTY ADMIN. COSTS Ensure payment for County costs for lease extension	• Lessee agrees to reimburse County for costs associated with lease extension negotiations and option and lease preparation, including all appraisal, consultant and legal costs.
COUNTY INCOME CONTINUITY Ensure County revenue flow during development	• Minimum annual rent during construction to be reset at the beginning of construction equal to 75% of Lessee's previous three years' average total annual rent paid to County.
RIGHT TO RECAPTURE	• Provide County with a right to purchase the leasehold interest if Lessee desires to either assign or sell a controlling interest.
ARBITRATION	• Arbitration will use rent-a-judge procedure. "Baseball" type arbitration provision.
LEASE ASSIGNMENT - DISCLOSURE ISSUES	• Lease assignment and ownership disclosure requirements in accord with standard County policy.
DOCKMASTER	• Lessee to maintain a dockmaster to manage the anchorage for the term of the lease.

PROMENADE	• Lessee to construct a waterfront promenade in compliance with LCP and subject to County's reasonable approval of plans. • Promenade area to remain within the leasehold, as described in Parcel Size Adjustment above. Lessee retains responsibility for construction and maintenance of Promenade.
APPRAISAL	• The Department has obtained an independent appraisal confirming the return to the County from the lease is equivalent to, or greater than, fair market value.
ENTITLEMENTS: SITE COVERAGE, HEIGHT & LAND USES	• If Lessee is unable to obtain all necessary entitlement and financing approvals within the 12-month Option period, the Director may grant up to two six-month extensions if Lessee can demonstrate it has diligently pursued those approvals. • If Lessee obtains approvals within the 12-month (or 18- 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 that the option exercise date shall in no event be later than four years after the date of the grant of option. • Density, site coverage, open space, view corridor, building height, entitlement and land uses are subject to Lessee obtaining all County and Coastal Commission planning and entitlement approvals, including that of the Design Control Board. • Lessee may pursue County and Coastal Commission planning and entitlements approvals with respect to the provision of interim replacement parking and interim tenant space during construction.

Additional Matters

OTHER TERMS	a) Ten years prior to expiration of lease, Lessee to structure funding for removal of improvements (at County's election). b) Rental renegotiation and insurance disputes subject to rent-a-judge procedure pursuant to "baseball" type arbitration. c) Maintenance standards for improvements to conform to Marina del Rey standards as revised from time to time. d) Lease administrative items include: a) late fee of 6% plus interest at prime plus 3% for any late payments; b) security deposit equal to three months' minimum rent; c) insurance levels reset/renegotiated upon execution of the Restated Lease and every five years thereafter; d) County approval rights over all construction plans and specifications; and e) enhanced audit and record-keeping standards. e) 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.

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 a new commercial building containing not less than 29,000 square feet of rentable space and new docks. Each component is discussed in detail below.

Extension Fee

Lessee is required to pay an extension fee of $100,000. A non-refundable Option fee of $100,000 is due upon the execution of the Option, which may be credited against the extension fee if the Option is exercised.

Rent Increase Due to New Construction

The total rent derived from Parcel 21 during fiscal year 2006-2007 was approximately $296,000.00. After construction, lease-up and stabilization, annual County rent is projected to rise to approximately $348,900, an annual increase of approximately $52,900.

As an additional requirement of the Restated Lease, the Lessee will reconvey back to the County the westerly 207 feet of Parcel 21 to be integrated into the existing Parcel GR public parking lot in order to form a larger public parking lot. Lessee will also be responsible for the cost of converting the westerly 207 feet being reconveyed to a parking lot as per the County's plan.

Costs of consultants involved in the negotiation and development of the Option and Restated Lease are being reimbursed by the Lessee.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Without exercise of the Option, the term of the lease for Parcel 21, which commenced September 1, 1966, will expire August 31, 2026.

Concurrent with the exercise of the Parcel 21 Option, an option as to Parcel OT must also be exercised by Lessee's affiliate, both of which may be exercised only after the entitlements for each project are received. The Lessee has made application to the Department of Regional Planning for its discretionary land use entitlements under the applicable standards of the Marina del Rey Local Coastal Program (LCP), which application is still under review. Approval of the Option is without prejudice to the County's full exercise of its regulatory authority in the consideration of the land use entitlements required for the possible exercise of the Option.

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 December 12, 2007, the Small Craft Harbor Commission _____ the recommendation to approve the Option and the Restated Lease in the form attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

The Option is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines. Approval of the Option does not authorize construction or reconstruction of any improvements on the parcel. The discretionary land use entitlements and the corresponding environmental documentation necessary to implement the proposed redevelopment contemplated by the Option and the Restated Lease are under review by the Department of Regional Planning.

CONTRACTING PROCESS

The new Restated Lease will be available to the Lessee upon the exercise of the Option. Upon Lessee's demonstration that it has satisfied the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the development project, we will return to your Board with final confirmation that the conditions and approvals for exercise contained in the Option have been satisfied. At that time, we will request authorization for execution of 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 two copies of the executed Option to the Department of Beaches and Harbors.

Respectfully submitted,

William T Fujioka

SW:SK:GB:ks

Attachments (2)

c: County Counsel

AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 21--MARINA DEL REY

THIS AMENDED AND RESTATED LEASE AGREEMENT ("Lease") is made and entered into as of _____, ____ ("Effective Date"), by and between the COUNTY OF LOS ANGELES ("County"), and HOLIDAY-PANAY WAY MARINA, L.P., a California limited partnership (together with its permitted successors and assigns, "Lessee").

W I T N E S S E T H

WHEREAS, the parties hereto or their predecessors in interest, entered into Lease No. 11210 dated September 27, 1966 (as amended prior hereto, the "Original Lease") whereby Lessee leases from County that certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 21 and which is more specifically described on Exhibit A attached hereto and incorporated herein by this reference ("Premises"), the term of which commenced on September 1, 1966 and currently extends through August 31, 2026 (the "Original Term "); and

WHEREAS, County and Lessee have entered into that certain Option to Amend Lease Agreement dated January ___, 2008 (the "Option Agreement"), pursuant to which County granted Lessee an option (the "Option") to amend and restate the Original Lease in its entirety, upon the terms and conditions more specifically provided herein, including, without limitation, an extension of the term through August 31, 2065; 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 as follows:

1. BACKGROUND AND GENERAL.

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

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 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. "ADDITIONAL PARCEL 20 PARKING SPACES" shall have the meaning set forth in subsection 15.20.1.

1.1.5. "ADJUSTMENT DATES" shall have the meaning set forth in Section 4.3.

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

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

1.1.8. "ANCHORAGE IMPROVEMENTS" shall have the meaning set forth in Section 5.1.

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

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

1.1.11. "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 4.4.6, 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.

1.1.12. "APPROVED SLIP LEASE" shall have the meaning set forth in subsection 11.1.2.

1.1.13. "APPROVED FINAL PLANS, SPECIFICATIONS AND COSTS" shall have the meaning set forth in subsection 5.5.1.

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

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

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

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

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

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

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

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

1.1.22. "CAPITAL IMPROVEMENT FUND" shall have the meaning set forth in Section 5.13.

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

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

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

1.1.26. "COMPLETION DATE" shall mean the date of receipt of the first Temporary Certificate of Occupancy or other applicable governmental permit, certificate or approval for the legal occupancy of any of the Improvements constructed on the Premises as part of the Redevelopment Work pursuant to Article 5 of this Lease.

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

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

1.1.29. "CONSUMER PRICE INDEX" shall mean the Consumer Price Index--All Urban Consumers for Los Angeles/Riverside/Orange Counties, 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.

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

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

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

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

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

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

1.1.36. "DESIGNEES" shall have the meaning set forth in subsection 15.20.2.

1.1.37. "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.

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

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

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

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

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

1.1.43. "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.

1.1.44. "ENTITLEMENTS" shall mean all entitlements, permits, licenses and other approvals required to be obtained from governmental authorities (including County and the California Coastal Commission) for the construction of the Redevelopment Work.

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

1.1.46. "EQUITY FORECLOSURE TRANSFEREE" shall have the meaning set forth in subsection 12.2.1.

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

1.1.48. "EXCESS PERCENTAGE RENT PAYMENT" shall have the meaning set forth in subsection 4.2.2.4.

1.1.49. "EXECUTION DATE" shall mean the date of execution of this Lease by County.

1.1.50. "EXCLUDED DEFAULTS" shall have the meaning set forth in subsection 12.3.3.

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

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

1.1.53. "FINANCING EVENT" shall have the meaning set forth in Section 12.1.1.

1.1.54. "FIRST ADJUSTMENT DATE" shall have the meaning set forth in Section 4.3.

1.1.55. "FORCE MAJEURE" shall have the meaning set forth in subsection 5.7.3.4.

1.1.56. "FORECLOSURE TRANSFER" shall have the meaning set forth in subsection 12.2.1.

1.1.57. "FORECLOSURE TRANSFEREE" shall have the meaning set forth in subsection 12.2.1.

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

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

1.1.60. "IMPROVEMENTS" means all buildings, structures, fixtures, docks, anchorage facilities, fences, fountains, walls, paving, parking areas, driveways, walkways, plazas, landscaping, permanently affixed utility systems and other improvements now or hereafter located on the Premises, including without limitation, the Redevelopment Work.

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

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

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

1.1.64. "INSTITUTIONAL LENDER" shall have the meaning set forth in subsection 12.3.1.

1.1.65. "INSURANCE RENEGOTIATION DATE" shall have the meaning set forth in Section 9.6.

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

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

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

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

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

1.1.71. "LETTER OF CREDIT" shall have the meaning set forth in Section 7.1.

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

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

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

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

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

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

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

1.1.79. "NEW COMMERCIAL BUILDING" shall have the meaning set forth in Section 5.1.

1.1.80. "NOTICE OF COMPLETION" shall have the meaning set forth in subsection 5.7.7.

1.1.81. "ON-SITE PARKING SPACES" shall have the meaning set forth in subsection 15.20.1.

1.1.82. "OPERATION PLAN" shall have the meaning set forth in subsection 15.20.4.

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

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

1.1.85. "ORIGINAL LEASE" shall have the meaning set forth in the preamble to this Lease.

1.1.86. "ORIGINAL TERM" shall have the meaning set forth in the preamble to this Lease.

1.1.87. "OWNERSHIP INTERESTS" shall have the meaning set forth in subsection 12.1.1.

1.1.88. "PARCEL 147" shall mean the property previously commonly known as Parking Lot 8 or Parcel OT, including the annexation of a portion of Parcel P, in the Marina del Rey Small Craft Harbor [and currently leased by County to Lessee's affiliate, MDR Oceana, LLC, a California limited liability company, pursuant to that certain Lease Agreement dated _____ (the "Parcel 147 Lease")].

1.1.89. "PARCEL 20" shall mean the property commonly known as Parcel 20 in the Marina del Rey Small Craft Harbor and currently leased by County to Lessee's affiliate, Panay Way Marina, L.P., a California limited partnership, pursuant to that certain Amended and Restated Lease Agreement dated September 9, 2004, as amended by that certain Amendment No. 12 to Amended and Restated Lease dated as of _____, 2007 (as so amended, the "Parcel 20 Lease").

1.1.90. "PARCEL 147 LESSEE" shall mean the lessee from time to time under the Parcel 147 Lease.

1.1.91. "PARCEL 20 LESSEE" shall mean the lessee from time to time under the Parcel 20 Lease, and any other lessee of Parcel 20 (or the portion of Parcel 20 on which the anchorage improvements are located) designated from time to time by County.

1.1.92. "PARKING STRUCTURE" shall have the meaning set forth in Section 5.1.

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

1.1.94. "PARTIAL TERMINATION DATE" shall have the meaning set forth in Section 2.2.

1.1.95. "PARTIAL TERMINATION PREMISES" shall have the meaning set forth in Section 2.2.

1.1.96. "PAYMENT BOND" shall have the meaning set forth in subsection 5.5.4.2.

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

1.1.98. "PERFORMANCE BOND" shall have the meaning set forth in subsection 5.5.4.1.

1.1.99. "PERMITTED CAPITAL EXPENDITURES" shall have the meaning set forth in Section 5.13.

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

1.1.101. "PREMISES" shall have the meaning set forth in the first recital to this Lease, as more specifically described in Exhibit A hereto.

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

1.1.103. "PROMENADE WORK" shall have the meaning set forth in Section 15.19.

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

1.1.105. "PUBLIC SERVICE PLAN" shall have the meaning set forth in subsection 4.2.2(t).

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

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

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

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

1.1.110. "RENOVATION FUND" shall have the meaning set forth in Section 5.15.

1.1.111. "RENOVATION PLAN" shall have the meaning set forth in Section 5.15.

1.1.112. "RENOVATION REQUIREMENT" shall have the meaning set forth in Section 5.15.

1.1.113. "REPLACEMENT PARCEL 147 PARKING SPACES" shall have the meaning set forth in subsection 15.20.1.

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

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

1.1.116. "REQUIRED COMPLETION DATE" shall have the meaning set forth in Section 5.7.

1.1.117. "SECTION" shall mean a Section of this Lease.

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

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

1.1.120. "STATE" shall mean the State of California.

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

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

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

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

1.1.125. "SUBSTANTIAL COMMENCEMENT OF CONSTRUCTION" shall have the meaning set forth in subsection 5.7.1.

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

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

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

1.1.129. "UNREASONABLE COUNTY ACT" shall have the meaning set forth in subsection 5.7.3.2.

1.1.130. "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.

1.2.1. As-Is. Lessee acknowledges that (1) it is currently in possession of the Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Premises since 1966, and (3) the Improvements now existing on the 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 County, City, 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. Unless terminated sooner in accordance with the provisions of this Lease, the term of this Lease shall be for the period commencing on September 1, 1966 and expiring at 11:59 p.m. on August 31, 2065 ("Term"). Each calendar year during the Term is referred to herein as a "Lease Year."

2.2 Partial Lease Termination. Effective upon the Partial Termination Date (as defined below), this Lease shall be terminated with respect to the westerly approximately 214 feet of the Premises (excluding the Promenade) as more particularly described on Exhibit A-1 attached to this Lease (the "Partial Termination Premises"). For purposes hereof, the "Partial Termination Date" means the earlier of (a) six (6) months following the issuance of the first certificate of occupancy for any portion of the "Development Work" described in the Parcel 147 Lease; or (b) six (6) months following the "Required Completion Date" under the Parcel 147 Lease; provided, however, that if the requirement for concurrent execution of the Parcel 147 Lease and this Lease is eliminated as contemplated under the Option Agreement, and the option for the Parcel 147 Lease is not exercised prior to the expiration or termination of such option, then the Partial Termination Date shall be the third (3rd) anniversary of the Effective Date of this Lease.

On or prior to the Partial Termination Date, Lessee shall (i) at Lessee's sole cost and expense, demolish and remove from the Partial Termination Premises all then-existing above and below-ground Improvements located on the Partial Termination Premises and construct a new surface parking lot (including without limitation, any required site work, paving, striping and lighting) on the Partial Termination Premises in accordance with plans and specifications provided by the Department (the "Parking Lot Work"), and (ii) surrender possession of the Partial Termination Premises to County. County agrees to use commercially reasonable efforts to cooperate with Lessee in the grant or reservation of any utility easements over the Partial Termination Premises required for the development of the remaining portion of the Premises as long as such utility easements do not interfere with the development and use of the Partial Termination Premises. If Lessee fails to perform its obligations under this Section 2.2 within the time periods required hereunder (subject to Force Majeure, as hereinafter defined, and subject to any applicable notice and cure periods), then such failure shall constitute a default by Lessee under this Lease, and in addition to any other rights or remedies that County may have in connection with such default, County shall have the right, but not the obligation, to exercise one or both of the following remedies: (I) to delay the Partial Termination Date until any date selected by County on or prior to the date of the completion of the Parking Lot Work, or (II) to perform the Parking Lot Work on Lessee's behalf, in which case Lessee shall be obligated under this Lease to pay to County the Actual Cost incurred by County in connection with the performance of the Parking Lot Work. No termination of the Lease with respect to the Partial Termination Premises shall release or relieve Lessee from its obligations under this Section 2.2, all of which shall survive any such termination. Subject to the immediately preceding sentence, effective on the Partial Termination Date the Term of the Lease shall expire with respect to the Partial Termination Premises and Lessee shall have no further rights or interests in the Partial Termination Premises (except as otherwise expressly provided herein). Subject to the performance of Lessee's obligations under this Section 2.2, Lessee shall continue to have all of its rights under this Lease with respect to the Partial Termination Premises (including without

limitation, the right to use and occupy the Partial Termination Premises) until the Partial Termination Date.

At County's request, Lessee shall execute an amendment to this Lease and a quitclaim deed with respect to the Partial Termination Premises, to confirm the termination of the Lease with respect to the Partial Termination Premises, and County and Lessee shall execute any other documents as reasonably necessary or appropriate to effectuate the termination of this Lease with respect to the Partial Termination Premises or the other matters set forth in this Section 2.2. Notwithstanding the foregoing, the termination of the Lease with respect to the Partial Termination Premises in accordance with the terms and provisions of this Section 2.2 shall not be conditioned upon the execution of any such amendment, quitclaim deed or other documentation. There shall be no adjustment to the Annual Minimum Rent or Percentage Rent payable under this Lease upon the termination of the Lease with respect to the Partial Termination Premises.

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 eleven (11) years, and no later than ten (10) 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 four (4) 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 by not later than four (4) years prior to the expiration of the Term (or concurrently on any earlier termination of the Lease by County) 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, following an election by County to cause Lessee to remove the structures, buildings and Improvements as described in subsection 2.4.2 above, Lessee in fact fails to so remove said structures, buildings and Improvements and restore the Premises, County may 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 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) a commercial building used for retail, office, health club and yacht club purposes; (ii) boat anchorage facilities, including transient boat accommodations and liveaboards; (iii) a parking structure to (A) satisfy the parking requirements for the other Improvements located on the Premises, including the boat anchorage facilities, (B) provide 112 parking spaces to serve the boat anchorage facilities located on Parcel 20, and (C) provide 94 parking spaces as replacement public parking for public parking terminated on Parcel 147 in connection with the development of Parcel 147; and (iv) such other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the "Permitted Uses"). Expect as specifically provided herein, the Premises shall be used for no other purpose 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.

Pacific Mariners Yacht Club and one or more other commercial tenants (the "Parcel 20 Commercial Subtenants") currently occupy the existing commercial building located on Parcel 20. Lessee agrees to offer to sublease to the Parcel 20 Commercial Subtenants a comparable amount of space in the New Commercial Building to facilitate the relocation of the Parcel 20 Commercial Subtenants to the New Commercial Building. The sublease offered to each of the Parcel 20 Commercial Subtenants shall be on market rate economic terms and conditions (but any non-economic terms and conditions, such as, but not limited to, liability and indemnification provisions, may at Lessee's option be consistent with those set forth in the Parcel 20 Commercial Subtenants' current subleases existing as of the date hereof).

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 governmental or public agency requirements;

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 surface waters and 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

3.2.2.8.The following uses shall not be permitted: (a) fuel sales; (b) boat or vehicle repair, other than minor servicing or owner maintenance; (c) live bait sales; (d) commercial sportfishing and tour boats; or (e) residential use.

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 commercial, boat anchorage and parking facilities, and that 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 Premises shall be open every day of the year. Any changes in the days and/or hours of operation of the public portions of 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.

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 commercial, boat anchorage and parking 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 or City existing as of the Effective Date or otherwise disclosed to or known to Lessee, as their interests 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 or the City to convey such easements and transfer such rights to others.

The Lease of the Premises is also subject to the easements reserved in Sections 15.19 and 15.20 below.

3.9 Yacht Club Use. It is agreed and acknowledged by County and Lessee that a primary purpose of the yacht club use permitted under Section 3.1 above is to provide for a continuing and ongoing program in boating instruction and safety and to contribute to the pleasure of private boat ownership by participation in yachting regattas and similar competitive events. To that end, Lessee agrees and covenants to undertake and carry on and participate in those activities set forth on Exhibit C attached hereto, or such substitute activities as may be hereafter approved by Director.

An annual Public Service Plan shall be submitted by Lessee for Director's approval, on or prior to January 15 of each year, certifying that, and describing the manner in which, the requirements of this Section 3.9 have been satisfied by Lessee, together with Lessee's plans to meet such requirements in the current calendar year.

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 4.3 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"), except that any amounts payable for less than a full calendar year or month shall be prorated based on the number of days in such partial year or month as compared to the total number of days in the full calendar year or month during which such period occurs. During the period from the Effective Date until the earlier of the Completion Date or the Required Completion Date, the Annual Minimum Rent shall be equal to the product of (a) the average of the total Annual Rent payable by Lessee for each of the most recent three (3) year preceding the Effective Date but prior to the date that Lessee caused or permitted any space in the Improvements to become vacant in contemplation of the demolition and redevelopment of the Premises pursuant to Section 5.1 of this Lease, multiplied by (b) .75. During the three year period from and after the earlier of the Completion Date or the Required Completion Date, the Annual Minimum Rent shall be Two Hundred Fifteen Thousand Dollars ($215,000.00) per year. From and after the third anniversary of the earlier of the Completion Date or the Required Completion Date, the Annual Minimum Rent shall be as set forth in Sections 4.3 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 amounts set forth in this Section. Gross Receipts (as defined herein) from each transaction, sale or activity of Lessee and/or any sublessee shall be reported under one or more of the following percentage categories, as applicable. It is understood that Article 3 of this Lease provides for the Permitted Uses of the Premises and that the percentage categories listed below are not all applicable to this Lease and are in no way intended to expand or modify the Permitted Uses. Director, by Policy Statement and with the approval of Lessee, Auditor-Controller and County Counsel, has interpreted and may further interpret the percentage categories as set forth in this subsection 4.2.2, with such determinations and interpretations to be a guideline in determining the appropriate categories. Within fifteen (15) days after the close of each and every calendar month of the term hereof, Lessee shall file a report of Gross Receipts and pay to County a sum equal to the total of the following percentages for said previous month, less the amount of monthly installment of minimum rent paid for said previous month as provided herein:

(a) TWENTY FIVE PERCENT (25%) of Gross Receipts or other fees for the rental or use of boat slips, anchorages, moorings, dockside storage space, and such other facilities and services ancillary thereto as are generally provided in common to tenants thereof, including receipts obtained from persons who live on their boats; provided, however, that Percentage Rent from dockside gear lockers shall be TWENTY PERCENT (20%) of Gross Receipts therefrom;

(b) TWENTY FIVE PERCENT (25%) of Gross Receipts from the rental or other fees charged for the use of dry storage facilities, landside storage space, boats, motors, tackle, recreational equipment, tools, equipment, launch and retrieving of small boats and from the sale of live bait; provided, however, that Percentage Rent from landside gear lockers shall be TWENTY PERCENT (20%) of Gross Receipts therefrom;

(c) TEN AND ONE-HALF PERCENT (10.5%) of Gross Receipts or other fees charged for the occupancy of structures and other facilities including but not limited to (1) apartments, (2) hotel and/or motel accommodations, (3) house trailers, (4) meeting rooms, and (5) rental of land and/or water or facilities for activities not otherwise provided for in this Section such as but not limited to television and/or motion pictures;

(c1) TWELVE PERCENT (12%) of Gross Receipts or other fees charged for the occupancy of (1) offices utilized for banking, financial or investment activities, internal clerical or administrative activities, business enterprises, real estate and insurance brokerage, legal, medical, engineering, travel agencies, yacht club purposes, or similar uses; or (2) restaurants, stores, shops, or other commercial establishments; provided that, except as provided in subsection 4.2.2.5, Gross Receipts or other fees charged for the occupancy of restaurants, stores, shops or other commercial establishments shall not be included in the calculation of Percentage Rent under this subsection (c1) if the Gross Receipts from the operation of such businesses are required to be reported under other subsections of this Section;

(d) [INTENTIONALLY BLANK] _____ PERCENT (__%) of Gross Receipts from the sale of new or used boats, boat trailers, house trailers and trailer cabanas including credits for used items taken in trade as part payment for new items, as reflected in the bill of sale. However, the trade-in allowance for such used item taken in trade may be deducted from the sale price of said used item, provided said used item is sold within one hundred twenty (120) days of the date of the bill of sale which established said trade-in allowance;

(e) TWENTY FIVE PERCENT (25%) of commissions or other fees earned from boat brokerage, car rental agencies, marine insurance commissions where the sale of insurance is conducted in conjunction with boat sales and/or boat brokerage, laundry and dry cleaning commissions and other similar activities where earnings are normally on a commission basis when said activity is approved in advance by Director;

(f) FIVE PERCENT (5%) of Gross Receipts received by Lessee or sublessee, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee, from service enterprises, including, without limitation, cable, internet, satellite, telecommunication, telephone and other utility services, and valet parking services;

(g) SIX PERCENT (6%) of Gross Receipts received by Lessee or sublessee, or TWENTY PERCENT (20%) of any commissions or fees collected from commercial boating activities including, but not limited to, charter boat, bareboat charters and sportfishing boats;

(h) FIVE PERCENT (5%) of Gross Receipts received by Lessee or sublessee or TWENTY-FIVE PERCENT (25%) of any commissions or other fees collected for the installation and/or operation of coin-operated vending or service machines, including pay telephones;

(i) TEN PERCENT (10%) of Gross Receipts from the operation of a bar, tavern, cocktail lounge, discotheque, night club or other facilities engaged primarily in the on-premises sale of alcoholic beverages except as provided for in subsection (j);

(j) FOUR PERCENT (4%) of Gross Receipts from the operation of any restaurants, restaurant/cocktail lounge combination, coffee shops, beach and theater food facilities, except that Gross Receipts from facilities established and operated as a take-out food operation shall be reported under subsection (s); a "take-out food operation" shall mean a restaurant or other food operation a majority of the Gross Receipts from which are derived from the sale of food or beverages to be consumed off-site;

(k) Intentionally omitted;

(l) Intentionally omitted;

(m) FIFTEEN PERCENT (15%) of Gross Receipts from club dues, initiation fees, and assessments, except that separate assessments for capital improvements may be exempted; provided that to qualify for such an exemption Lessee must comply with the "Criteria for Eligibility for Exemption of Special Assessments from Gross Receipts" issued by the Director;

(n) [INTENTIONALLY BLANK] _____ PERCENT (__%) of Gross Receipts or other fees charged from the operation of sightseeing boats, tour boats or water taxis;

(o) Intentionally omitted;

(p) [INTENTIONALLY BLANK] _____ PERCENT (___%) of Gross Receipts or other fees charged by authorized boat repair yards,

including repair, painting, tugboat, salvage and boat pump-out services and similar activities;

(q) FIVE PERCENT (5%) of Gross Receipts of cover charges or other fees charged for admission to facilities featuring entertainment, excluding movie theaters, whose Gross Receipts shall be reportable under subsection (s);

(r) TWENTY FIVE PERCENT (25%) of Gross Receipts from parking fees, except that (1) parking fees or charges, if any, which are collected in conjunction with an activity the Gross Receipts from which are required to be reported in a percentage category higher than twenty five percent (25%) shall be included in Percentage Rent at such higher percentage; and (2) valet parking charges, fees and tips shall not be included in Percentage Rent under this subsection, but instead shall be included in Percentage Rent under subsection (f) above;

(s) FIVE PERCENT (5%) of Gross Receipts from the sale of miscellaneous goods and services consistent with the Permitted Uses but not specifically provided for elsewhere in this Section;

(s1) FIVE PERCENT (5%) of the Gross Receipts from the operation of all stores, shops or boutiques selling items at retail; and,

(t) Notwithstanding the foregoing, and notwithstanding the provisions of subsection (m) of this subsection 4.2.2, the percentage of Gross Receipts payable from club dues, initiation fees, and assessments shall be TEN PERCENT (10%) for so long as Lessee is in compliance with its "Public Service Plan". For the purposes of this subsection, compliance with its "Public Service Plan" shall mean, for any calendar year or portion thereof, that (1) Lessee has submitted to Director no later than January 15 of such year, and Director has approved, satisfactory evidence that Lessee has expended in the prior calendar year an amount no less than five percent (5%) of Gross Receipts payable from club dues, initiation fees, and assessments toward public service programs and expenditures which have been approved by Director and which may include Lessee's costs of compliance with the terms of Section 3.9 hereof. Such Public Service Plan shall additionally set forth in detail Lessee's plans, arrangements and intention to comply with the provisions of Section 3.9 of this Lease for such calendar year, together with (i) a Lessee's written certification that it has complied with the terms of Section 3.9 of this Lease and has fully implemented its Public Service Plan, as approved by Director, for the prior calendar year and (ii) Lessee's proposed expenditures of no less than five percent (5%) of Gross Receipts payable from club dues, initiation fees, and assessments toward public service programs in the current calendar year, to the extent that Lessee desires to avail itself of the percentage rent reduction in this subsection 4.2.2(t). In the event that Director disapproves Lessee's Public Service Plan or otherwise determines that Lessee is not in compliance with the requirements of its Public Service Plan or Section 3.9 of this Lease, or Lessee fails to provide Director with adequate

documentation evidencing Lessee's expenditures or compliance with the prior year's Public Service Plan, which failure is not remedied within thirty (30) days after written notice from Director to Lessee, the Percentage Rent applicable to the foregoing income category shall be increased by FIVE PERCENT (5%) from and after the first day of the first month after the date upon which Director determines Lessee was no longer in compliance with its Public Service Plan until compliance is reestablished to the satisfaction of Director. Nevertheless, Lessee's failure to comply with the requirements of its Public Service Plan (other than with respect to the requirements of Section 3.9) shall not constitute an Event of Default hereunder.

(u) The specific percentages set forth above apply to those Permitted Uses of the Premises which are applicable as of the Execution Date. Where a specific percentage in the foregoing schedule has not been provided, then, concurrent with County or Director's approval of a specific additional or related use, Director shall establish the specific percentage to be applied to such additional or related use. Such percentage shall be the greater of (1) the average percentage rent received by County with respect to that category of activities within Marina del Rey, California at the time of approval of the additional or related use, and (2) the most recent agreement by County, whether by arbitration or otherwise, with respect to the appropriate percentage to be applied to that use. The percentage rent for the related use as determined by Director shall remain in effect until the next Renegotiation Date.

4.2.2.1.Other Activities. If Director or Lessee determine that a percentage of Gross Receipts is not suitable or applicable for a particular activity not described above, although permitted hereunder, Director and Lessee shall mutually establish a minimum monthly payment to County as payment for the privilege of engaging therein, which shall remain effective until the next Renegotiation Date. Said minimum monthly amount shall be reasonable in accordance with the revenue generated by such activity and shall be included in Percentage Rent, as determined hereunder, in lieu of a percentage of Gross Receipts therefor. If Director and Lessee cannot agree upon such reasonable minimum monthly payment, the matter shall be resolved by arbitration as provided in Article 16 hereof.

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 all money, cash receipts, or other things of value, including but not limited to gross charges, sales, rentals, common area maintenance payments, operating expense 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 or merchandise.

(i) 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.

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

(iii) 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 by Lessee for amounts owed by subtenants, assignees, licensees concessionaires or permittees 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. Notwithstanding anything to the contrary contained herein, Lessee shall be permitted to make monthly payments of Percentage Rent using the cash method of accounting to determine Gross Receipts, provided that Lessee provides County with an annual reconciliation of its cash basis determination of Gross Receipts to the accrual method (together with payment of any additional Percentage Rent due).

(iv) 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 or Sublessee, 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 Sublessee, or the amount of cash refunded or credit allowed thereon in lieu of Lessee's or Sublessee'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 or Sublessee 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 or Sublessee's stock in trade;

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

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

f. the Cost of Sublessee's submetered electricity, provided (1) each Sublessee's obligation to reimburse Lessee for such Sublessee's electrical charges is separate and apart from such Sublessee's obligation to pay rent for its occupancy of the Premises; (2) the reimbursed sum is in an amount equal to the Cost of the Sublesee's electricity; and (3) the receipt is actually credited against the cost of the Sublessee's electricity. For the purpose of the foregoing sentence, the "Cost" of the Sublessee's electricity shall mean the actual costs incurred by Lessee, exclusive of overhead and general and administrative expenses, in paying the portion of the respective utility's electric bill that is allocable to the Sublessee based on such Sublessee's submetered consumption of electricity, and in paying the portion of any third party submeter reading and service charge to each submeter that is actually read and a direct allocation of the submeter service charge to each such submeter that is serviced. County shall have the right to approve all submeters and to challenge the legitimacy or amount of any Cost, and all disputes regarding such County approvals or challenges, if not resolved by the parties within thirty (30) days after notice to Lessee of such disapproval or challenge, shall be resolved by arbitration pursuant to Article 16 of this Lease.

4.2.2.4.Excess Payments Credit. If rent payments actually made by Lessee in a particular Lease Year exceed the total rentals actually due for that year as computed on an annual basis at the end of each 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 subsection 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 except for those uses or occupations delineated under Item (1) of subsection (c1) of subsection 4.2.2, Lessee shall report whichever of the following results in the greater percentage rental: (1) the Gross Receipts of each Sublessee under one or more of the appropriate subsections of this Section; or (2) Lessee's receipts from each Sublessee under subsection (c) or (c1) of this Section.

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.

4.3 Adjustments to Annual Minimum Rent. As of the third (3rd) anniversary of the Completion Date (or as of the third (3rd) anniversary of the Required Completion Date if the Completion Date does not occur on or before the Required Completion Date) (the "First Adjustment Date") and as of each third (3rd) anniversary of the First Adjustment Date thereafter (each an "Adjustment Date" and collectively the "Adjustment Dates"), the Annual Minimum Rent shall be adjusted. Until the Renegotiation Date provided in Section 4.4 hereof, 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 scheduled total annual rent due (including Monthly Minimum Rent and Percentage Rent) from Lessee to County under Section 4.2 of this Lease during the thirty-six (36) month period immediately preceding the Adjustment Date; provided, however, if the Completion Date does not occur by the Required Completion Date, then for purposes of determining the average total annual rent that was payable for the thirty-six (36) month period prior to the First Adjustment Date, the total per diem annual rent for the period from the Required Completion Date until the Completion Date shall be deemed to be the same total per diem annual rent that was payable by Lessee for the period from the Completion Date until the next anniversary of the Required Completion Date.

4.4 Renegotiation of Annual Minimum and Percentage Rents. Effective on each tenth (10th) anniversary of the Completion Date (or effective on each tenth (10th) anniversary of the Required Completion Date if the Completion Date does not occur on or before the Required Completion Date (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. Notwithstanding any contrary provision hereof, in no event shall the Fair Market Rental Value of Percentage Rents ever be less than the specific numeric percentages set forth in subsection 4.2.2 of this Lease.

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, compounded monthly, 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:

(i) 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,

(ii) the interest rate applicable to any period of time in excess of six (6) months following the Renegotiation Date shall be the average daily variable 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.

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 4.2.2.4. 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 within five (5) days after 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 not paid within five (5) days after the date due and payable; provided that the Late Fee shall be waived with respect to the first occurrence during any Lease Year of a late payment if such payment is received by County within one (1) business day following written notice from County that the unpaid amount was not paid by the date due. 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 11 and 12 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, (b) Lessee's granting of a Major Sublease or (c) any transaction or series of related transactions not described in subsections 4.6.1(a) or (b) 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 shall not be deemed to create an obligation to pay County a Net Proceeds Share, and, except for a transfer described in subsection 4.6.2.1, County shall have no approval rights with respect thereto (other than those approval rights set forth below regarding the managing general partner of Lessee), although County shall be provided with prior written notice of the change of ownership and Lessee shall reimburse County for the Actual Cost of its review of such transactions, which review with respect to the transactions described in subsections 4.6.2.2 through 4.6.2.6 shall be limited to confirming that each change of ownership qualifies as an Excluded Transfer under this subsection 4.6.2:

4.6.2.1.a transfer by any direct or indirect partner (which for purposes of this subsection 4.6.2 shall also mean member, shareholder or other interest holder if Lessee becomes an entity other than a partnership) of Lessee as of the Execution Date, to any other direct or indirect partner of Lessee as of the Execution 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, or a transfer by a direct or indirect partner of Lessee directly to a spouse, sibling or descendant; provided, however, that County shall at all times have the right to approve the managing general partner, or managing member if Lessee hereby becomes a limited liability company (and the controlling interest in such managing general partner or managing member), of Lessee following such a transfer;

4.6.2.3.a transfer of the existing interests in Lessee held by a direct or indirect partner of Lessee to any living trust, by way of gift, devise, intestate succession or operation of law, where the transferee living trust's assets are substantially the same as the transferor and the beneficiaries of said trust are members of the transferor's immediate family (which for the purposes of this subsection shall be limited to the transferor's spouse, children, parents, siblings and grandchildren), together with the subsequent transfer of such interests to such beneficiaries upon the death of such partner; provided, however, the parties

acknowledge (a) that a subsequent dilution or transfer of said interests shall be subject to County approval and fees as provided herein, and (b) County shall have at all times the right to approve the managing general partner, or managing member in the event that Lessee becomes a limited liability company (and the controlling interest in such managing general partner or managing member), of Lessee.

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;

4.6.2.5.a mere change in the form, method or status of ownership (other than a transfer of beneficial interests between or among individuals and/or entities controlled by such individuals); provided that this exclusion shall not apply to a single transaction or series of related transactions whereby an Aggregate Transfer of fifty percent (50%) or more of the beneficial interests in Lessee, this Lease or a Major Sublease has occurred, except if the transfer is purely a change in the form of ownership, such as a conversion of Lessee's partnership to a corporation or limited liability company, as long as there is a continuity of management; or

4.6.2.6.any transfer resulting from a Condemnation by County or other governmental entity having the power of eminent domain if consented to 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. Failure of County to approve the Calculation Notice in writing within such thirty (30) day period shall be deemed to constitute County's disapproval thereof. Failing mutual agreement within thirty (30) days after the expiration of said thirty (30) day 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. 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"), such note shall be valued at its face amount; 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. Any disputes between County and Lessee as to whether the interest rate on a Purchase Money Note is in excess of a market rate or with respect to the valuation of a Purchase Money Note with an above-market rate of interest, shall be settled by arbitration pursuant to Article 16 below.

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; provided, however, that the transferee shall not be liable for the payment of the Administrative Charge or Net Proceeds Share if the transferor provides County with a deposit, letter of credit or other security satisfactory to County for the payment thereof. 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.

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. $_____ (the "Existing Value"), (b) the amount of the Option Fee paid by Lessee under the Option Agreement, (c) the actual out-of-pocket costs incurred by Lessee for its third party consultants and attorneys in connection with the negotiation and consummation of the transactions resulting in the execution of this Lease, and (d) the Actual Costs reimbursed by Lessee to County pursuant to Section 15.3 of this Lease (the "Base Value"); plus

4.8.1.2. 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 (including future capital redevelopment and rehabilitation work, but not periodic maintenance and repair) to the Premises in accordance with the requirements of this Lease ("Improvement Costs"), whose costs have been submitted to Director within thirty (30) days after the completion of such Improvements and which costs shall have been certified in writing to Director by Lessee to have been incurred, along with evidence reasonably satisfactory to Director that such costs have been incurred. Alternatively, with respect to capital improvements that are not part of the initial Redevelopment Work, Lessee shall be entitled to adopt a program of annual submissions to Director within ninety (90) days following the end of each Lease Year. Construction costs shall include all hard and soft costs (including out-of-pocket design and predevelopment costs incurred prior to the date of the Lease for Redevelopment Work or other physical Improvements constructed after the Effective Date, construction period interest on Lessee's construction loan, and developer fees incurred by Lessee, as long as such developer fees do not exceed four percent (4%) of hard construction costs); plus

4.8.1.3. commissions, title and escrow costs, documentary transfer taxes, reasonable attorneys' fees, prepayment or yield maintenance premiums and 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 (collectively, "Documented Transaction Costs"); plus

4.8.1.4 That portion of the principal amount of any Financing Event after the Effective Date that constituted Net Refinancing Proceeds on which Lessee paid County a Net Proceeds Share.

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 plus the amount of any Improvement Costs incurred prior to such successor Lessee's acquisition of its leasehold interest in the Premises, (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired (or the fair market value of the interests transferred in connection with the seller's acquisition of the leasehold if utilized in connection with the calculation of Net Transfer Proceeds with respect to that sale) or (c) the original principal amount of any Financing Event or Financing Events (on a non-duplicative basis) after such successor Lessee's acquisition of the leasehold and with respect to which County was paid a Net Proceeds Share, plus the principal amount of any financing existing as of the date on which such seller acquired the leasehold or subsequently obtained by Lessee, if such financing has not been refinanced, but without duplication;

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 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 Existing Value (if any) and Improvement Costs in determining Net Transfer Proceeds, the cost to the transferor of the interest being transferred 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 such Net Proceeds Share, 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 Execution Date, minus (i) the greatest of (a) the Existing Value, (b) the principal amount of Lessee's existing financing as of the Execution Date or (c) the principal amount of any subsequent refinancing by Lessee in connection with which County was paid a Net Proceeds Share, together with any portion of the proceeds of the Financing Event which shall be used for Improvement Costs, (ii) other Improvement Costs incurred by Lessee and not paid for or repaid with the proceeds of any Financing Event, and (iii) Documented Transaction Costs with respect to such Financing Event.

4.8.6. Effect of Refinancing on Improvement Costs. Upon payment to County of a Net Proceeds Share in connection with a Financing Event, then the Improvement Costs incurred by Lessee prior to such Financing Event shall be increased by the amount of New Refinancing Proceeds derived from such Financing Event and the Documented Transaction Costs in connection therewith and shall be in addition to Improvement Costs incurred by Lessee after such Financing Event.

4.8.7. 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.

4.8.8. 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 and late fee 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).

4.8.9. Shareholder, Partner, Member, Trustee and Beneficiary List. Prior to the Execution Date, prior to each subsequent 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. CONSTRUCTION OF IMPROVEMENTS.

5.1 Redevelopment Work. It is expressly understood and agreed that Lessee shall demolish the existing Improvements located on the Premises, and construct new Improvements on the Premises in accordance with the Redevelopment Plan attached to this Lease as Exhibit B, including without limitation, the following new Improvements: (i) a new commercial building (the "New Commercial Building") containing not less than 29,000 square feet of rentable area of space to be initially allocated approximately as follows: 5,000 rentable square feet of yacht club space, 10,000 rentable square feet of health club space, 2,916 rentable square feet of retail space and 11,432 rentable square feet of marine commercial office space; (ii) an attached parking structure with 447 parking spaces or such other number of parking spaces as required under Section 15.20 below (the "Parking Structure"); (iii) complete replacement of the existing 182 boat slips and related Improvements with 88 new boat slips with an average slip length of 36 lineal feet and related Improvements (all such boat slips and related Improvements, as approved and constructed, the "Anchorage Improvements"); and (iv) the Promenade Work described in Section 15.19 of this Lease. The demolition and construction work described in the immediately preceding sentence, along with all associated improvement, hardscape, landscape and other site work approved by County and to be performed in connection with such construction work, are herein collectively referred to as the "Redevelopment Work." The design, density, site coverage,

layout and open space, view corridors, building height, 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 Entitlements. The boat slips to be constructed as part of the Anchorage Improvements shall be constructed with concrete or such other materials as approved by the Director. 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 the Minimum Development Cost (as defined below) for the cost of the Redevelopment Work, which expenditures shall be subject to the verification and reasonable approval by County. The "Minimum Development Cost" shall mean $13,000,000 increased by the same percentage increase (if any) in the ENR Index from April, 2005 through the date of the commencement of construction of the Redevelopment Work. Lessee shall comply with all time deadlines and schedules set forth in this Section 5 relating to the completion of the design and construction of the Redevelopment Work. Lessee's failure to do so shall, if not cured within the applicable cure set forth in subsection 13.1.2, constitute an Event of Default.

5.2 Schematics and Narrative. If, and to the extent, not completed by Lessee prior to the Effective Date in accordance with Section 4.3 of the Option Agreement, 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 any and all Improvements to be constructed, altered or modified on the Premises as part of the Redevelopment Work. Such plans shall, among other things, clearly delineate the architectural theme or motif of the Improvements 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. The schematic plans and other materials required to be submitted by Lessee after the Effective Date pursuant to this Section 5.2 (i.e., not including those required to be submitted by Lessee during the Option Term pursuant to Section 4.3 of the Option Agreement) shall be submitted by Lessee to Director in accordance with a schedule that facilitates Lessee's completion of the Redevelopment Work on or before the Required Completion Date (subject to any extension thereof permitted hereunder) set forth in Section 5.7 below (taking into consideration the other plan submittal and approval periods set forth in this Lease). Director shall have sixty (60) days within which to approve or disapprove Lessee's submission under this Section 5.2. 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 Approved Final Plans, Specifications and Costs, as defined herein) by Director, if changes in such plans are required by conditions of approval of the Improvements 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 Preliminary Plans and Specifications. If, and to the extent, not completed by Lessee prior to the Effective Date in accordance with Section 4.3 of the Option Agreement, Lessee shall submit to Director six (6) sets of preliminary plans, outline specifications and construction cost estimates for the Improvements set forth therein. 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. The preliminary plans, outline specifications and construction cost estimates required to be submitted by Lessee after the Effective Date pursuant to this Section 5.3 (i.e., not including those required to be submitted by Lessee during the Option Term pursuant to Section 4.3 of the Option Agreement) shall be submitted by Lessee to Director in accordance with a schedule that facilitates Lessee's completion of the Redevelopment Work on or before the Required Completion Date set forth in Section 5.7 below (taking into consideration the other plan submittal and approval periods set forth in this Lease). Director shall have twenty-one (21) days within which to approve or reasonably disapprove Lessee's submission under this Section 5.3, 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 SECTION 5.3 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."

5.4 Final Plans and Specifications. If, and to the extent, not completed by Lessee prior to the Effective Date in accordance with Section 4.3 of the Option Agreement, Lessee shall submit for approval by Director six (6) complete sets of final plans, detailed specifications and a construction cost statement for all Improvements to be constructed, altered or modified by Lessee on the Premises, 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 Improvements from those described in the approved preliminary plans and specifications shall be separately identified and described. The final plans and other materials required to be submitted by Lessee after the Effective Date pursuant to this Section 5.4 (i.e., not including those, if any, required to be submitted by Lessee during the Option Term pursuant to Section 4.3 of the Option Agreement) shall be submitted by

Lessee to Director in accordance with a schedule that facilitates Lessee's completion of the Redevelopment Work on or before the Required Completion Date set forth in Section 5.7 below, taking into consideration the Director's approval periods set forth in Section 5.5.1 below.

5.5 Conditions Precedent to the Commencement of Construction. No construction, alteration or modification by Lessee of any Improvements on the Premises shall be commenced until each and all of the following conditions have been satisfied:

5.5.1. Approval of Final Plans and Specifications. The final plans, detailed construction specifications and construction cost statement described in Section 5.4 for the Improvements have been approved by Director ("Approved Final Plans, Specifications and Costs"), which approval shall not be unreasonably withheld provided that the final plans and specifications reflect a natural progression and logical evolution from the approved preliminary plans and specifications. 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 preliminary plans 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 SECTION 5.5.1 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 Improvements described in the Approved Final Plans, Specifications and Costs without the prior written approval of Director, which shall not be unreasonably withheld.

5.5.2. Permits and Other Approvals. Lessee shall have received and furnished County with copies of all permits, licenses and other governmental approvals necessary

to construct the Improvements described in the Approved Final Plans, Specifications and Costs. Lessee agrees to apply for all such permits, licenses and other governmental approvals at the earliest commercially reasonable time and thereafter shall use diligent efforts (which shall be deemed to include expenditures of funds, including without limitation application fees, travel, architectural, consulting and lobbying fees, as reasonably necessary to expedite the permit, license or other approval process) to procure such permits, licenses and other approvals at the earliest reasonably possible time.

5.5.3. 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 Improvements described in the Approved Final Plans, Specifications and Costs.

5.5.4. 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 or with other security for the construction of the Improvements as set forth in subsection 5.5.5 below:

5.5.4.1.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 Final Plans, Specifications and Costs. 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, Specifications and Costs.

5.5.4.2.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 set forth in the Approved Final Plans, Specifications and Costs, 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 5.5.4.

5.5.5. Alternative Security. In lieu of providing the Payment and Performance Bonds, Lessee may (i) deposit a Certificate of Deposit with County or post an additional Letter of Credit in favor of County, equal in amount to one hundred percent (100%) of the construction contract price, which may be drawn upon by County to complete the construction of the Improvements if same have not been completed by Lessee or if an Event of Default has occurred under this Lease, or (ii) provide a payment and performance guaranty from an individual or entity acceptable to County and in form and substance acceptable to County, which guaranty shall guaranty (I) the Lessee's obligation to complete the Improvement described in the Approved Final Plans, Specifications and Costs, and (II) the payment for all materials, provisions, supplies and equipment used in, upon, for or about the performance of said construction work and for labor performed in connection therewith. A condition precedent to Lessee's right to provide the alternative security described in this Section 5.5.5 shall be delivery by Lessee to County of an opinion of counsel from a firm and in a form acceptable to County to the effect that the construction of the Improvements does not constitute a public work of improvement requiring the delivery of the bonds described in Section 5.5.4 above.

5.5.6. Evidence of Financing. Lessee shall have provided evidence satisfactory to County of its having sufficient financial resources, as determined by Director, to complete the Improvements as set forth in the Approved Final Plans, Specifications and Costs. 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, documents evidencing equity contributions, 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, within seven (7) days after such document or instrument becomes effective.

5.5.7. Work Schedule. Lessee shall have provided County with a construction schedule reasonably acceptable to Director. Such construction schedule for the Redevelopment Work shall be consistent with the completion of the Redevelopment Work, as set forth in the Approved Final Plans, Specifications and Costs, on or before the Required Completion Date set forth in Section 5.7 below, as such date may be extended as provided in this Article 5.

5.6 County Cooperation. In its proprietary capacity, the Department shall cooperate with and assist Lessee, to the extent reasonably requested by Lessee, in Lessee's efforts to obtain the appropriate governmental approvals, consents, permits or variances which may be required in connection with the performance by Lessee of the Redevelopment Work. Such cooperative efforts may include the Department's joinder in any application for such approval, consent, permit or variance, where joinder therein by the Department is required or helpful; provided, however, that Lessee shall reimburse County for the Actual Cost 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 Lease are approvals pursuant to its authority under Section 25907 of the California Government Code; that approvals given under this 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 Improvements on the Premises and operation and other use of such Improvements on the Premises; and that the

Department's duty to cooperate and County's approvals under this 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 Lease.

5.7 Construction Schedule.

5.7.1. Substantial Commencement of Construction. It is a condition of this Lease that, except to the extent Lessee is prevented from so doing by the events identified in subsection 5.7.3, Lessee shall cause the Substantial Commencement of Construction of the Redevelopment Work to have occurred in accordance with the Approved Final Plans, Specifications and Costs by the date therefore set forth in the construction schedule approved by Director pursuant to Section 5.5.7 above, and shall substantially complete the Redevelopment Work by not later than the fifth (5th) anniversary after the Effective Date (the "Required Completion Date"). For the purposes of this Lease, "Substantial Commencement" or "Substantial Commencement of Construction" shall mean that all demolition and excavation work required in connection with the Redevelopment Work has been completed and the construction of the new Improvements to be constructed as part of the Redevelopment Work has been commenced. The required date for the Substantial Commencement of Construction and the Required Completion Date will only be extended under the specific circumstances set forth in subsection 5.7.3, and under no other circumstances. Notwithstanding the foregoing, the parties hereto specifically agree that so long as Lessee is otherwise diligently and in good faith attempting to satisfy the condition set forth in the first sentence of this subsection 5.7.1, and as long as it would have been extremely unlikely that any other developer could have caused the subject Improvements to be Substantially Commenced and/or completed within such timeframe, then Lessee will not be in breach of this subsection for its failure to achieve Substantial Commencement by the required date set forth herein or completion of the Redevelopment Work by the Required Completion Date.

5.7.2. After Substantial Commencement. Once construction of the Improvements set forth in the Approved Final Plans, Specifications and Costs has been Substantially Commenced, Lessee shall thereafter diligently pursue the completion of such construction by the Required Completion Date in substantial compliance with the Approved Final Plans, Specifications and Costs. Completion of construction of the Improvements following Substantial Commencement will be extended only under the specific circumstances set forth in subsection 5.7.3 and under no other circumstances.

5.7.3. Extension of Dates. The required date for the Substantial Commencement of Construction and the Required Completion Date shall be extended only for the reasons set forth in this subsection 5.7.3. In the event Lessee has not met the condition set forth in the first sentence of subsection 5.7.1 (subject to the last sentence of subsection 5.7.1 and subject to any extension granted pursuant to this subsection 5.7.3), then at County's option this Lease shall be amended such that the terms and provisions of this Lease revert back to the terms and provisions of the Original Lease (including, without limitation, the Original Term), as modified by the "Non-Exercise Amendment" described in the Option Agreement (the "Reversion Amendment").

5.7.3.1.Injunction by Third Party, Nonregulatory Body. The required date for the Substantial Commencement of Construction shall be extended if the construction of the Improvements is the subject of (i) a then current judicial or administrative action, brought by a person or entity (other than Lessee or any affiliate of Lessee, or the County or the California Coastal Commission acting in their governmental capacity) that appeals or otherwise challenges the previous issuance of Entitlements for the Improvements, or seeks to enjoin, restrain, contest or otherwise limit the right of Lessee to construct the Improvements, or (ii) a temporary restraining order ("TRO") or injunction issued in connection therewith. In such case, the required date for the Substantial Commencement of Construction shall be extended until the dismissal, removal or other resolution of any such action or order, and the lapse of any applicable appeal period. Lessee shall diligently pursue the dismissal, removal or other resolution of any such action, TRO, injunction, judgment or order so issued and shall exhaust all commercially reasonable efforts to appeal any adverse TRO, injunction, judgment or order, and any extension of the required date for the Substantial Commencement of Construction shall be expressly conditioned upon such Lessee diligence. In the event that a permanent injunction, order or settlement prohibiting the construction of the Improvements becomes final and is no longer subject to appeal, then, at County's or Lessee's option, this Lease shall be amended in accordance with the Reversion Amendment.

5.7.3.2.Delay Caused by Unreasonable County Acts. The required date for the Substantial Commencement of Construction shall be extended if Lessee has been delayed in the obtaining of any permits or other approvals necessary for the commencement of construction of the Improvements set forth in the Approved Final Plans, Specifications and Costs due to Unreasonable County Activity. For the purposes of this Lease, the following shall be deemed to be "Unreasonable County Activity": County's failure to provide required joinder, if any, in Lessee's proposals for the Improvements described in the Approved Final Plans, Specifications and Costs before any governmental agency; or, County's failure to take such other actions in its proprietary capacity reasonably requested by Lessee, at no cost or expense to County, which are necessary for Lessee to proceed with the permit/approval process or County's having taken such actions without Lessee's consent which adversely affected Lessee's rights and obligations hereunder, which were unreasonable and which actually delayed the Substantial Commencement of Construction and which action or inaction occurred after the date hereof. Nothing contained in this Section or this Lease shall be construed as obliging County to support proposals, issue permits, or otherwise act in a manner inconsistent with County's actions under its regulatory powers. It shall not be Unreasonable County Activity if County fails to accelerate the County's customary regulatory permit/approval process. An extension shall be available under this subsection only if all of the following procedures have been followed:

(i) Within a reasonable time under the circumstances, but in no event to exceed three (3) days after Lessee's discovery of any alleged Unreasonable County Activity, Lessee must notify Director in writing of the

specific conduct comprising the alleged Unreasonable County Activity, and the next opportunity, if any, for County to rectify such alleged conduct.

(ii) Within seven (7) days following receipt of the notice alleging Unreasonable County Activity, Director shall meet with Lessee or its authorized representative in order to determine whether Unreasonable County Activity has occurred and, if so, how such Unreasonable County Activity can be rectified and the appropriate length of time of any extension pursuant to this subsection. If Director determines that Unreasonable County Activity has occurred and that County can and will take rectifying action, then the extension time shall equal the amount of actual delay directly caused by the Unreasonable County Activity. If Director determines that Unreasonable County Activity has occurred, but that County cannot take rectifying action (or if the proposed rectifying action will not produce the results desired by Lessee), then Lessee and Director shall establish the length of time of any extension based on the actual delay of the permit/approval process likely to be caused by the Unreasonable County Activity.

(iii) If, within fourteen (14) days following receipt of notice alleging Unreasonable County Activity, Director and Lessee have not agreed in writing as to whether or not an extension is appropriate, or if appropriate, the length of any such extension, then the matter shall be referred to binding arbitration in accordance with Article 16 of this Lease. The arbitrator shall be instructed that, if Unreasonable County Activity has occurred, then the standards set forth in subsection (b) above will be applied to determine the length of any extension.

The period of any extension pursuant to this subsection shall be equal to the period of the delay caused by the Unreasonable County Activity.

5.7.3.3.Delay in Obtaining Permits or Approvals. Except as otherwise provided in subsection 5.7.3.5, if as of the required date for the Substantial Commencement of Construction (as it may be extended as provided above), Lessee has not obtained a permit or other approval necessary to the commencement of construction from a regulatory body or agency other than County, or such regulatory body has obtained an injunction preventing the commencement of construction, and such permits, approvals or the removal of such injunction constitute(s) the major remaining impediment to the commencement of construction, then the required date for the Substantial Commencement of Construction shall be extended to thirty (30) days after the date upon which such permit is issued or injunction dissolved, provided that (1) Lessee has exhausted and continues to exhaust all commercially reasonable efforts to obtain such approval or permit or dissolution of such injunction, and (2) such extended required date for the Substantial Commencement of construction shall not be extended for more than two (2) years. If the required date for the Substantial Commencement of construction is so extended, then the Required Completion Date shall be extended by the same number of days that the required

date for the Substantial Commencement of construction was extended. The extension provided by this subsection shall be the only extension available in a situation where such permits and/or approvals have not been issued or such regulatory body or agency has obtained such an injunction.

5.7.3.4.Force Majeure. Notwithstanding any contrary provision hereof, any date by which Lessee is required to satisfy an obligation under this Article 5, including, without limitation, the Substantial Commencement of Construction by the date required herein and the completion of the Redevelopment Work by the Required Completion Date, shall be extended for delays in the ability of Lessee to comply therewith as a result of fire, earthquake, flood, tornado or other casualty, acts of God, civil riots or disturbance, embargo, war, acts of terrorism, industry wide strike or labor dispute or other unforeseeable event reasonably beyond the control of Lessee ("Force Majeure"); provided, however, that Lessee shall commence and complete the portions, if any, of the Improvements not impacted by such delay within the timeframe set forth in this Lease. Lessee and Director shall discuss and attempt to agree on the length of time of any Force Majeure delay. If they are unable to agree within thirty (30) days after the event or occurrence giving rise to Lessee's claim to a Force Majeure delay under this subsection 5.7.3.4, the matter shall be arbitrated as set forth in Article 16. In no event shall any extensions of any dates under this subsection 5.7.3 exceed two (2) years in the aggregate for any or all of the reasons set forth in this subsection 5.7.3.

5.7.3.5.Limitation of Extensions. Notwithstanding the foregoing, Lessee shall not be entitled to any extension under this subsection 5.7.3 unless Lessee had actually been pursuing the process of obtaining all permits, approvals, financing and other items necessary for the Substantial Commencement of Construction with due diligence, and unless all Improvements specified and plans and specifications submitted by Lessee in connection with any such permit, approval, financing or other item substantially conformed to (i) the Approved Final Plans, Specifications and Costs, and (ii) the land use laws and regulations and the Local Coastal Plan existing as of the date of execution of this Lease by Lessee.

5.7.3.6.No Effect on Rent. Notwithstanding anything to the contrary contained in this Lease, no extension, relaxation or modification of the requirement to Substantially Commence construction of the Improvements by the date required hereunder and complete such Improvements by the Required Completion Date, shall relieve Lessee of its obligation to pay County the Annual Minimum Rent, Percentage Rent and other amounts set forth in Article 4 of this Lease.

5.7.4. Failure to Reach Substantial Commencement. Lessee agrees that the primary purpose for County having entered into this Lease is to provide the public with the opportunity to enjoy the Improvements described in the Approved Final Plans, Specifications and Costs at the earliest practicable date. Therefore, it is understood and

agreed that the time periods and requirements for extensions contained in Sections 5.2 through 5.7 shall be strictly enforced and should Lessee, or any party claiming through Lessee, fail to meet the conditions for Substantial Commencement of Construction within the terms of Sections 5.2 through 5.7, then at County's option this Lease shall be amended in accordance with the Reversion Amendment.

5.8 Manner of Construction.

5.8.1. 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 to areas outside of the Premises caused by such work, and shall restore any such damaged areas 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 such deleterious effects associated with construction projects in well populated and developed areas of southern California.

5.8.2. 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.

5.8.3. 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.

5.8.4. 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.

5.8.5. 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.

5.8.6. 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, but at no cost or expense to Lessee, 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.

5.8.7. Notice of Completion. Upon completion of the Improvements, as set forth in the Approved Final Plans, Specifications and Costs, 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 such 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 such Improvements.

5.9 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.

5.10 Additional Construction. Lessee may, at its own expense, make or construct, or cause to be made or constructed, Improvements during the Term in addition to the Redevelopment Work, including such alterations, modifications or changes to Improvements as Lessee may desire; provided, however, that all such additional Improvements, and all alterations, modifications or changes to Improvements shall be (i) consistent with, and within the scope of, the Permitted Uses set forth in Article 3, (ii) first approved in writing by the Director, except as otherwise provided in Section 5.11 below, which approval shall not be unreasonably withheld,

conditioned or delayed, and (iii) made in accordance and compliance with all terms and provisions set forth in Sections 5.2 through 5.5 (other than as provided in Section 5.11), and Sections 5.8, 5.9 and 5.12. Lessee acknowledges that, except to the extent set forth in a prior written approval or agreement by Director or County, Director may refuse permission for the construction of any proposed Improvement, addition, alteration, modification or change, and such decision, if reasonable, will be final and binding upon Lessee. Lessee acknowledges that such proposed Improvement, addition, alteration, modification or change will also be subject to other governmental requirements and conditions, including those of the California Coastal Commission and other governmental authorities that may have jurisdiction.

5.11 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 Sections 5.2 through 5.5) where all of the following conditions are satisfied: (1) none of the proposed construction activity is structural in nature; (2) none of the proposed construction, additions, modifications or changes affect or are visible from the exterior of the Premises; (3) the proposed construction, additions, modifications or changes will not lessen the value of the Improvements; and (4) the Improvements will remain in compliance with the Permitted Uses; provided, however, that whenever Lessee makes or constructs or permits any Improvements in or to the Premises, Lessee shall (i) give written notice thereof (including a description of the work to be done and the permits obtained for such work), and (ii) furnish a copy of "as-built" plans upon completion of such work to County.

5.12 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.

5.12.1. 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.

5.12.2. 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.

5.12.3. 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.

5.13 Capital Improvement Fund. Commencing with the first calendar month following the third (3rd) anniversary of the Completion Date and continuing through the end of the Term, Lessee shall establish and maintain a reserve fund (the "Capital Improvement Fund") in accordance with the provisions of this Section 5.13 for the cost of capital renovations to the Premises and Improvements, other than the Anchorage Improvements. Lessee and County agree and acknowledge that the purpose of the Capital Improvement Fund shall be to provide funds for the ongoing revitalization of the Improvements on the Premises through the replacement, renovation, rehabilitation, upgrading, addition and installation of physical Improvements to the Premises after the completion of the Redevelopment Work. The Capital Improvement Fund shall be used only for Permitted Capital Expenditures. "Permitted Capital Expenditures" shall mean expenditures by Lessee for an addition, replacement, renovation or significant upgrade of or to the buildings on the Premises, including building exteriors or 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 buildings or their major systems, as applicable. Permitted Capital Expenditures do not include periodic, recurring or ordinary expenditures, repairs or replacements that keep the Improvements in an orderly efficient operating condition, but that do not significantly add to their value or appreciably prolong their useful life good. Permitted Capital Expenditures must be for items that are considered capital replacements, improvements and equipment under generally accepted accounting principles, consistently applied. All 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. Notwithstanding any contrary provision hereof, no portion of the Capital Improvement Fund shall be used for the Redevelopment Work, the Renovation Requirement described in Section 5.15 below, or for any Anchorage Improvement purposes, including without limitation, the Anchorage Improvements replacement work described in Section 5.14 below.

The Capital Improvement Fund shall be an account established with a reputable financial institution (including Lessee's Encumbrance Holder) acceptable to Director into which deposits shall be made by Lessee (and/or into which Lessee's Encumbrance Holder shall provide funds) pursuant to this Section 5.13. The amounts to be added to the Capital Improvement Fund shall be inclusive of amounts required to be deposited with and held by an Encumbrance Holder, provided that the Encumbrance Holder acknowledges that such amounts are subject to the requirements and shall be made available for the purposes of this Section 5.13. Lessee shall

commence deposits to the Capital Improvement Fund on the first calendar month following the third (3rd) anniversary of the Completion Date. The Capital Improvement Fund deposits shall be made on or before the fifteenth (15th) day of each calendar month based on Gross Receipts for the immediately preceding month. During the first two years that Lessee is required to make Capital Improvement Fund deposits, each monthly deposit shall be an amount equal to one percent (1.0%) of Gross Receipts for the preceding calendar month. During the next five (5) years, each monthly deposit shall be an amount equal to one and one quarter percent (1.25%) of Gross Receipts for the preceding calendar month. Thereafter, and continuing during the remaining Term of the Lease, each monthly deposit shall be an amount equal to one and one half percent (1.50%) of Gross Receipts for the preceding calendar month. All interest and earnings on the Capital Improvement Fund shall be added to the Capital Improvement Fund and held in accordance with the provisions of this Section 5.13, but shall not be treated as a credit against the Capital Improvement Fund deposits required to be made by Lessee pursuant to this Section 5.13.

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 5.13. If Lessee desires to obtain advance approval from Director for Capital Improvement Fund disbursements on an annual basis, Lessee shall have the right to submit to Director on an annual basis a renovation plan for the upcoming year which details the amount and purpose of anticipated Capital Improvement Fund expenditures for which Lessee requests Director's advance approval, which approval shall not be unreasonably withheld. Any anticipated expenditure set forth in such renovation 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 renovation 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 renovation plan in effect for such year or individual expenditures not noted on any previously approved renovation plan for such year. 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. Funds in the Capital Improvement Fund must be used for Permitted Capital Expenditures from time to time during the Term of the Lease.

5.14 As of the date that is ten (10) years prior to the expiration of the Term of the Lease, all (or substantially all) of the amounts required to have been deposited in the Capital Improvement Fund prior to such date shall have been expended for Permitted Capital Expenditures. Capital Improvement Fund deposits made after such date shall continue to be used for Permitted Capital Expenditure purposes under this Section 5.13; provided, however, if County elects to have Lessee remove the Improvements from the Premises at the end of the Term pursuant to subsection 2.4.2 of this Lease, then Lessee shall thereafter have the right to apply future deposits under this Section 5.13 to fund the security required for such removal costs as provided in subsection 2.4.2 if and to the extent that deposits under this Section 5.13 are not thereafter required for Capital Improvement Fund purposes.

5.15 Replacement of Anchorage Facilities. During the period between the thirtieth (30th) and thirty-fifth (35th) anniversaries of the Effective Date, Lessee shall commence and complete the replacement, at Lessee's cost, of all of the Anchorage Improvements with new

Anchorage Improvements. The new Anchorage Improvements shall be of a first-class and state of the art quality as of the date of such replacement, and shall comply with (i) the then most recent edition of Policy Statement No. 25 and the Specifications and Minimum Standards of Architectural Treatment and Construction for Marina del Rey, as modified by County or the Department from time to time in a manner consistent with commercially reasonable standards applicable to other comparable commercial projects and marina facilities in Marina del Rey (or such similar successor policy statement or publication then in effect), (ii) the then most recent edition of Layout and Design Guidelines for Small Craft Facilities issued by the California Department of Boating and Waterways (or such similar successor publication then in effect), and (iii) design memoranda as provided by the Harbor Engineer of the Los Angeles County Department of Beaches and Harbors. The construction of such replacement Anchorage Improvements shall be performed in accordance with and be subject to the requirements imposed upon Lessee under this Article 5 with respect to the making of Alterations.

5.15 Renovation Requirement. During the period between September 1, 2034 and August 31, 2036, Lessee shall be required to complete a renovation of the Improvements (the "Renovation Requirement"). The Renovation Requirement shall consist of such renovation and construction work as necessary in the reasonable judgment of Director to reposition the Improvements to a condition and appearance at least equal to other then-existing commercial projects in Marina del Rey (taking into consideration renovations then being made or required to be made within three (3) years thereafter by other lessees). The Renovation Requirement shall not pertain to the Anchorage Improvements that are required to be replaced pursuant to Section 5.14 above. Substantial Commencement of Construction of the Renovation Requirement shall occur not earlier than September 1, 2034 and the Renovation Requirement shall be completed not later than August 31, 2036.

Prior to the commencement of the Renovation Requirement, Lessee shall submit to Director a renovation plan ("Renovation Plan"), which renovation plan shall (a) describe the proposed renovation work in such detail as reasonably acceptable to 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 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 5.15 and Sections 5.2 through 5.5 above, the estimated time required to obtain all necessary governmental approvals and permits, and the estimated time required to complete the work, will permit the completion by Lessee of the Renovation Requirement by not later than August 31, 2036. Director shall have sixty (60) days within which to reasonably approve or disapprove the Renovation Plan, or to approve the 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 Renovation Plan shall be deemed Director's disapproval of the Renovation Plan. Upon Director's approval of the Renovation Plan, Lessee shall proceed to satisfy all conditions in this Article 5 to the commencement of the Renovation Requirement and to commence and complete the Renovation Requirement in accordance with the Renovation Plan and the terms and conditions of this Article 5. Director's approval of the actual plans and specifications for the Renovation Requirement shall proceed in accordance with the protocol for plan submission and approval set forth in Sections 5.2 through 5.5 of this Lease, except that the schematic plan submittal requirements set forth in Section 5.2 shall not be applicable to the extent that the

Renovation Plan approved by Director satisfies the requirements of such Section 5.2.

Lessee's failure to comply with the schedule approved by Director as part of the Renovation Plan and/or to meet the construction commencement and completion deadlines pertaining to the Renovation Requirement set forth in this Section 5.15 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 Renovation Plan shall be submitted to arbitration pursuant to Article 16 of this Lease. If the arbitrator determines that Director failed to exercise reasonable judgment in the approval or disapproval of the Renovation Plan and as a result thereof Lessee is delayed in the completion of the Renovation Requirement by the required completion date set forth in the first paragraph of this Section 5.15, then the required date for the completion of such Renovation Requirement shall be extended by the duration of the delay caused by Director's failure to reasonably approve the Renovation Plan, provided that the required date for the completion of the Renovation Requirement shall not be extended beyond the date reasonably required for the completion by Lessee of the Renovation Requirement.

Commencing with the month following the month during which the Completion Date occurs, and continuing each month thereafter until the Substantial Commencement of Construction of the Renovation Requirement (but at least through the month of August, 2034), Lessee shall establish and make monthly deposits to a reserve fund (the "Renovation Fund") in accordance with the provisions of this Section 5.15 for the purpose of funding a portion of the cost of the Renovation Requirement. Renovation Fund deposits shall be made on or before the fifteenth (15th) day of each calendar month in an amount equal to one percent (1%) of the Gross Receipts for the immediately preceding month. All interest and earnings on the Renovation Fund shall be added to the Renovation Fund and held in accordance with the provisions of this Section 5.15, but shall not be treated as a credit against the Renovation Fund deposits required to be made by Lessee pursuant to this Section 5.15. The Renovation Fund shall be held in an account established with a reputable financial institution (including Lessee's Encumbrance Holder) acceptable to Director into which deposits shall be made by Lessee (and/or into which Lessee's Encumbrance Holder shall provide funds) pursuant to this Section 5.15. The amounts to be deposited into the Renovation Fund shall be inclusive of amounts required to be deposited with and held by an Encumbrance Holder, provided that the Encumbrance Holder acknowledges that such amounts are subject to the requirements and shall be made available for the purposes of this Section 5.15. Lessee shall have the right to fund or replace amounts deposited in the Renovation Fund with a letter(s) of credit in form and issued by an institutional issuer reasonably satisfactory to Director.

Disbursements shall be made from the Renovation Fund only for costs which have been approved by Director and which satisfy the requirements of this Section 5.15. Prior to the disbursement of any amounts from the Renovation 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 Renovation Fund. Director shall have no obligation to approve the disbursement of amounts from the Renovation Fund unless and until Director has approved Lessee's Renovation Plan and Lessee has furnished to Director evidence reasonably satisfactory to Director that Lessee has sufficient financial resources to pay for all costs of the Renovation Requirement.

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 Annual Minimum Rent Adjustment Date, as described in Section 4.3 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 taken 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, 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. Concurrent with the execution of this Lease, Lessee shall deliver to County, in the form of a cashier's check, wire transfer of immediately available funds, certificate of deposit or irrevocable letter of credit ("Letter of Credit") acceptable to County with

respect to form, content and issuer, a security deposit in an amount which represents three (3) times the current Monthly Minimum Rent (the "Security Deposit"). Within thirty (30) days after any adjustment of the Monthly Minimum Rent, the Security Deposit shall be increased by Lessee or may be reduced such that it at all times (other than during said thirty (30) day period) is equal to three (3) times the current Monthly Minimum Rent. 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 delinquent rent not paid by Lessee within any applicable notice and cure period and any other Events of Default of Lessee under this Lease. The Security Deposit shall be applied at the discretion of County. 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 or a Letter of Credit, 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 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 the 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, Lessee, its agents, officers, employees, licensees, concessionaires, permittees or Sublessees, beyond the expiration of the Term or other termination of this Lease.

9. INSURANCE.

9.1 Lessee's Insurance. Without limiting Lessee's indemnification of County, during the Term of this Lease Lessee shall provide and maintain the following insurance issued by companies authorized to transact business in the State of California by the Insurance Commissioner and having a "general policyholders rating" of at least A-VII (or such higher rating as may be required by an Encumbrance Holder) as set forth in the most current issue of "A.M. Best's Key Rating Guide" or an equivalent rating from another industry-accepted rating agency.

9.1.1 General Liability insurance (written on ISO policy form CG 00 01 or its equivalent) and endorsed to name County as an additional insured, with limits of not less than the following:

General Aggregate:	$20 million
Products/Completed Operations Aggregate:	$20 million
Personal and Advertising Injury:	$ 10 million
Each Occurrence:	$ 10 million

Lessee may satisfy the above coverage limits with a combination of primary coverage and excess liability/umbrella coverage as long as (a) Lessee's primary coverage is at least One Million Dollars ($1,000,000) per occurrence, One Million Dollars ($1,000,000) annual aggregate, (b) the excess liability/umbrella coverage is for an aggregate limit of at least Fifty Million Dollars ($50,000,000), which limits may, at Lessee's election, be carried in the form of two separate policies, (c) the primary coverage and all excess liability/umbrella coverages are issued by the same insurer and such insurer is reasonably satisfactory to County, and (d) the combination of such primary coverage and excess liability/umbrella coverage

provides County with at least the same protection in all respects as if Lessee had carried primary coverage for the entire limits listed above in this Section 9.1.1 and in accordance with the other terms and provisions set forth herein applicable to such coverage.

9.1.2 Automobile Liability insurance (written on ISO form CA 00 01 or its equivalent) with a limit of liability of not less than $2 million for each accident and providing coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto." Lessee also shall provide Garagekeeper's Legal Liability coverage, (written on ISO form CA 99 37 or its equivalent) with limits of not less than $3 million for this location.

9.1.3 Workers Compensation and Employers' Liability insurance providing workers compensation benefits, as required by the Labor Code of the State of California and for which Lessee is responsible, and including Employers' Liability coverage with limits of not less than the following:

Each Accident:	$1 million
Disease - policy limit:	$1 million
Disease - each employee:	$1 million

9.1.4 Commercial Property insurance covering damage to the Premises, including improvements and betterments, from perils covered by the Causes-of-Loss Special Form (ISO form CP 10 30), excluding earthquake, and including Ordinance or Law Coverage, written for the full replacement value of the property, with a deductible no greater than $250,000 or 5% of the property value, which ever is less, and also including business interruption, including loss of rent, equal to two (2) years annual rent, with proceeds payable to Lessee and County as their interests may appear and utilized for repair and restoration of the Premises and Improvements.

9.1.5 For construction projects, including any Alterations or restoration, on the Premises, Lessee or Lessee's contractor will provide the following insurance (County reserves the right to determine the coverage and coverage limit required on a project by project basis.):

9.1.5.1 Builder's Risk Course of Construction to insure against damage from perils covered by the Causes-of-Loss Special Form (ISO form CP 10 30). This insurance shall be endorsed to include ordinance or law coverage, coverage for temporary offsite storage, debris removal, pollutant cleanup and removal, testing, preservation of property, excavation costs, landscaping, shrubs and plants and full collapse coverage during construction (without restricting collapse coverage to specified perils. This insurance shall be written on a completed-value basis and cover the entire value of the construction project, including County

furnished materials and equipment, against loss or damage until completion and acceptance by Lessee.

9.1.5.2 General Liability. Such insurance shall be written on ISO policy form CG 00 01 or its equivalent with limits as required by the County for the Alterations. The products/completed operations coverage shall continue to be maintained for a period to be determined by the County from the date the Alterations are completed and accepted by the Lessee.

9.1.5.3 Automobile Liability. Such coverage shall be written on ISO policy form CA 00 01 or its equivalent with a limit of liability as required by the County for the Alterations. Such insurance shall include coverage for all "owned," "hired" and "non-owned" automobiles, or coverage for "any auto."

9.1.5.4 Professional Liability. Such insurance shall cover liability arising from any error, omission, negligent or wrongful act of the contractor and/or licensed professional (i.e. architects, engineers, surveyors, etc.) with limits as required by the County for the Alterations. This coverage shall also provide an extended two-year reporting period commencing upon termination or cancellation of the construction project.

9.1.5.5 Asbestos Liability or Contractors Pollution Liability insurance, if construction requires remediation of asbestos or pollutants. Such insurance shall cover liability for personal injury and property damage arising from the release, discharge, escape, dispersal or emission of asbestos or pollutants, whether gradual or sudden, and include coverage for the costs and expenses associated with voluntary clean-up, testing, monitoring and treatment of asbestos in compliance with governmental mandate or requests. If the asbestos or pollutant will be removed from the construction site, asbestos or pollution liability is also required under the contractor's of subcontractor's Automobile Liability Insurance. Contractor shall maintain limits as required by the County for the Alterations.

9.1.6 If the use of the Premises or Improvements involves any manufacture, distribution or service of alcoholic beverages, Liquor Liability insurance (written on ISO policy form CG 00 33 or 34 or their equivalent) with a liability limit of not less than Five Million Dollars ($5,000,000) per occurrence and an annual aggregate of Ten Million Dollars ($10,000,000). If written on a claims made form, the coverage shall also provide an extended two-year reporting period commencing upon the termination or cancellation of the Lease.

9.2 Provisions Pertaining to Property Insurance. The insurance coverage required in Sections 9.1.4 and 9.1.5.1 shall name the County as an additional insured and any Encumbrance Holder as loss payee. Subject to Section 12.8, upon the occurrence of any loss, the proceeds of property and builder's risk 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; provided, however, that if the insurance proceeds received with respect to a loss are less than $500,000 (as adjusted

to reflect any increase in the ENR Index during the period from the Effective Date through the date of the loss), the Encumbrance Holder shall have the right to hold and disburse such proceeds to pay the renovation and repair of Improvements in accordance with the terms of the loan agreement or deed of trust with Lessee's Encumbrance Holder. In the event of a 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. Subject to Section 12.8, any surplus or proceeds after said rebuilding or replacement shall be distributed to Lessee.

9.3 General Insurance Requirements. Subject to the immediately following grammatical paragraph, a duplicate policy or policies (or certificates of insurance) evidencing the insurance coverage required under this Article 9, in such form as shall be reasonably acceptable to County, shall be filed with Director no later than the Effective Date, provided that the evidence of the insurance coverage required under Section 9.1.5 shall be required to be delivered by Lessee prior to the commencement of any Alterations. All certificates of insurance shall (a) specifically identify the Lease; (b) clearly evidence all coverages required under the Lease; (c) identify any deductibles or self-insured retentions exceeding $25,000; and (d) evidence all other requirements under this Article 9. The policy or policies of insurance 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 insurance coverage may be issued in the form of a blanket policy insuring other properties, in form, amount and content reasonably satisfactory to County such that such coverage provides the same protection as required under this Article 9 as if the insurance had been procured on an individual property basis.

9.4 Additional 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 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 any liability insurance policy or policies;

(b) that the full amount of any losses to the extent property 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;

(c) 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;

(d) 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;

(e) the property and commercial general liability insurance policies shall provide coverage on a primary and non-contributory 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;

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

(g) 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;

(h) that the commercial general liability 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,

(i) that the property and commercial general liability insurance 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.

9.5 Failure to Procure Insurance. If Lessee fails to procure or renew the herein required insurance and does not cure such failure within five (5) business days after written notice from County, 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. All monies so paid by County shall be repaid by Lessee, with interest thereon at the Applicable Rate, to County within five (5) business days after Lessee's receipt of written demand therefor.

9.6 Adjustment to Amount of Liability Coverage. The amounts of liability insurance required under Section 9.1.1, 9.1.2 and 9.1.3 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.

9.7 Notification of Incidents, Claims or Suits. Lessee shall report to County any accident or incident on or about the Premises which involves injury or property damage which might reasonably be thought to result in the filing of a claim or lawsuit against Lessee and/or

County. Such report shall be made in writing within 72 hours of Lessee's knowledge of such occurrence.

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 and marina facilities 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. Lessee shall at all times during the Term keep all slips in good repair and condition in accordance with the requirements of Policy Statement No. 25 and the Specifications and Minimum Standards of Architectural Treatment and Construction for Marina del Rey approved in 1989, as modified by County or the Department from time to time (the "Minimum Standards"). Such obligation shall include the use of new materials, parts and components rather than the repair or rejuvenation of existing materials, parts and components. Any requirement for repair of slips due to a deficiency notice issued by the Department shall be accomplished with new materials and parts rather than patching or other like method. Such required replacement of deficiency-cited items with wholly new parts and materials shall, however, be limited to the specific item in disrepair and shall not connote a requirement, for maintenance purposes, that areas or items surrounding the deficient item be replaced with new materials and/or parts. On or before the commencement of each Lease Year following the Effective Date Lessee shall submit to the Director, for the Director's approval in its reasonable discretion, a work plan for the repair and refurbishment of the slips on the Premises during the upcoming Lease Year. 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 health or safety related 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, 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. 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 of the deficiency notice. 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 10.3.1. 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 10.3.1 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 loss, Lessee delivers to County a 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 10.3.1, 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, 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 sometimes referred to in this Lease as a "Major Sublease" and the Sublessee under such agreement is sometimes 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 an Approved Slip Lease, 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.

Notwithstanding any contrary provision of this Article 11, Lessee shall not be required to obtain County's approval of any Sublease of an individual boat slip in the ordinary course (but not the master lease of multiple slips) to a person or persons who will physically occupy the subleased slip, as long as such Sublease is in the form of the standard boat slip lease hereafter submitted to and approved by County and the term of such Sublease does not exceed one (1) year (each, an "Approved Slip Lease"). The terms and provisions of Sections 11.2 and 11.3 of this Lease shall not be applicable to Approved Slip Leases. Upon request by County, Lessee shall furnish County with a current rent roll respecting the Approved Slip Leases and a copy of all of such Approved Slip Leases.

11.1.3. Major Sublease. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable commercial and marina 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 the 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 acts of Lessee shall require the prior written consent of County to be effective, unless they are Excluded Transfers: (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 in a partnership 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.

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 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:

(i) 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;

(ii) 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.

(iii) 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.

(iv) 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. Subject to the requirements of the Public Records Act, County shall use its good faith efforts to keep such business plan confidential.

(v) 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.

(vi) 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.

(vii) 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.

(viii) 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. Other than in connection with an Excluded Transfer as described in subsection 4.6.2, if Lessee proposes to assign its interest in this Lease or the Premises, or proposes to enter into any Major Sublease affecting the Premises (with either such proposed transaction herein referred to as a "Proposed Transfer"), it shall provide County with written notice of such desire and the sale price ("Lessee Sale Price") at which it is willing to consummate the Proposed Transfer. Within thirty (30) days thereafter, the 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, Lessee shall deliver to County 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. 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 cause Lessee to issue 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 Lessee shall be entitled to consummate the Proposed Transfer with a third party (subject to County's approval rights as otherwise set forth in this Lease) during the ensuing nine (9) month period so long as the Proposed Transfer price is equal to or greater than the Lessee Sale Price last offered to County and upon no more favorable material terms to the assignee. In the event of a proposed Sublease or other permitted assignment of less than all of the Premises, County's election shall pertain to such portion of the Premises subject to the proposed 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. County's rights pursuant to this subsection 11.2.4 shall not apply to Financing Events or those events identified in subsection 4.6.2 of this Lease.

11.2.5. County Credits Toward Purchase Price. 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.

12.1.1 Definitions. For the purposes of this Lease, including without limitation the provisions of Sections 4.6 through 4.8 hereof: (i) a "Financing Event" shall mean any financing or refinancing consummated by Lessee or by the holders of partnership interests or other direct or indirect ownership interests in Lessee (collectively, "Ownership Interests"), whether with private or institutional investors or lenders, where such financing or refinancing is an Encumbrance (as defined below); for purposes of subsection 12.1.2 below and Sections 4.6 through 4.8 above, a “Financing Event” shall also include all of the foregoing actions involving the granting of a mortgage, deed of trust or other security interest in a Major Sublease; and (ii) an "Encumbrance" shall mean any direct or indirect grant, pledge, assignment, transfer, mortgage, hypothecation, grant of control, grant of security interest, or other encumbrance, of or in all or any portion of (A) 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) or (B) Ownership Interests if an absolute assignment from the holder of such Ownership Interests to the holder of the Encumbrance would have required County's consent under this Lease, to a lender (upon County approval of the Encumbrance and consummation thereof, the "Encumbrance Holder") as security for a loan. The term "Encumbrance Holder" shall also be deemed to include any successors and assigns of such Encumbrance Holder which have succeeded by assignment or otherwise to any rights, interests or liabilities of the Encumbrance Holder with respect to the Encumbrance, or any designee which has been designated by the Encumbrance Holder to exercise any rights or remedies under the Encumbrance or to take title to the leasehold estate under this Lease or to Ownership Interests, and such permitted successors, assigns or designees shall enjoy all of the rights and protections given to Encumbrance Holders under this Lease; provided, however, no successor, assign or designee of an Encumbrance Holder that is affiliated with Lessee or any person or entity with a direct or indirect ownership interest in Lessee shall be entitled to any of the rights or protections granted to Encumbrance Holders under this Lease. The term "Equity Encumbrance Holder" shall mean an Encumbrance Holder holding an Encumbrance with respect to Ownership Interests.

12.1.2 County Approval Required. Lessee may, with the prior written consent of Director, which shall not be unreasonably withheld, and subject to any specific conditions which may be reasonably imposed by Director, consummate one or more Financing Events. Lessee shall submit to Director a preliminary loan package and thereafter a complete set of all proposed transaction documents in connection with each proposed Financing Event. The preliminary loan package shall include the loan commitment (or the so-called "loan application" if the loan commitment is styled as a loan application) and any other documents, materials or other information reasonably requested by Director. Lessee shall have the right, but not the obligation, to include draft loan documents in the preliminary loan package. Director shall have sixty (60) days to grant or withhold approval of the preliminary loan package. Director shall have sixty (60) days after receipt of substantially complete loan documents conforming to the approved preliminary loan package in which to grant or withhold final approval of the Financing Event; provided, however, that if the preliminary loan package included draft loan documents, then the foregoing sixty (60) day period shall be reduced to thirty (30) days. If not approved by Director in writing within the foregoing periods, the proposed Financing Event shall be deemed disapproved by Director (and, if so requested in writing by Lessee), Director shall within thirty (30) days of such request deliver to Lessee a written description of Director's objections to said proposed Financing Event). Lessee shall reimburse County for County's Actual Cost incurred in connection with its review of the proposed Financing Event. One 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. The same rights and obligations set forth above in this subsection 12.1.2 shall inure to the benefit of and shall be binding upon any holder of Ownership Interests with respect to any proposed Financing Event involving Ownership Interests.

12.2 Consent Requirements In The Event of a Foreclosure Transfer.

12.2.1 Definitions. As used herein, a "Foreclosure Transfer" shall mean any transfer of the entire leasehold estate under this Lease or of all of the Ownership Interests in Lessee pursuant to any judicial or nonjudicial foreclosure or other enforcement of remedies under or with respect to an Encumbrance, or by voluntary deed or other transfer in lieu thereof. A "Foreclosure Transferee" shall mean any transferee (including without limitation an Encumbrance Holder) which acquires title to the entire leasehold estate under this Lease or to all of the Ownership Interests in Lessee pursuant to a Foreclosure Transfer. An "Equity Foreclosure Transferee" shall mean a Foreclosure Transferee whose acquired interest consists of all of the Ownership Interests in Lessee.

12.2.2 Foreclosure Transfer. The consent of County shall not be required with respect to any Foreclosure Transfer. In addition, no Foreclosure Transfer, and no single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall trigger the obligation to pay a Net Proceeds Share to County or any recapture right of County under subsection 11.2.4 of this Lease.

12.2.3 Subsequent Transfer By Encumbrance Holder. For each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder, with respect to a single subsequent transfer of this Lease or the Ownership Interests (as applicable) by such Encumbrance Holder to any third party, (i) County's consent to such transfer shall be required, but shall not be unreasonably withheld or delayed, and the scope of such consent (notwithstanding anything in this Lease to the contrary) shall be limited to County's confirmation (which must be reasonable) that the Lessee following such transfer has sufficient financial capability to perform its remaining obligations under this Lease as they come due, along with any obligation of Lessee for which the Foreclosure Transferee from whom its receives such transfer is released under subsection 12.3.1 below, and (ii) such transferee (other than a transferee of Ownership Interests) shall expressly agree in writing to assume and to perform all of the obligations under this Lease, other than Excluded Defaults (as defined below). For clarification purposes, the right to a single transfer under this Section shall apply to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder, so that there may be more than one "single transfer" under this Section.

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

12.3.1 Any Encumbrance Holder which is a commercial bank, savings bank, savings and loan institution, insurance company, pension fund, investment bank, opportunity fund, mortgage conduit, real estate investment trust, commercial finance lender or other similar financial institution which ordinarily engages in the business of making, holding or servicing commercial real estate loans, including any affiliate thereof (an "Institutional Lender"), shall, upon becoming a Foreclosure Transferee (other than an Equity Foreclosure Transferee), become liable to perform the full obligations of Lessee under this Lease (other than Excluded Defaults as defined below) accruing during its period of ownership of the leasehold. Upon a subsequent transfer of the leasehold in accordance with subsection 12.2.3 above, such Institutional Lender shall be automatically released of any further liability with respect to this Lease, other than for (i) rent payments, property tax payments, reserve account payments and other monetary obligations under specific terms of the Lease that accrue solely during such Institutional Lender's period of ownership of the leasehold, and (ii) Lessee's indemnification obligations under this Lease with respect to matters pertaining to or arising during such Institutional Lender's period of ownership of leasehold title.

12.3.2 Any other Foreclosure Transferee (i.e., other than an Institutional Lender as provided in subsection 12.3.1 above) shall, upon becoming a Foreclosure Transferee (other than an Equity Foreclosure Transferee), become liable to perform the full obligations of Lessee under this Lease (other than Excluded Defaults), subject to possible release of liability upon a subsequent transfer pursuant to Section 11.3 of this Lease.

12.3.3 Following any Foreclosure Transfer which is a transfer of the leasehold interest under the Lease, County shall recognize the Foreclosure Transferee as the Lessee under the Lease and shall not disturb its use and enjoyment of the Premises, and the Foreclosure Transferee shall succeed to all rights of Lessee under this Lease as a direct lease between County and such Foreclosure Transferee, provided that the Foreclosure Transferee cures any pre-existing Event of Default other than any such pre-existing Event of Default that (i) is an incurable non-monetary default, (ii) is a non-monetary default that can only be cured by a prior lessee, (iii) is a non-monetary default that is not reasonably susceptible of being cured by such transferee, or (iv) relates to any obligation of a prior lessee to pay any Net Proceeds Share (collectively, "Excluded Defaults"), and thereafter performs the full obligations of Lessee under this Lease. Pursuant to subsection 12.3.7 below, following any Foreclosure Transfer which is a transfer of Ownership Interests, the foregoing rights under this subsection 12.3.3 shall also inure to the benefit of the Lessee.

12.3.4 No Encumbrance Holder shall become liable for any of Lessee's obligations under this Lease unless and until such Encumbrance Holder becomes a Foreclosure Transferee with respect to Lessee's leasehold interest under the Lease.

12.3.5 No Foreclosure Transfer, and no single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall trigger (i) any obligation to pay an Administrative Charge nor any Net Proceeds Share, (ii) any recapture right on the part of County, or (iii) any termination right under this Lease. Any Foreclosure Transfer, and any single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall be deemed to be excluded from the definitions of "Change of Ownership" for all purposes of this Lease. For clarification purposes, the "single subsequent transfer" referred to above applies to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder (as more fully explained in subsection 12.2.3), so that there may be more than one "single subsequent transfer" benefited by this Section.

12.3.6 In the event that an Institutional Lender becomes a Foreclosure Transferee, all obligations with respect to the construction work described in Sections 5.1, 5.14 or 5.15 above shall be tolled for a period of time, not to exceed twelve months, until such Institutional Lender completes a subsequent transfer of its foreclosed interest in the Lease or Ownership Interests, provided that such Institutional Lender is making commercially reasonable and diligent efforts to market and sell its foreclosed interest. Nothing in this subsection 12.3.6 shall be construed as a limit or outside date on any cure periods provided to Encumbrance Holders under this Lease.

12.3.7 Following a Foreclosure Transfer with respect to all of the Ownership Interests in Lessee, (i) any and all rights, privileges and/or liability limitations afforded to Foreclosure Transferees in this Article 12 or any other provision of this Lease shall also be afforded to Lessee from and after such Foreclosure Transfer, to the same extent as if the Foreclosure Transferee had acquired the leasehold interest of Lessee directly and became the Lessee under this Lease, and (ii) if the Foreclosure Transferee was also an Equity Encumbrance Holder, then any and all rights, privileges and/or liability limitations

afforded to Foreclosure Transferees who are Encumbrance Holders in this Article 12 or any other provision of this Lease shall also be afforded to Lessee from and after such Foreclosure Transfer, to the same extent as if the Foreclosure Transferee had acquired the leasehold interest of Lessee directly and became the Lessee under this Lease.

12.4 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 subsection 12.1.2, 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 (other than Excluded Defaults or as otherwise provided herein).

12.5 Modification or Termination of Lease. This Lease shall not be modified or amended without the prior written consent in its sole discretion of each then existing Encumbrance Holder with respect to Lessee's entire leasehold interest in this Lease or all of the Ownership Interests in Lessee. Further, this Lease may not be surrendered or terminated (except with respect to the Partial Termination Premises pursuant to Section 2.2 above, or in accordance with the provisions of this Article 12) without the prior written consent of each such Encumbrance Holder in its sole discretion. No such modification, amendment, surrender or termination (other than a termination with respect to the Partial Termination Premises pursuant to Section 2.2 above, or in accordance with the provisions of this Article 12) without the prior written consent of each such then existing Encumbrance Holder shall be binding on any such Encumbrance Holder or any other person who acquires title to its foreclosed interest pursuant to a Foreclosure Transfer.

12.6 Notice and Cure Rights of Encumbrance Holders and Major Sublessees.

12.6.1 Right to Cure. Each Encumbrance Holder and Major Sublessee shall have the right, at any time during the term of its Encumbrance or Major Sublease, as applicable, and in accordance with the provisions of this Article 12, 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.

12.6.2 Notice of Default. County shall not exercise any remedy available to it upon the occurrence of an Event of Default (other than exercising County's self-help remedies pursuant to Section 13.5 or imposing the daily payment set forth in Section 10.2), and no such exercise shall be effective, unless it first shall have given written notice of such default to each and every then existing Major Sublessee and Encumbrance Holder which has 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 herein. If such Event or Events of Default are so cured, this Lease shall remain in full force and effect. Notwithstanding any contrary provision hereof, the Lender's cure rights set forth in this Section 12.6 shall not delay or toll the County's right to impose the daily payment for Lessee breaches set forth in Section 10.2.

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

(a) 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 its receipt of the aforesaid notice of default. 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.

(b) 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:

(1) The Encumbrance Holder or Major Sublessee may cure the default within sixty (60) days after the end of Lessee's cure period as provided in Section 13.1 hereof (or, if the default involves health, safety or sanitation issues, County may by written notice reduce such sixty (60) day period to thirty (30) days, such 60 or 30 day period, as applicable, being referred to herein as the "initial cure period"), provided, however, if the curing of such default reasonably requires activity over a longer period of time, the initial cure period shall be extended for such additional time as may be reasonably necessary to cure such default, so long as the Encumbrance Holder or Major Sublessee commences a cure within the initial cure period 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 initial cure 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.

(2) With respect to an Encumbrance Holder, but not a Major Sublessee, if before the expiration of the initial cure 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, the initial cure period shall be extended by the time necessary to complete such foreclosure proceedings, or (ii) if said Encumbrance Holder is prevented from commencing or continuing foreclosure proceedings by any bankruptcy stay, or 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 stay, order, judgment or decree, the initial cure period shall be extended by the time necessary to obtain such release or reversal and thereafter to complete such foreclosure proceedings. Within thirty (30) days after a Foreclosure Transfer is completed, the Foreclosure Transferee shall (if such default has not been cured) commence to cure, remedy or correct the default and thereafter diligently pursue such cure until completed in the same manner as provided in subsection (a) above. The Encumbrance Holder shall have the right to terminate its foreclosure proceeding, and the extension of any relevant cure period shall lapse, in the event of a cure by Lessee.

12.7 New Lease.

12.7.1 Obligation to Enter Into New Lease. In the event that this Lease is terminated by reasons of bankruptcy, assignment for the benefit of creditors, insolvency or any similar proceedings, operation of law, an Excluded Default or other event beyond the reasonable ability of an Encumbrance Holder to cure or remedy, or if the Lease otherwise terminates for any reason, except in each case other than the partial termination of the Lease with respect to the Partial Termination Premises pursuant to Section 2.2, County shall, upon the written request of any Encumbrance Holder with respect to Lessee's entire leasehold estate under this Lease or all of the Ownership Interests in Lessee (according to the priority described below if there are multiple Encumbrance Holders), enter into a new lease (which shall be effective as of the date of termination of this Lease) with the Encumbrance Holder or an affiliate thereof for the then remaining Term of this Lease on the same terms and conditions as shall then be contained in this Lease, provided that the Encumbrance Holder cures all then existing monetary defaults under this Lease, and agrees to commence a cure of all then existing non-monetary Events of Default within sixty (60) days after the new lease is entered into, and thereafter diligently pursues such cure until completion. In no event, however, shall the Encumbrance Holder be obligated to cure any Excluded Defaults. County shall notify the most junior Encumbrance Holder of a termination described in this Section 12.7 within thirty (30) days after the occurrence of such termination, which notice shall state (i) that the Lease has terminated in accordance with Section 12.7 of this Lease, and (ii) that such Encumbrance Holder has sixty (60) days following receipt of such notice within which to exercise its right to a new lease under this Section 12.7, or else it will lose such right. An Encumbrance Holder's election shall be made by giving County written notice of such election within sixty (60) days after such Encumbrance Holder has received the above-described written notice from the County. Within a reasonable period after request therefor, County shall execute and return to the Encumbrance Holder any and all documents reasonably necessary to secure or evidence the Encumbrance Holder's interest in the new lease or the Premises. From and after the effective date of the new lease, the Encumbrance Holder (or its affiliate) shall have the same rights to a single transfer that

are provided in subsection 12.2.3 above, and shall enjoy all of the other rights and protections that are provided to a Foreclosure Transferee in this Article 12. Any other subsequent transfer or assignment of such new lease shall be subject to all of the requirements of Article 11 of this Lease. If there are multiple Encumbrance Holders, this right shall inure to the most junior Encumbrance Holder in order of priority; provided, however, if such junior Encumbrance Holder shall accept the new lease, the priority of each of the more senior Encumbrance Holders shall be restored in accordance with all terms and conditions of such Encumbrances(s). If a junior Encumbrance Holder does not elect to accept the new lease within thirty (30) days of receipt of notice from County, the right to enter into a new lease shall be provided to the next most junior Encumbrance Holder, under the terms and conditions described herein, until an Encumbrance Holder either elects to accept a new lease, or no Encumbrance Holder so elects.

12.7.2 Priority of New Lease. The new lease made pursuant to this Section 12.7 shall be prior to any mortgage or other lien, charge or encumbrance (except for easements or other matters to which this Lease is subject) on County's fee interest in the Premises (except for easements or other matters to which this Lease is subject), and any future fee mortgagee or other future holder of any lien on the fee interest in the Premises is hereby given notice of the provisions hereof.

12.8 Holding of Funds. Any Encumbrance Holder with respect to Lessee's entire leasehold interest in this Lease or all of the Ownership Interests in Lessee that is an Institutional Lender shall have the right to hold and control the disbursement of (i) any insurance or condemnation proceeds to which Lessee is entitled under this Lease and that are required by the terms of this Lease to be applied to restoration of the improvements on the Premises (provided that such funds shall be used for such restoration in accordance with the requirements of the Lease), and (ii) any funds required to be held in the Capital Improvement Fund or Renovation Fund (provided that such funds shall be used for the purposes required by this Lease). If more than one such Encumbrance Holder desires to exercise the foregoing right, the most senior Encumbrance Holder shall have priority in the exercise of such right.

12.9 Participation in Certain Proceedings and Decisions. Any Encumbrance Holder shall have the right to intervene and become a party in any arbitration, litigation, condemnation or other proceeding affecting this Lease. Lessee's right to make any election or decision under this Lease with respect to any condemnation settlement, insurance settlement or restoration of the Premises following a casualty or condemnation shall be subject to the prior written approval of each then existing Encumbrance Holder.

12.10 Fee Mortgages and Encumbrances. Any mortgage, deed of trust or other similar encumbrance granted by County upon its fee interest in the Premises shall be subject and subordinate to all of the provisions of this Lease and to all Encumbrances. County shall require each such fee encumbrance holder to confirm the same in writing (in a form reasonably approved by each Encumbrance Holder or its title insurer) as a condition to granting such encumbrance, although the foregoing subordination shall be automatic and self-executing whether or not such written confirmation is obtained.

12.11 No Merger. Without the written consent of each Encumbrance Holder, the leasehold interest created by this Lease shall not merge with the fee interest in all or any portion of the Premises, notwithstanding that the fee and leasehold interests are held at any time by the same person or entity.

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, 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.

13.1.3. Maintenance of Security Deposit. The failure of Lessee to maintain and/or replenish the Security Deposit required pursuant to Article 8 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.

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 12.6 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 having a recorded interest pertaining to County's interest in this Lease or the Premises. Such person shall then have the right to cure such default, and County shall not be deemed in default if such person 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.

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 or, at its option, may utilize the cash method of accounting, provided Lessee reconciles its filings, records and reports to an accrual method to the extent requested by County; notwithstanding the foregoing, Lessee shall be permitted to make monthly payments of Percentage Rent using the cash method of accounting to determine Gross Receipts, provided that Lessee provides County with an annual reconciliation of its cash basis Gross Receipts to the accrual method (together with payment of any additional Percentage Rent due).

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 will not be unreasonably withheld.

The requirements of this paragraph may be waived or modified in advance by Director upon submission by Lessee of a substitute plan acceptable to Director for recording sales and other income.

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 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 Additional Accounting Methods. County may require the installation of any additional accounting methods or machines which are typically used by major office buildings and major parking service companies and which County reasonably deems necessary if the system then being used by Lessee does not adequately verify sales for audit or customer receipt purposes.

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

14.8 Annual Financial Statements. Within six (6) months after the end of each Accounting Year or, at Lessee's election, after the completion of Lessee's fiscal year, Lessee shall deliver to County a set of audited and certified financial statements prepared by a Certified Public Accountant who is a member of the American Institute of Certified Public Accountants and is satisfactory to County, setting forth Lessee's financial condition and the result of Lessee's operations for such Accounting Year and shall include a certification of and unqualified opinion concerning Lessee 's Gross Receipts (including a breakdown by category). All financial statements prepared by or on behalf of Lessee shall be prepared in a manner that permits County to determine the financial results of operations in connection with Lessee's activities at, from or relating to the Premises, notwithstanding that Lessee may have income and expenses from other activities unrelated to its activities on the Premises.

14.9 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 and the delivery to County of audited certified financial statements and unqualified opinions as to Gross Receipts.

14.10 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 Execution 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 Premises since 1966. 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 in effect at the end of the Term shall be increased to one hundred twenty five percent (125%) 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:	Holiday-Panay Way Marina, L.P. c/o Goldrich & Kest Industries 5150 Overland Avenue Culver City, California 90230 Attn: Warren Breslow Phone: 310/204-2050 Fax: 310/204-1900
With a Copy to:	Holiday-Panay Way Marina, L.P. c/o Goldrich & Kest Industries 5150 Overland Avenue Culver City, California 90230 Attn: William Yerrick, General Counsel Phone: 310/280-5043 Fax: 310/280-5014

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. No amendment, other than an amendment to implement an arbitration judgment and other than an amendment to confirm the termination of the Lease with respect to the Partial Termination Premises pursuant to Section 2.2, shall be binding upon an Encumbrance Holder as to which County has been notified in writing, unless the consent of such Encumbrance Holder is obtained with respect to such amendment.

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.

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 an affirmative vote of one or more of County's boards or commissions or County 's Board of Supervisors, the time period for County performance of such action shall be extended as is necessary in order to secure such affirmative vote or approval 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: (1) that this Lease is in full force and effect and is unmodified (or stating otherwise, if true); (2) 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); (3) the dates, if any, to which all rental due thereunder has been paid; and (4) whether the certifying party is then aware of any charges, offsets or defenses against the enforcement by the other party of any agreement, covenant or condition hereof to be performed or observed by the certifying party (and, if so, specifying the same). 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 Waterfront Promenade. As a part of the Redevelopment Work, Lessee agrees to (i) provide a continuous pedestrian walkway and view piers approved by County ("Promenade")

along the entire waterfront portion of the Premises to comply with the intent of the Local Coastal Program's waterfront promenade plan, (ii) replace all fencing on the Premises with new fencing approved by County, (iii) repave all parking areas, and (iv) complete new or refurbished restrooms for the anchorage tenants. The foregoing work is collectively referred to in this Lease as the "Promenade Work." Lessee shall perform the Promenade Work as part of the Redevelopment Work. The facilities to be constructed under this Section 15.19 shall be constructed in accordance with the provisions of Article 5. Lessee shall join the Promenade located on the Premises with the adjacent promenade located on Parcel 20 and repair any damage to the promenade improvements located on Parcel 20 incurred in connection with Lessee's construction of the Promenade under this Lease. County hereby reserves a public easement for access over and use of the Promenade for pedestrian purposes and such other related uses (including, if approved by County bicycling, rollerblading and the like) as may be established by the County from time to time, all in accordance with such rules and regulations as are promulgated from time to time by the County regulating such public use. Lessee shall be responsible for the maintenance and repair of the Promenade in accordance with maintenance and repair standards established by the County from time to time. The exact legal description of the Premises encumbered by the public easement reserved herein shall be established based upon the final as-built drawings for the Promenade to be delivered by Lessee upon the completion thereof in accordance with the terms and provisions of Article 5 of this Lease. At the request of either party such legal description shall be recorded in the Official Records of the County as a supplement to this Lease.

15.20 Parking.

15.20.1 General. As part of the Redevelopment Work Lessee is required to construct the Parking Structure described in Section 5.1 of this Lease. It is contemplated that the New Commercial Building and the new Anchorage Improvements will require the construction of 241 parking spaces. The exact number of parking spaces required by applicable code to serve the New Commercial Building and the new Anchorage Improvements is referred to herein as the "On-Site Parking Spaces." In addition to the On-Site Parking Spaces, Lessee shall construct 112 parking spaces to serve the anchorage improvements located on Parcel 20 (the "Additional Parcel 20 Parking Spaces") and 94 public parking spaces to satisfy replacement public parking required to be constructed in connection with the development of Parcel 147 (the "Replacement Parcel 147 Parking Spaces") to the extent that the requirement for the Replacement Public Parking Spaces is not eliminated or reduced in connection with receipt of the entitlements and governmental approvals required for the development of Parcel 147. The 447 parking spaces required to be contained in the Parking Structure pursuant to Section 5.1 is based on the foregoing parking requirements. If the required number of On-Site Parking Spaces and/or Replacement Parcel 147 Parking Spaces changes, then the total number of parking spaces required to be contained in the Parking Structure shall be adjusted to reflect any such change. The Parking Structure shall be designed and constructed at the sole cost of Lessee. Any cost sharing agreement that Lessee, the Parcel 147 Lessee and/or the Parcel 20 Lessee may have entered into with respect to the cost of the design and construction of the Parking Structure shall be a matter as between Lessee and such other lessees, and shall not limit or otherwise affect Lessee's obligations to County with respect to the

construction of the Parking Structure. County shall have no obligation with respect to the cost of the design and construction of the Parking Structure.

15.20.2 Additional Parcel 20 Parking Spaces. County hereby reserves a non-exclusive, irrevocable easement on, over and across the Parking Structure and other portions of the Premises required for access to and from the Parking Structure (including without limitation driveways, ramps, aisles, entrances, exits, sidewalks, stairs, elevators and other Improvements) for vehicular and pedestrian access to and use of the Additional Parcel 20 Parking Spaces for parking purposes for the benefit of the anchorage improvements located on Parcel 20. Lessee shall not have the right to charge County, the Parcel 20 Lessee or any Designee (as defined below) for the use of the parking set forth in this subsection 15.20.2, except that during any period during which Parcel 20 continues to be leased to Parcel 20 Lessee, Lessee and such Parcel 20 Lessee shall have the right to mutually agree to a parking charge for the use of the Additional Parcel 20 Parking Spaces, but such charge shall not be binding on County on and after any termination of the lease for Parcel 20 in effect as of the date of this Lease. The Additional Parcel 20 Parking Spaces shall be in a location approved by Director in connection with the approval by Director of the Approved Final Plans, Specifications and Costs, or such other location as approved by Director from time to time. The users of the Additional Parcel 20 Parking Spaces shall have access to and use of the Additional Parcel 20 Parking Spaces 24 hours per day, every day, in accordance with the Operation Plan approved by Director pursuant to subsection 15.20.4 below. The easement described in this subsection 15.20.2 shall run for the benefit of County, as fee owner of the portion of Parcel 20 on which the anchorage improvements are located, and any Parcel 20 Lessee, as lessee of such portion of Parcel 20. The Parcel 20 Lessee (or County if there is no Parcel 20 Lessee) shall have the right to designate users of the anchorage improvements located on Parcel 20 (including visitors) as permitted users of the parking rights set forth in this subsection 15.20.2 ("Designees"), but this subsection 15.20.2 is not intended to confer any rights (including, without limitation, rights to enforce this subsection 15.20.2 as a third party beneficiary) on any third parties, including any such Designee. At Director's election, County and Lessee shall execute in recordable form a separate parking easement agreement that documents the terms and conditions of the parking rights set forth in this subsection 15.20.2. Parcel 20 Lessee shall indemnify, defend and hold Lessee harmless from and against all claims, losses, liabilities, costs or expenses (including without limitation reasonable attorneys' fees) incurred by Lessee for the death of or injury to persons or damage to property, arising in connection with or related to the use of the easement described in this subsection 15.20.2 by Parcel 20 Lessee or its Designees.

15.20.3 Replacement Parcel 147 Parking Spaces. County hereby reserves a public easement on, over and across the Parking Structure and other portions of the Premises required for access to and from the Parking Structure (including without limitation driveways, ramps, aisles, entrances, exits, sidewalks, stairs, elevators and other Improvements) for vehicular and pedestrian access to and use of the Replacement Parcel 147 Parking Spaces for public parking purposes. The location of Replacement Parcel 147 Parking Spaces and the access ways and circulation plan for public use of the

Replacement Parcel 147 Parking Spaces shall be approved by Director in connection with the approval by Director of the Approved Final Plans, Specifications and Costs. The Replacement Parcel 147 Parking Spaces shall be open to the public seven (7) days per week in accordance with such rules and regulations (including hours of public access) as are promulgated from time to time by County regulating such public use. Lessee shall make no use of the Premises, including without limitation the other parking located thereon, that interferes with the public easement described in this subsection 15.20.3 or is prohibited under or in conflict with the rules and regulations established by County for the use of the Replacement Parcel 147 Parking Spaces. County shall not be obligated to pay Lessee any compensation for the Replacement Parcel 147 Parking Spaces. Lessee shall have the right to charge the users of the Replacement Parcel 147 Parking Spaces for the use thereof in accordance with rates approved by County (with California Coastal Commission approval as required under Applicable Law) consistent with the public parking rates established (as modified from time to time) for other similar public parking in Marina del Rey. At Director's election, County and Lessee shall execute in recordable form a separate parking easement agreement that documents the terms and conditions of the public parking rights set forth in this subsection 15.20.3.

15.20.4 Parking Structure Operation Plan. Not later than ninety (90) days prior to the opening of the Parking Structure, Lessee shall submit to Director for Director's approval, a plan for the operation of the Parking Structure (the "Operation Plan"), including without limitation, hours of operation, access procedures, security, parking charges (if any) and other specifications pertaining to the operation of the Parking Structure. Lessee shall be obligated to operate, maintain and repair the Parking Structure at its sole cost and expense, in accordance with a standard of operation, repair and maintenance at least commensurate the standard of operation of other comparable first-class parking facilities in Marina del Rey. Lessee shall operate the Parking Structure in accordance with the Operation Plan, as approved by Director, and shall make no modifications to such Operation Plan without the prior written approval of Director.

15.21 Dockmasters. Throughout the Term, Lessee shall maintain a dockmaster program acceptable to County to manage Lessee's anchorage at the Premises. Such dockmaster system may be jointly operated with the anchorage for Parcels 18 and 20.

15.22 Seaworthy Vessels. On or before January 1, April 1, July 1 and October 1 of each year during the Term, Lessee shall deliver to Director a report which contains the following information with respect to every vessel (including floating homes as defined in Title 19 of the Los Angeles County Code) moored within the Premises: (i) the name, address and telephone number of the registered owner (and slip tenant, if other than the registered owner) for each vessel; (ii) the state registration or federal document number, and name (if any), of the vessel; (iii) whether the vessel is a power vessel, sailing vessel or floating home; and (iv) the slip number and length of the vessel, and whether the vessel is presently authorized by Lessee for liveaboard tenancy. In addition, Lessee shall require, and shall certify annually to the Director, that as a condition of slip rental and continued slip tenancy, all new slip tenanted vessels from and after the Effective Date have been required to pass seaworthiness inspection by the Harbor Patrol within sixty (60) days of such slip rental. Henceforth, all of Lessee's slip leases shall provide that any newly tenanted vessel which is unable to pass such inspection within the

required period, or such reasonable extension thereof as may be granted in the Director's sole discretion, shall be ineligible for continued slip tenancy on the leasehold premises and shall be removed therefrom. The requirements of the two preceding sentences shall not be applicable to any vessel which is specifically exempted from seaworthiness requirements by Title 19 of the Los Angeles County Code.

15.23 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.

15.24 No Merger. If, prior to the expiration of the Term, County or Lessee shall acquire the interest of the other in the Promises, or any portion thereof, there shall be no merger of the leasehold estate into (a) the fee simple estate in the Premises, (b) the sub-reversionary interest held by County or (c) any leasehold estate superior to that held by Lessee.

15.25 365 Election. County and Lessee agree, for the benefit of any Encumbrance Holder, that for so long as an Encumbrance shall encumber Lessee's interest in the Premises, the right of election arising under Section 365(h)(1) of the Bankruptcy Code may be exercised solely by Encumbrance Holder and not by Lessee. Any exercise or attempted exercise of such right of election by Lessee shall be void.

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:

(a) 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.

(b) 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:

(1) 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;

(2) 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;

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

(4) 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.

(c) 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:

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

(2) 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;

(3) 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);

(4) 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

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

(d) 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:

(a) 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.

(b) 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, etc.

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 sign the amendment and return the executed copy to the County, which shall thereafter be approved by the Board of Supervisors and 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.

16.15 Notice.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY

INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE ARBITRATION OF DISPUTES PROVISION TO NEUTRAL ARBITRATION.

_____	_____
Initials of Lessee	Initials of County

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 Sections 25536 and 25907 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 Execution Date.

17.9 Water Quality Management Program. During the remaining Term of the Lease, Lessee shall comply with all water quality management requirements imposed by the Coastal Commission in connection with the issuance of the Coastal Development Permit for the Anchorage Improvements; provided, however, that Lessee shall in all events comply at least with the water quality management requirements set forth in Exhibit D attached to this Lease. In addition, during the remaining Term of the Lease, Lessee shall remove floating debris from the water surrounding the Anchorage Improvements in accordance with a program and regular schedule reasonably acceptable to the Director.

IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this Lease to be subscribed by the Chairman of said Board and attested by the Clerk thereof, and Lessee has executed the same the day and year first hereinabove written.

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

HOLIDAY-PANAY WAY MARINA, L.P.,
a California limited partnership

By: _____
Name: _____
Its: _____

ATTEST:

SACHI HAMAI,
Executive Officer of the Board of
Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.,
OFFICE OF COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

Parcels 263 to 286 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, recorded in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said county.

Reserving and excepting therefrom unto the County of Los Angeles easements for sanitary sewer, fire access and harbor utility purposes over those portions thereof designated on said map to be reserved by said county for such purposes.

Also reserving and excepting therefrom unto the County of Los Angeles an easement for drainage purposes in and across that portion of above described parcel of land which lies within the southerly 4 feet of the westerly 12 feet of the easterly 22 feet of said Parcel 285.

Also subject to the easements reserved by the County of Los Angeles in Sections 15.19 and 15.20 of this Lease.

APN: 8940-759-833
8940-370-022
8940-370-023

EXHIBIT A-1

PARTIAL TERMINATION PREMISES

EXHIBIT B

REDEVELOPMENT PLAN

EXHIBIT C

ASSIGNMENT STANDARDS

These standards are to apply to Proposed Transfers of Lessee's interest in this Lease and/or the Premises and to any Major Sublease. 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 pursuant to the specific lease involved (e.g. 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. If the proposed transferee's net worth is materially less than the transferor's, County may disapprove the assignment or require additional security such as that described in the previous sentence.

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. Changes in the providers of such services and changes to the contractual arrangements must be approved by the County. All 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 own entity which will so acquire Lessee's interest, irrespective of the tier at which 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 Proposed Transfer shall not result in a financing obligation of the proposed transferee which jeopardizes its ability to meet 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 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.

EXHIBIT D

PUBLIC SERVICE PLAN ACTIVITIES

FUNDRAISING

PMYC sponsors and conducts fundraising events for the Boys and Girls Club of Venice; Arbol de Navidad del Nino Pobre, which benefits poor children in La Paz; the Annual Charity Poker Run which benefits developmentally handicapped children. We also host joint community activities for the Interact Club of Culver City High School, Brownie Troop # 1007, Culver City Rotary Club, and other organizations and events approved by the Board of Directors.

EDUCATION

PMYC holds an annual CPR class that is open to the public. Other boating safety and navigation classes made available by the US Power Squadron, Coast Guard Auxiliary, and the LA Fire Department are presented periodically as requested. Our facility is provided at no cost.

MARINE ECOLOGY

PMYC members volunteer time and vessels, if required, to promote local marine ecology programs currently being conducted. It was a member of PMYC that started the annual clean-up day, which has been an annual event for over 15 years.

YOUTH PROGRAMS

PMYC sponsors an annual fishing derby in which children are taught to fish, and are guided by experienced fishermen. Children participating receive a fishing pole and tackle box to keep, as well as awards for various challenges. This event is open to members and non-members. PMYC has also volunteered members and their vessels to the Culver City High School Interact Club and to Brownie Troop #1007 to give children an educational view of Marina Del Rey by sea. We encourage children to become active in the sport of yachting.

ASSOCIATIONS

PMYC is a member of the U.S. Sailing Association, the Association of Santa Monica Bay Yacht Clubs, the Southern California Yachting Association, and the Southern California Yacht Racing Union and is listed on the Registry of the Yacht Clubs of America.

HISTORY

PMYC was established in 1963 as a non-profit club to serve the boating community of Marina Del Rey. PMYC prides itself in being open to people from all walks of life, to affordably belong to a yacht club and enjoy and participate in boating, yachting and racing activities.

7/29/2004

13915 Panay Way, Marina Del Rey, Ca. (310)823-9717

AMENDED AND RESTATED LEASE AGREEMENT

by and between

County of Los Angeles

and

Holiday-Panay Way Marina, L.P.

(Parcel 21--Lease No. _____)

Dated as of _____

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EXHIBIT D PUBLIC SERVICE PLAN ACTIVITIES

OPTION TO AMEND LEASE AGREEMENT
(PARCEL 21)

THIS OPTION TO AMEND LEASE AGREEMENT ("Agreement") is made and entered into as of the _____ day of January, 2008, by and between the COUNTY OF LOS ANGELES ("County") and HOLIDAY-PANAY WAY MARINA, L.P. a California limited partnership ("Lessee").

R E C I T A L S

A. County and Lessee, or its predecessors-in-interest, entered into Lease No. 11210 dated September 27, 1966, as amended (the "Existing Lease"), pursuant to which Lessee leases from County certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 21, as more particularly described in the Existing Lease (the "Premises").

B. The term of the Existing Lease is currently scheduled to expire on August 31, 2026 (the "Existing Expiration Date").

C. Lessee has requested County, and County is willing, to grant Lessee an option to extend the term of the Existing Lease through August 31, 2065.

A G R E E M E N T

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 August 31, 2065 (the "Extended Expiration Date"). Such extension shall be on the terms and conditions set forth in the form of Amended and Restated Lease Agreement for Parcel 21 attached to this Agreement as Exhibit A (the "Restated Lease"). In consideration of County's grant of the Option to Lessee, and as a condition to the effectiveness of the Option, 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").

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 later of the Entitlement Receipt Date under this Agreement and the "Entitlement Receipt Date" under the Parcel 147 Option Agreement, as defined in Section 4.4(b) of this Agreement (the "Parcel 147 Entitlement Receipt Date"), or (ii) the date that is one (1) year following the date of this Agreement (the "Outside Expiration Date").

For purposes hereof, the "Entitlement Receipt Date" shall mean the first date upon which (a) Lessee has received all discretionary planning and zoning land use entitlements, permits and other approvals required to be obtained from governmental

authorities (including the County and the California Coastal Commission) for the construction of the Redevelopment Work (as defined below), including, without limitation, for the development on and relocation to the Premises of the Replacement Parcel 147 Parking Spaces (as defined in Section 15.20.1 of the Restated Lease) and the development on and relocation to the Premises of the Additional Parcel 20 Parking Spaces (as defined in Section 15.20.1 of the Restated Lease), and has satisfied all conditions to the issuance of a building permit for the Redevelopment Work other than the payment of any applicable building permit fee (all of the matters described in this clause (a) are collectively referred to as the "Entitlements"), (b) any appeal period to contest the issuance of the Entitlements has lapsed, and (c) there is no proceeding or litigation pending to appeal the issuance of the Entitlements, or to enjoin or restrain the performance of the Redevelopment Work (not including any proceeding or litigation brought by or on behalf of any partner, shareholder or member of, or any other person or entity affiliated with, or otherwise directly or indirectly having an ownership interest in, Lessee or the Parcel 147 Lessee (a "Lessee Affiliate")), or if such a proceeding or litigation is pending, then the date such proceeding or litigation has been dismissed or a decision or judgment rendered thereon, which decision or judgment is not subject to further appeal.

For purposes of this Agreement, the "Redevelopment Work" shall mean the demolition of the existing Improvements (as defined in the Restated Lease) currently located on the Premises and the construction of new Improvements in accordance with the Redevelopment Plan attached to the Restated Lease as Exhibit B, including without limitation: (i) a new commercial building containing not less than 29,000 square feet of rentable area of space to be initially allocated approximately as follows: 5,000 rentable square feet of yacht club space, 10,000 rentable square feet of health club space, 2,916 rentable square feet of retail space and 11,432 rentable square feet of marine commercial office space; (ii) an attached parking structure with 447 parking spaces or such other number of parking spaces as required under Section 15.20 of the Restated Lease (the "Parking Structure"); (iii) complete replacement of the existing 182 boat slips and related Improvements with approximately 88 new boat slips (with an average slip length of 36 lineal feet) and related Improvements, provided that County shall have the right to approve Lessee's proposed configuration and specifications for such slips; and (iv) the Promenade Work described in Section 15.19 of the Restated Lease.

Notwithstanding any contrary provision hereof, if by that date which is forty five (45) days prior to the Outside Expiration Date (the "Extension Request Date") (1) Lessee and the Parcel 147 Lessee have been unable to cause one or both of the Entitlement Receipt Date or the Parcel 147 Entitlement Receipt Date to occur and one or both of the Entitlement Receipt Date or the Parcel 147 Entitlement Receipt Date is (are) not reasonably expected to occur by the Outside Expiration Date, (2) in the reasonable judgment of the Director of the Department of Beaches and Harbors of the County ("Director"), Lessee and the Parcel 147 Lessee have proceeded with diligent efforts to cause the Entitlement Receipt Date and the Parcel 147 Entitlement Receipt Date to occur by the Outside Expiration Date, and (3) on or before the Extension Request Date Lessee submits a written request in writing to Director requesting an extension of the Outside Expiration Date to afford Lessee and the Parcel 147 Lessee (as applicable) with

additional time to cause the Entitlement Receipt Date and the Parcel 147 Entitlement Receipt Date to occur (as applicable), then Director may grant, in its discretion, one or more extensions of the Outside Expiration Date, provided that (A) any extension of the Outside Expiration Date shall be limited to that period of time which, in the reasonable judgment of Director, is reasonably necessary to permit the Entitlement Receipt Date and the Parcel 147 Entitlement Receipt Date to occur, and (B) Director shall not extend the Outside Expiration Date by more than six (6) months at a time, and in no event shall Director extend the Outside Expiration Date beyond that date which is two (2) years following the date of this Agreement. The Outside Expiration Date shall not be extended under this paragraph if Lessee is in breach or default of this Agreement or the Parcel 147 Lessee is in breach or default of the Parcel 147 Option Agreement. Lessee shall not be required to pay to County a fee for any extension of the Outside Expiration Date pursuant to this paragraph.

In addition, if as of forty-five (45) days prior to the Outside Expiration Date (as such date may have been extended pursuant to the immediately preceding paragraph), the Entitlement Receipt Date or the Parcel 147 Entitlement Receipt Date has not occurred because (a) the Redevelopment Work or the Development Work under the Parcel 147 Option Agreement (the "Parcel 147 Development Work") is the subject of a pending proceeding or litigation to appeal the issuance of the Entitlements for such particular work or to enjoin or restrain the performance of the Redevelopment Work or the Parcel 147 Development Work (other than any proceeding or litigation brought by or on behalf of a Lessee Affiliate), or (b) a moratorium, temporary restraining order, injunction or other court order prohibits the issuance of the Entitlements for the Redevelopment Work or the Parcel 147 Development Work, and such moratorium, temporary restraining order, injunction or other court order also pertains to all other similar projects in Marina del Rey on land leased from the County, then as long as Lessee and/or the Parcel 147 Lessee (as applicable) continue to diligently prosecute or pursue the defense or removal of such proceeding, litigation, moratorium or court order, the Outside Expiration Date shall be extended until not later than forty-five (45) days following the date that such proceeding, litigation, moratorium or court order is resolved in favor of the issuance or validity of the Entitlements for the Redevelopment Work and the Parcel 147 Development Work (as applicable), with no further right of appeal; provided, however, in no event shall the Outside Expiration Date be extended beyond the fourth (4th) anniversary of the date of this Agreement. The Outside Expiration Date shall not be extended under this paragraph if Lessee is in breach or default of this Agreement or the Parcel 147 Lessee is in breach or default of the Parcel 147 Option Agreement. Lessee shall not be required to pay to County a fee for any extension of the Outside Expiration Date pursuant to this paragraph.

3. Exercise of Option. The Option shall be exercisable by Lessee only by Lessee's 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 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 (County hereby agrees to cooperate with Lessee to permit the completion of such blank or bracketed terms); (iii) as of the date of Lessee's delivery of the notice

described in clause (i) above Lessee shall not be in material breach or default of any material term or provision of the Existing Lease, after notice from County and the expiration of any applicable cure period thereunder; (iv) the Entitlement Receipt Date shall have occurred and there shall be no action or proceeding pending or, to Lessee's or County 's actual knowledge, threatened, to contest the Entitlements issued as a condition to the occurrence of the Entitlement Receipt Date or to enjoin or restrain the performance of the Redevelopment Work; (v) Lessee shall have provided evidence satisfactory to County of its having sufficient financial resources, as determined by the Director in Director's reasonably judgment, 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 4.3 of this Agreement; (vii) Lessee shall have satisfied the conditions to the exercise of the Option set forth in Section 4.4; and (viii) all conditions to the exercise of the Parcel 147 Option shall have been satisfied and the Parcel 147 Lessee shall have concurrently exercised the Parcel 147 Option. Upon Lessee's proper and timely exercise of the Option, County shall execute and deliver the Restated Lease and the Parcel 147 Lease not later than forty-five (45) days following the date of Lessee's exercise of the Option.

4. Entitlements and Plan Preparation During Option Term.

4.1 Obtaining Entitlements. During the Option Term, Lessee shall use diligent efforts to obtain as soon as reasonable possible all Entitlements necessary to perform the Redevelopment Work and, unless otherwise directed by Director, the Off-Site Parking Improvements described in Section 4.5(a) below. 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.

4.2 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 appropriate governmental approvals, consents, permits or variances which may be required in connection with the construction of the Redevelopment Work and, unless otherwise directed by Director, the construction of the Off-Site Parking Improvements described in Section 4.5(a) below. Such cooperative efforts may include the Department 's joinder in any application for such approval, consent, permit or variance, where joinder therein by the Department is required or helpful (including without limitation, but only if approved by Director, co-application by County to eliminate or reduce the Parcel 147 replacement public parking spaces described in Section 4.4(b) hereof); 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 as to the Redevelopment Work (but not as to the Off-Site Parking Improvements). 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 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.

4.3 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 Sections 5.2 through 5.4 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, those portions of the plans, specifications and other materials described in Sections 5.2 through 5.4 of the Restated Lease which are required to be submitted to governmental authorities (including the County and the California Coastal Commission) in connection with Lessee's applications for and/or receipt of all Entitlements for the Redevelopment Work. Lessee shall accompany such plans, specifications and other materials with the construction cost estimates described in such Sections 5.2 through 5.4, as applicable. The standards and time periods for Director's review and approval of the materials submitted by Lessee pursuant to this Section 4.3 shall be in accordance with the terms and provisions of Sections 5.2 through 5.4 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 (as the same may be extended pursuant to the terms hereof).

4.4 Parking.

(a) Relocation of Parcel 20 Anchorage Parking. Certain property located adjacent to the Premises and commonly known as Parcel 20 is currently leased by County to Lessee's affiliate, Panay Way Marina, L.P. (with its successors and assigns, the "Parcel 20 Lessee"). If Lessee exercises the Option, the Parking Structure to be constructed on the Premises by Lessee as a part of the Redevelopment Work is contemplated to include 112 parking spaces to facilitate the relocation to the Parking Structure of the parking facilities for the Parcel 20 anchorage improvements. Section 15.20.2 of the Restated Lease provides for the reservation of an easement in favor of Parcel 20 for the use of such spaces. Lessee, the Parcel 20 Lessee and County shall cooperate to seek any and all governmental approvals (if any) required for the relocation of the parking facilities for the Parcel 20 anchorage improvements from Parcel 20 to the Parking Structure upon the

completion of the construction thereof. A condition to the exercise by Lessee of the Option shall be the receipt of any such required governmental approvals.

(b) Parcel 147 Replacement Parking. Concurrent or substantially concurrent herewith, County has entered into a Lease Option Agreement (the "Parcel 147 Option Agreement") with Lessee's affiliate, MDR Oceana, LLC (with its successors and assigns, the "Parcel 147 Lessee") pursuant to which County has granted the Parcel 147 Lessee an option (the "Parcel 147 Option") to enter into a lease with County (the "Parcel 147 Lease") for certain property commonly known as Parcel 147. The exercise by the Parcel 147 Lessee of the Parcel 147 Option is conditioned upon Lessee's agreement to provide the 94 replacement public parking spaces required to satisfy the off-site replacement public parking requirement arising from the development of Parcel 147. Subject to the approval of Director, at the request of Lessee and the Parcel 147 Lessee, County agrees to be a co-applicant in petitioning the California Coastal Commission to eliminate or reduce the requirement for the replacement public parking spaces arising from the development of Parcel 147. If the California Coastal Commission approves the elimination (or reduction in the number) of the replacement public parking spaces required for the Parcel 147 development, then unless County and Lessee otherwise agree, the number of parking spaces required to constructed in the Parking Structure shall be reduced by the number of such replacement public parking spaces that are eliminated. If the requirement for replacement public parking spaces is eliminated or reduced pursuant to this Section 4.4(b), then prior to execution of the Restated Lease, Section 15.20.3 of the Restated Lease shall be deleted or modified (as applicable) to reflect such elimination or reduction. If the requirement for replacement public parking spaces arising from the development of Parcel 147 is eliminated, then (i) the exercise of the Parcel 147 Option shall not be a condition precedent to the exercise of the Option under this Agreement, and (ii) all references in this Agreement to matters pertaining to the exercise of the Parcel 147 Option or to the Entitlements or Development Work for Parcel 147, shall be of no further force or application, and thereafter, for the avoidance of doubt, no obligation of, or exercise of any right or remedy by, Lessee hereunder shall be conditioned upon, or affected by, any act or omission of the Parcel 147 Lessee with respect to Parcel 147.

4.5 Lessee Cooperation With Regard to Other Projects.

(a) The Restated Lease provides for the termination of the Restated Lease with respect to a portion of the Premises described in Section 2.2 of the Restated Lease as the "Partial Termination Premises" as of the "Partial Termination Date" (as defined in Section 2.2 of the Restated Lease). One of the potential uses being considered by County for the Partial Termination Premises is for additional off-site replacement public parking facilities. It is contemplated that such additional off-site parking might be developed, at least in part, to satisfy requirements that may arise in connection with the development of other projects in Marina del Rey, including without limitation, those contemplated for Parcels 10/FF, 33/NR and IR. If requested by Director, concurrent with Lessee's pursuit of the Entitlements for the construction of the Redevelopment Work, Lessee shall also, jointly with County, pursue the governmental approvals and entitlements required for the performance of the Parking Lot Work described in Section 2.2 of the Restated Lease. In all events, Lessee agrees to use its commercially reasonable efforts (at no cost to Lessee)

to cooperate with any efforts of County to obtain governmental approvals and entitlements for County's use of the Partial Termination Premises and neither Lessee nor any of its affiliates shall object or take any action to interfere with County's efforts to obtain governmental approvals and entitlements for the use of the Partial Termination Premises for replacement public parking or other parking purposes designated by County. Lessee 's obligations under this Section 4.5(a) shall expressly survive the exercise of the Option by Lessee and shall be deemed to be incorporated into the Restated Lease as a covenant that is binding on Lessee thereunder.

(b) County is considering the development of a new Department headquarters facility on certain portions of Parcel 20 on which an existing commercial building and related improvements are currently located. If County determines to proceed with the development of such headquarters facility, then Lessee agrees to use commercially reasonable efforts (at no cost to Lessee) to cooperate with County's efforts to obtain governmental approvals and entitlements for the construction of such headquarters facility, and neither Lessee nor any of its affiliates shall object or take any action to interfere with the development of such headquarters facility. The Lessee's obligations under this Section 4.5(b) shall expressly survive the exercise of the Option by Lessee and shall be deemed to be incorporated into the Restated Lease as a covenant that is binding on Lessee thereunder.

5. 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 (i) the Option shall be automatically terminated, and (ii) 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 amend the Existing Lease as follows:

(a) 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, except that:

(i) Subsection 4.2.1 of the Restated Lease shall be modified to read as follows:

"Lessee shall pay to County the minimum rent described in this subsection 4.2.1 (subject to adjustment pursuant to Sections 4.3 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"), except that any amounts payable for less than a full calendar year or month shall be prorated based on the number of days in such partial year or month as compared to the total number of days in the full calendar year or month during which such period occurs. For the three (3) year period commencing with the Effective Date, the Annual Minimum Rent shall be equal to seventy-five percent (75%) of the average total annual rent

or other charges (including, without limitation, minimum rent and percentage rent) that was payable by Lessee to County under the Existing Lease for the three (3) year period immediately preceding the Effective Date. From and after the third anniversary of the Effective Date, the Annual Minimum Rent shall be as set forth in Sections 4.3 and 4.4 below."

(ii) Section 4.3 of the Restated Lease shall be modified to read as follows:

"As of the third (3rd) anniversary of the Effective Date (the "First Adjustment Date") and as of each third (3rd) anniversary of the First Adjustment Date thereafter (each an "Adjustment Date" and collectively the "Adjustment Dates"), the Annual Minimum Rent shall be adjusted. Until the Renegotiation Date provided in Section 4.4 hereof, 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 scheduled total annual rent due (including Monthly Minimum Rent and Percentage Rent) from Lessee to County under Section 4.2 of this Lease during the thirty-six (36) month period immediately preceding the Adjustment Date."

(iii)The first paragraph of Section 4.4 of the Restated Lease shall be modified to read as follows:

"Effective on each tenth (10th) anniversary of the Effective Date (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."

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

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

(d) amend and restate Sections 8 and 10 of the Existing Lease in accordance with Sections 5.2 through 5.12 of the Restated Lease, except that (i) all references to the Redevelopment Work shall mean and refer to future Improvements or alterations that Lessee desires to make to the Premises, and (ii) all references to any schedule for the commencement or completion of the Redevelopment Work shall be deleted;

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

(f) 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;

(g) amend Section 26 of the Existing Lease to adjust the amount and scope of commercial general liability, automobile liability, garagekeeper's legal liability, workers compensation and employer's liability insurance coverage required to be carried by Lessee to equal the amounts and coverages set forth in subsections 9.1.1, 9.1.2 and 9.1.3 of the Restated Lease, and to add to Section 26 of the Existing Lease the provisions of Section 9.6 of the Restated Lease;

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

(i) add to the Existing Lease the provisions of Section 10.2 of the Restated Lease; and

(j) 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 (a) through (i) 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.

6. 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 Ninety Thousand Dollars ($90,000.00) 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.

7. Miscellaneous.

7.1 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.

7.2 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.

7.3 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.

7.4 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.

7.5 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.

7.6 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.

7.7 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.

7.8 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.

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

7.10 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.

7.11 Successors and Assigns. Subject to Section 7.6 above, the rights and obligations of the parties under this Agreement shall be binding upon the parties' respective successors and assigns.

7.12 Exhibits. Exhibits A and B attached to this Agreement are hereby expressly incorporated herein by reference.

SIGNATURES OF FOLLOWING PAGE

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

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

HOLIDAY-PANAY WAY MARINA, L.P.,
a California limited partnership

By: _____
Name: _____
Its: _____

ATTEST:

SACHI HAMAI,
Executive Officer of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.,
OFFICE OF COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

RESTATED LEASE

January 15, 2008

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:

DEPARTMENT OF BEACHES AND HARBORS: APPROVAL OF AMENDMENT NO. 12 TO LEASE NO. 6684 TO MODIFY REDEVELOPMENT WORK AND LEASEHOLD AREA ON PARCEL 20 (PANAY WAY MARINA) – MARINA DEL REY (FOURTH DISTRICT)
(4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed amendment to the Parcel 20 lease is categorically exempt under the California Environmental Quality Act pursuant to Classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.

2. Authorize the Chair to execute the attached Amendment No. 12 to Lease No. 6684 and the Memorandum of Lease Amendment with PANAY WAY MARINA, L.P., a California limited partnership, for the Parcel 20 lease in Marina del Rey, primarily relating to the use and development of a portion of Parcel 20 referred to herein as the Yacht Club Parcel.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The County is the lessor of a ground lease for Parcel 20, which was originally entered into in 1963 for a term of 60 years. On September 9, 2004, your Board executed an Amended and Restated Lease Agreement (Lease) extending the original expiration date of Lease No. 6684 for a term of 39 years with a new expiration date of December 31, 2061, and requiring the lessee, Panay Way Marina, L.P. (Lessee), to pay a $450,000 lease extension fee and implement a redevelopment program to include construction of a new 99-unit apartment building, replacement of existing docks with new docks, and construction of a 6,885 square foot new commercial building for the existing yacht club (Pacific Mariners Yacht Club) and commercial sublessees and of a waterfront promenade. Lessee has since completed construction of the 99-unit apartment building and the associated waterfront promenade.

In 2005, Lessee and County engaged in negotiations to amend the Lease. At that time, Lessee desired to relocate the Pacific Mariners Yacht Club and commercial sublessees into the proposed redevelopment project on Parcel 21 to be developed by Lessee's affiliate. The County in turn desired to reacquire the portion of Parcel 20 originally intended for the commercial building for use as a new administration building (Administration Building) for the Department of Beaches and Harbors (Department). The parties, therefore, agreed to divide Parcel 20 into two parcels, one of which (reduced Parcel 20) would be retained by Lessee for the newly constructed 99-unit apartment building and the other of which (referenced herein as the Yacht Club Parcel) would be returned to County.

Since that agreement was reached, circumstances have changed. The changed circumstances include, among others, that: a) the Department has selected a different site as its preferred alternative for its Administration Building; b) the Pacific Mariners Yacht Club is contemplating a merger with the Santa Monica WindjammersYacht Club and a potential relocation to a larger facility to accommodate the merged entity; and c) the Lessee desires to retain the Yacht Club Parcel for redevelopment if the County decides not to utilize the Yacht Club Parcel for its Administration Building. However, the Department still desires to retain an option to reacquire the Yacht Club Parcel, while also protecting the tenancy of the Pacific Mariners Yacht Club, until final decisions are made both as to the location of the Department's Administration Building and as to Pacific Mariners Yacht Club's plans. The proposed Amendment No. 12 to Lease No. 6684 (Amendment) addresses the changed circumstances and competing interests as follows:

(1) The Amendment provides that the County has up to seven years to notify the Lessee that it intends to build the Department's Administration Building on the Yacht Club Parcel. Upon receipt of such notice, Lessee is required to demolish the existing yacht club facility and reconvey the Yacht Club Parcel to County. In the event of such reconveyance, the then current rent for Parcel 20 is not adjusted, except that future minimum rent is calculated based only upon the gross revenues generated from the portion of Parcel 20 retained by Lessee.

(2) The Amendment defers the demolition and redevelopment of the Yacht Club Parcel until the earliest of (i) County's notice of its intention to build the Department's Administration Building on the Yacht Club Parcel, (ii) approval of a Burton Chace Park Master Plan that includes construction of the Administration Building and yacht club facility in Burton Chace Park, or (iii) seven years from the effective date of the Amendment. If the County does not exercise its right to reacquire the Yacht Club Parcel for the purpose of constructing the Administration Building on the Yacht Club Parcel, Lessee shall be required to redevelop the Yacht Club Parcel in accordance with a development plan acceptable to County and land use entitlements issued by applicable governmental authorities. Should Pacific Mariners Yacht Club determine not to merge with the Santa Monica Windjammers Yacht Club and/or elect to

relocate elsewhere, Lessee has the obligation to retain the yacht club at a location on either Parcel 20 or Parcel 21.

Economic Incentive if Pacific Mariners Yacht Club Moves to Burton Chace Park

Recognizing the economic benefit to Lessee if the Pacific Mariners Yacht Club relocates and Lessee is, thereby, relieved of its obligation to lease space to the yacht club, the Lessee has agreed in the Amendment to pay the County $800,000 if Pacific Mariners Yacht Club ceases for any reason to be a sublessee on either Parcel 20 or Parcel 21 within seven years from the effective date of the Amendment.

The Amendment also amends certain other provisions of the Lease including: a) an increase in percentage rent for a restaurant use; b) provision for parking and certain easements over Parcel 20 and the Yacht Club Parcel in the event the Yacht Club Parcel reverts back to the County; c) provisions pertaining to the use and development of the portion of the promenade located adjacent to the Yacht Club Parcel; and (d) incorporation into the Parcel 20 Lease of updated lender protection provisions.

The Amendment calls for Lessee and County to sign a Memorandum of Lease Amendment, in recordable form, following the effective date of the Amendment.

Implementation of Strategic Plan Goals

This recommendation furthers the County's Strategic Plan Goals of "Service Excellence" and "Fiscal Responsibility", as a new facility will be provided the Pacific Mariners Yacht Club, a priority use in the Marina, is protected if it does not merge with the Santa Monica Yacht Club or relocate elsewhere and the County has secured for its purposes at no cost a site for the Department's Administration Building if it is not able to be constructed at the preferred site.

FISCAL IMPACT/FINANCING

No fiscal impact.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Department is currently considering the southwest corner of Admiralty Way and Mindanao Way, the current site of the Visitor's Center, as the preferred site for its Administration Building. This location would provide the County with a prominent location in the Marina and easier access for the public. However, it is uncertain whether the County will be able to obtain all necessary approvals for the construction of the Administration Building at this site. As a result, it is prudent for the County to retain an option for a

reasonable period of time to reacquire the Yacht Club Parcel for the Department's new Administration Building.

Except for the provisions in the Amendment relating to the use and development of the Yacht Club Parcel, the economic incentive pertaining to the relocation of Pacific Mariners Yacht Club, and certain other provisions described above, all other terms of the Lease for Parcel 20 remain unchanged.

At its meeting of December 12, 2007, the Small Craft Harbor Commission _____ the recommendation to approve the Amendment and Memorandum of Amendment in the form attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

The Amendment is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines. Entering into the Amendment does not authorize construction or reconstruction of any improvements.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

No impact on current services is anticipated as a result of the Amendment.

CONCLUSION

Attached are three copies each of the Amendment and the Memorandum of Lease Amendment. Please have the Chair execute all copies and instruct the Executive Officer of the Board to acknowledge the Chair's signature. Return two executed copies of each document to the Department of Beaches and Harbors, along with a copy of the approved Board letter, retaining one executed copy of each document for your files.

Respectfully submitted,

William T Fujioka

SW:SK:GB:ks

Attachments (2)

c: County Counsel

4046656.1

Recording Requested by:

COUNTY OF LOS ANGELES

When Recorded Return to:

COUNTY OF LOS ANGELES
Office of County Counsel
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012
Attn: Thomas Faughnan, Esq.

FREE RECORDING
GOVERNMENT CODE SECTION 6103

_____SPACE ABOVE THIS LINE FOR RECORDING USE_____

MEMORANDUM OF LEASE AMENDMENT
PARCEL 20 — MARINA DEL REY

This Memorandum of Lease Amendment ("Memorandum") dated as of January ___, 2008 (the "Effective Amendment Date"), is entered by and between the COUNTY OF LOS ANGELES ("County"), as lessor, and PANAY WAY MARINA, L.P., a California limited partnership ("Lessee"), as lessee.

W I T N E S S E T H

WHEREAS, County and Lessee entered into Amended and Restated Lease No. 6684 dated September 9, 2004 (the "Lease") regarding the lease from County to Lessee of that certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 20 and which is more specifically described on Exhibit A attached hereto and incorporated herein by this reference (the "Premises");

WHEREAS, a Memorandum of Amended and Restated Lease Agreement dated September 9, 2004 concerning the Lease was recorded in the Official Records of Los Angeles County, California on _____, 2004 as Instrument No. _____; and

WHEREAS, the portion of the Premises described on Exhibit B attached hereto and incorporated herein by this reference (the "Yacht Club Parcel") is currently improved with a commercial building described in Section 3.1 of the Lease as the "Existing Commercial Building" and other ancillary improvements;

WHEREAS, County and Lessee have entered into that certain Amendment No. 12 to Amended and Restated Lease No. 6684 dated of even date herewith (the "Amendment"), amending the Lease in certain respects, including without limitation, the documentation of the

parties' agreement with respect to certain matters pertaining to the current and future use and development of the Yacht Club Parcel and other portions of the Premises;

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, County and Lessee agree as follows:

1. Amendment. The purpose of this Memorandum is to provide notice of the Amendment. All of the terms and conditions of the Amendment are incorporated herein by reference as though set forth fully herein. In the event of any conflict between the terms hereof and the terms of the Amendment, the terms of the Amendment shall prevail. This Memorandum is prepared for the purpose of recordation only and it in no way modifies the provisions of the Amendment. A true copy of the Amendment is on file in the offices of the County at Department of Beaches & Harbors, 13837 Fiji Way, Marina del Rey, California 90292.

2. Successors. Subject to the provisions of the Lease governing assignment, the rights and obligations created in the Lease, as modified by the Amendment, shall bind and inure to the benefit of the respective heirs, personal representatives, successors, grantees, and assigns of County and Lessee.

3. Counterparts. This Memorandum may be executed in counterparts, each of which shall be an original and all of which together shall constitute one fully-executed document.

4. Existing Encumbrances. Lessee represents and warrants that there are no deeds of trust, mortgages or other security interests that encumber Lessee's interest in the Lease or the Premises except as disclosed in the Lender's Consent attached hereto, and that except for partnership consents that have been obtained by Lessee, no consent is required from any other person or entity as a condition to the effectiveness of the Amendment against Lessee and the Premises.

SIGNATURES ON FOLLOWING PAGE

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

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

PANAY WAY MARINA, L.P.,
a California limited partnership

By: _____
Jona Goldrich, as Trustee of the Goldrich Trust No. 1, a general partner

ATTEST:

SACHI HAMAI,
Executive Officer of the
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles } ss.

On November 21, 2007 before me, Peggy L. Amenta, Notary Public,
Date — Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Jona Goldrich,
Name(s) of Signer(s)

XX personally known to me

☐ ~~proved to me on the basis of satisfactory evidence~~ to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

PEGGY L. AMENTA
COMM. #1714466
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My Comm. Expires Jan. 06, 2011

WMD1

Place Notary Seal Above

WITNESS my hand and official seal.

Peggy L. Amenta
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

© 2004 National Notary Association • 9350 De Soto Ave., P.O. Box 2402 • Chatsworth, CA 91313-2402 Item No. 5907 Reorder: Call Toll-Free 1-800-876-6827

LENDER CONSENT

The undersigned represents that it is the current beneficiary under that certain [Deed of Trust, Security Agreement and Assignment of Rents] dated _____, and recorded in the Official Records of Los Angeles County, California on _____ as Instrument No. _____ (the "Deed of Trust"), and as such current beneficiary the undersigned hereby consents to the Amendment referenced in the foregoing Memorandum of Lease Amendment and agrees that the Deed of Trust is subject and subordinate to such Amendment.

_____,
a _____

By: _____
Name: _____
Its: _____

State of _____
County of _____

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF EXISTING PREMISES

Parcels 245 to 262 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, recorded in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said county.

Reserving and excepting therefrom unto the County of Los Angeles easements for sanitary sewer, fire access and harbor utility purposes over those portions thereof designated on said map to be reserved by said county for such purposes.

Subject to the public easement reserved by the County of Los Angeles in Section 15.19 of the Lease.

EXHIBIT B

LEGAL DESCRIPTION OF YACHT CLUB PARCEL

AMENDMENT NO. 12 TO AMENDED AND RESTATED LEASE NO. 6684
PARCEL 20 – MARINA DEL REY SMALL CRAFT HARBOR

THIS AMENDMENT NO. 12 TO AMENDED AND RESTATED LEASE ("Amendment") is made and entered into this ___ day January, 2008 ("Effective Amendment Date") by and between COUNTY OF LOS ANGELES ("County") and PANAY WAY MARINA, L.P., a California limited partnership ("Lessee").

RECITALS

WHEREAS, the parties hereto or their predecessors in interest, on the 20th day of March, 1963 entered into Lease No. 6684, as amended and restated pursuant to that certain Amended and Restated Lease Agreement dated September 9, 2004 (as amended, the "Lease") under the terms of which County leased to Lessee that certain real property located in the Marina del Rey Small Craft Harbor, County of Los Angeles, State of California, commonly known as Parcel 20, which leasehold premises (the "Premises") is more particularly described on Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, the portion of the Premises described on Exhibit "B" attached hereto (the "Yacht Club Parcel") is currently improved with a commercial building described in Section 3.1 of the Lease as the "Existing Commercial Building" and other ancillary improvements; and

WHEREAS, the Existing Commercial Building is currently occupied, in part, by Pacific Mariners Yacht Club (the "Yacht Club Sublessee") pursuant to a Sublease dated December 29, 1986 (as amended, the "Yacht Club Sublease"); and

WHEREAS, the parties desire to enter into this Amendment to document the parties' agreement with respect to certain matters pertaining to the current and future use and development of the Yacht Club Parcel and other portions of the Premises.

NOW, THEREFORE, in consideration of the mutual agreements, covenants, and restrictions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, and each of them, agree as follows effective as of the Effective Amendment Date:

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

2. Use and Development of Yacht Club Parcel.

2.1 Notwithstanding any contrary provision of Sections 3.1 and 5.1 of the Lease, but subject to Section 2.5 below, until a Trigger Event (as defined below) has occurred, (a) the Existing Commercial Building and other Improvements currently located on the Yacht Club Parcel shall not be demolished, (b) the Yacht Club Parcel shall not be redeveloped pursuant to Section 5.1 of the Lease, and (c) the Yacht Club Parcel

shall continue to be used by Lessee for the same yacht club and other ancillary purposes for which the Yacht Club Parcel is used as of the Effective Amendment Date. For purposes of this Amendment, "Trigger Event" means the occurrence of any of the following: (i) the occurrence of the seventh (7th) anniversary of the date of the approval by the Board of this Amendment; (ii) the Chace Park Master Plan (or an amendment, replacement or other modification thereof) is approved by the Board and the California Coastal Commission (including any required Local Coastal Plan amendments) to permit County to construct a Department administration building and yacht club facility in Chase Park; or (iii) written notice from County to Lessee that County requires possession of the Yacht Club Parcel for the development of a Department administration building thereon ("County Development Notice").

2.2 If the Trigger Event that is first to occur is either clause (i) or (ii) in Section 2.1 above, then upon the occurrence of such first Trigger Event, Lessee shall proceed with diligence to (a) perform all design work and obtain all final, non-appealable governmental permits and approvals required for the redevelopment of the Yacht Club Parcel with new improvements approved by Department and consistent with the land use entitlements for the Yacht Club Parcel as determined by County (in its governmental function, as opposed to proprietary function as lessor under this Lease), the California Coastal Commission and any other applicable governmental authority (collectively, the "Yacht Club Parcel Approvals"); and (b) upon receipt of all Yacht Club Parcel Approvals, to demolish the existing Improvements on the Yacht Club Parcel and construct new Improvements on the Yacht Club Parcel in accordance with the Yacht Club Parcel Approvals (the "Yacht Club Parcel Redevelopment Work"). Subject to Section 2.5 below, until the receipt by Lessee of the Yacht Club Parcel Approvals, Lessee shall continue to use the Yacht Club Parcel for the same yacht club and other ancillary purposes for which the Yacht Club Parcel is used as of the Effective Amendment Date. The Yacht Club Parcel Redevelopment Work shall constitute the "Redevelopment Work" under the Lease with respect to the Yacht Club Parcel and shall replace the New Commercial Building to have been constructed by Lessee on the Yacht Club Parcel under the Lease as part of the Redevelopment Work. Lessee shall be obligated to obtain the Yacht Club Parcel Approvals not later than eighteen (18) months following the date of the first Trigger Event (the "Required Yacht Club Parcel Approval Date"); provided, however, if Lessee has exercised its best diligent efforts to obtain the Yacht Club Parcel Approvals within such eighteen (18) month period, but is unable to do so, then Director shall have the right in the exercise of its reasonable discretion, to grant Lessee one or more extensions of the Required Yacht Club Parcel Approval Date, provided that in no event shall the Required Yacht Club Parcel Approval Date be extended beyond twenty-four (24) months following the date of the first Trigger Event. Lessee shall be obligated to cause the Substantial Commencement of Construction of the Yacht Club Parcel Redevelopment Work to occur not later than six (6) months after Lessee's receipt of the Yacht Club Parcel Approvals (for purposes of Section 5.7 of the Lease, the "Anticipated Commencement Date"), and shall cause the substantial completion of the Yacht Club Parcel Redevelopment Work to occur not later than twenty-four (24) months after Lessee's receipt of the Yacht Club Parcel Approvals (for purposes of Section 5.7 of the Lease, the "Anticipated Completion Date"). The terms and provisions of Section 5.7 of

the Lease shall be applicable to the construction of the Yacht Club Parcel Redevelopment Work, except that (1) the Yacht Club Parcel Redevelopment Work shall be considered as a "Phase" under such Section 5.7, (2) all references in Section 5.7 to the "New Commercial Building" shall be deemed replaced with the Yacht Club Parcel Redevelopment Work, and (3) the Anticipated Commencement Date and Anticipated Completion Date for the Yacht Club Parcel Redevelopment Work shall be as set forth in this Section 2.2. The design approval process for the Yacht Club Parcel Redevelopment Work shall proceed in accordance with the terms and provisions of Sections 5.2 through 5.4 of the Lease, and the terms and provisions of Sections 5.5, 5.6, 5.8, 5.9 and 5.12 of the Lease shall also be applicable to the Yacht Club Parcel Redevelopment Work.

2.3 If the Trigger Event that is first to occur is clause (iii) in Section 2.1 above, then effective as of the date selected by County in the County Development Notice as the "Yacht Club Parcel Termination Date", which date shall be not less than one hundred twenty (120) days nor more than one (1) year after the date of the County Development Notice, the Lease shall terminate with respect to the Yacht Club Parcel. On or prior to the Yacht Club Parcel Termination Date, Lessee shall demolish the Existing Commercial Building (if such building has not already been demolished pursuant to Section 2.5 below) and surrender possession of the Yacht Club Parcel to County in the condition required on the expiration or earlier termination of the Lease. For purposes of the immediately preceding sentence, County shall notify Lessee in the County Development Notice of whether County requires Lessee to remove all or any portion of the then remaining other Improvements located on the Yacht Club Parcel. The ownership of any Improvements that County does not require to be removed from the Yacht Club Parcel shall revert to County as of the Yacht Club Parcel Termination Date. On or prior to the Yacht Club Parcel Termination Date, Lessee shall demolish and remove all Improvements that Lessee is required to demolish hereunder, at Lessee's sole cost and expense, and surrender possession of the Yacht Club Parcel to County in the condition required under the Lease upon the expiration or earlier termination of the Lease. If Lessee fails to perform its obligations under this paragraph, then County shall have the right to perform such obligations on Lessee's behalf and charge Lessee the Actual Cost incurred by County in connection therewith. Subject to Lessee's obligations under this Section 2.3, effective on the Yacht Club Parcel Termination Date the Term of the Lease shall expire with respect to the Yacht Club Parcel and Lessee shall have no further rights or interest in the Yacht Club Parcel. There shall be no adjustment to the Annual Minimum Rent, Percentage Rent or Extension Fee payable under the Lease in the event of a termination of the Lease with respect to the Yacht Club Parcel; provided, however, for purposes of calculating the Annual Minimum Rent for periods effective on and after the first Adjustment Date that follows the Yacht Club Parcel Termination Date, all references in Article 4 of the Lease to the average total Annual Rent that was payable for periods preceding the period in which the then current Annual Rent is calculated shall mean and refer to the average total Annual Rent that was payable with respect to the remaining Premises under the Lease (excluding the Yacht Club Parcel). In the event of the termination of the Lease with respect to the Yacht Club Parcel, all references to yacht club, commercial office or other commercial uses or facilities in Sections 3.1, 3.3, 3.7 and 10.1 of the Lease shall be deemed deleted from the Lease, and Section 3.9 and Exhibit C

of the Lease also shall be deemed deleted from the Lease. If the Lease is terminated with respect to the Yacht Club Parcel pursuant to this Section 2.3, then at County's request County and Lessee shall execute an amendment to this Lease and Lessee shall execute a quitclaim deed with respect to the Yacht Club Parcel, to confirm the termination of the Lease with respect to the Yacht Club Parcel, and County and Lessee shall execute any other documents as reasonably necessary or appropriate to effectuate the termination of the Lease with respect to the Yacht Club Parcel; provided, however, that no failure to execute an amendment to this Lease or a quitclaim deed with respect to the Yacht Club Parcel shall have any effect upon the termination of the Lease with respect to the Yacht Club Parcel as set forth in this Section 2.3.

2.4 Lessee agrees to cooperate with any efforts by County to obtain all governmental approvals and entitlements for the development of a Department administration facility on the Yacht Club Parcel, and neither Lessee nor any of its affiliates shall object or take any action to interfere with the development of such facility.

2.5 If prior to the occurrence of a Trigger Event the Yacht Club Sublessee ceases to occupy space in the Existing Commercial Building, then upon written request by County, Lessee shall, at Lessee's sole cost and expense, demolish and remove the Existing Commercial Building and such other Improvements located on or under the Yacht Club Parcel as requested by County to be demolished and removed, and improve the Yacht Club Parcel as open space or as a surface parking lot, in accordance with plans and specifications approved by Department. Lessee shall complete the work described in this Section 2.5 within one hundred twenty (120) days after written request by County.

3. Yacht Club Payment. If within seven (7) years after the approval by the Board of this Amendment and the Parcel 21 Option (as defined in Section 4.2 below), a Payment Event (as defined below) occurs, then within thirty (30) days after the occurrence of the Payment Event, Lessee shall pay to County the sum of Eight Hundred Thousand Dollars ($800,000.00). For purposes hereof, a "Payment Event" shall mean (i) the Yacht Club Sublessee (or its successor or assign) relocates to a location other than the Premises or the Parcel 21 Premises (as defined in Section 4.2 below); (ii) the Yacht Club Sublessee (or its successor or assign) totally or substantially dissolves, disbands, closes for business or otherwise ceases operation at the Premises or the Parcel 21 Premises; (iii) the Yacht Club Sublessee (or its successor or assign) merges, consolidates, joins, or participates in a reorganization or reconstitution, with another entity, or forms a different entity, at a location other than the Premises or the Parcel 21 Premises; (iv) the Yacht Club Sublease terminates; or (v) the Yacht Club Sublessee (or its successor or assign) enters into an agreement to do any of the foregoing.

4. Restaurant Percentage Rent. The percentage set forth in category (j) of subsection 4.2.2 of the Lease is hereby changed from THREE AND ONE-HALF PERCENT (3.5%) to FOUR PERCENT (4%).

5. Surface Parking Area. The terms and provisions of this Section 5 shall be applicable only in the event that the Lease is terminated with respect to the Yacht Club Parcel pursuant to Section 2.3 above.

5.1 As of the Effective Amendment Date, the Premises includes a surface parking area (the "Surface Parking Area") located between the New Apartments and the Existing Commercial Building on the Yacht Club Parcel. Subject to the terms and provisions of this Section 5, the Surface Parking Area shall mean and include the entire surface parking area now or hereafter located between (a) the New Apartments, and (b) either the Existing Commercial Building or any building hereafter constructed in place of the Existing Commercial Building on the Yacht Club Parcel. If the Lease is terminated with respect to the Yacht Club Parcel, then County, in its capacity as fee owner of the Yacht Club Parcel, shall have the right to enlarge, reduce, eliminate or otherwise modify the portion of the Surface Parking Area located on the Yacht Club Parcel in connection with the development of a Department administration facility; provided, however, that prior to any termination of the right of Lessee to use the Surface Parking Area located on the Yacht Club Parcel pursuant to Section 5.2 below, no such modification of the portion of the Surface Parking Area located on the Yacht Club Parcel shall cause the remaining Premises under the Lease to be in violation of parking code requirements. The Surface Parking Area shall not include any subterranean or above-ground parking structure or covered parking hereafter constructed on the Yacht Club Parcel, nor any surface parking that is now or hereafter located to the East of the Existing Commercial Building or any building hereafter constructed on the Yacht Club Parcel in place of the Existing Commercial Building.

5.2 The Surface Parking Area is located partly on the Yacht Club Parcel and partly on the remaining portion of the Premises. The Surface Parking Area shall be used for parking purposes for the Anchorage Improvements located on the remaining portion of the Premises and the Improvements located (or to be located) on the Yacht Club Parcel. Lessee shall have the exclusive use of the portion of the Surface Parking Area located on the remaining portion of the Premises, subject to a non-exclusive appurtenant easement running in favor of the Yacht Club Parcel to use the entrances, exits and drive aisles located on the Surface Parking Area for access to and from Panay Way at the existing entrance/exit to the Surface Parking Area located immediately to the East of the New Apartments. The Lease of the remaining portion of the Premises to Lessee is expressly subject to the foregoing access easement. Lessee shall not make any modifications or alterations to the Surface Parking Area that interfere with such access. The portion of the Surface Parking Area that is located on the Yacht Club Parcel shall be used in common by both the Yacht Club Parcel and the remaining portion of the Premises. In the event that the Lease is terminated with respect to the Yacht Club Parcel, then effective as of such termination County grants Lessee, in its capacity as lessee of the remaining Premises, a non-exclusive easement for common parking purposes over the portion of the Surface Parking Area located on the Yacht Club Parcel, which common use shall be on a first-come, first-served unreserved basis, subject to the right of the County to designate for the exclusive use of the Yacht Club Parcel up to nine (9) parking stalls on the portion of the Surface Parking Area located on the Yacht Club Parcel, which exclusive parking stalls shall be located in an area or areas of the Yacht Club Parcel selected by County. Lessee's right to use the portion of the Surface Parking Area located on the Yacht Club Parcel shall also be subject to the right of County to use such area for

construction staging purposes in connection with the redevelopment of the Yacht Club Parcel, except that prior to the termination of the right of Lessee to use the Surface Parking Area located on the Yacht Club Parcel, no such construction staging use of the portion of the Surface Parking Area located on the Yacht Club Parcel shall cause the remaining portion of the Premises to be in violation of parking code requirements.

County and Lessee's affiliate, Holiday-Panay Way Marina, L.P. ("Parcel 21 Lessee"), as current lessee of Parcel No. 21 located adjacent to the Premises (the "Parcel 21 Premises"), are currently herewith entering into an Option to Amend Lease Agreement pursuant to which County has granted to the Parcel 21 Lessee an option to extend the term of the existing lease for the Parcel 21 Premises (the "Parcel 21 Option") for the purpose of facilitating the redevelopment of the Parcel 21 Premises. In connection with such redevelopment of the Parcel 21 Premises, it is contemplated that the parking facilities utilized to satisfy the parking requirements for the Anchorage Facilities located on the Premises will be relocated from the Surface Parking Area to new parking facilities to be constructed on the Parcel 21 Premises. Such redevelopment of the Parcel 21 Premises is contingent upon the satisfaction by the Parcel 21 Lessee of the conditions to the exercise of the Parcel 21 Option (including, without limitation, receipt of the necessary entitlements for the redevelopment of the Parcel 21 Premises and the acquisition of financing for such redevelopment), and the actual exercise of the Parcel 21 Option by the Parcel 21 Lessee (the "Parcel 21 Option Contingencies"). Lessee acknowledges that County has no obligation to Lessee with regard to the satisfaction of the Parcel 21 Option Contingencies. Lessee agrees to cooperate with County and the Parcel 21 Lessee in any efforts to obtain any and all governmental approvals that may be required for the relocation of the parking for the Anchorage Improvements from the Surface Parking Area to the Parcel 21 Premises. If the Parcel 21 Option Contingencies are satisfied, then the easement granted to Lessee in this Section 5.2 to use the portion of the Surface Parking Area located on the Yacht Club Parcel shall terminate upon the earlier of the substantial completion by the Parcel 21 Lessee of the replacement parking facilities to be located on the Parcel 21 Premises or the required date for such substantial completion set forth in the amended and restated lease for Parcel 21 to be executed by County and the Parcel 21 Lessee upon satisfaction of the Parcel 21 Option Contingencies.

5.3 Notwithstanding any termination of the Lease with respect to the Yacht Club Parcel, as long as Lessee retains any easement or other rights to use the portion of the Surface Parking Area located on the Yacht Club Parcel, (a) Lessee shall be responsible, at Lessee's sole cost and expense, for the repair and maintenance of the entire Surface Parking Area (including that portion located on the Yacht Club Parcel) in the condition required under Section 10.1 of the Lease, including without limitation, periodic repaving or slurry coating, and re-striping, as reasonably necessary; and (b) all of the Lessee's obligations under the Lease pertaining to insurance and indemnification shall apply to the entire Surface Parking Area as if such entire Surface Parking Area was a part of the Premises.

6. Promenade

6.1 Regardless of any termination of the Lease with respect to the Yacht Club Parcel, the Promenade described in Section 15.19 of the Lease shall be retained as part of the Premises, except as described in Section 6.2 below. Pursuant to Section 15.19 of the Lease, Lessee is required to complete certain improvements to the Promenade (referred to in Section 15.19 of the Lease as the "Promenade Work") as part of the Redevelopment Work, and to maintain and repair the Promenade during the Term of the Lease. As of the Effective Amendment Date, Lessee has completed certain portions of the Promenade Work located adjacent to the New Apartments. The remaining Promenade Work shall be performed by Lessee in accordance with the schedule set forth in Section 5.7 of the Lease.

6.2 The Existing Commercial Building located on the Yacht Club Parcel is located approximately twelve (12) feet from the bulkhead. However, upon the demolition of the Existing Commercial Building, the width of the Promenade shall be expanded by an additional approximately eight (8) feet such that the width of the Promenade in such area is twenty (20) feet. Only the existing twelve (12) foot width of the Promenade is included in the remaining portion of the Premises in the case of the termination of the Lease with respect to the Yacht Club Parcel. Upon the demolition of the Existing Commercial Building in connection with or following the termination of the Lease with respect to the Yacht Club Parcel, all of the obligations of Lessee under Section 15.19 of the Lease (including, without limitation, Lessee's obligations with respect to the Promenade Work and Lessee's obligations with respect to maintenance and repair of the Promenade) shall apply not only to the portion of the Promenade located on the remaining Premises, but also to the additional approximately eight (8) foot width of the expanded Promenade located on the Yacht Club Parcel as described above. Lessee shall perform such obligations at Lessee's sole cost and expense; provided, however, that County shall be responsible for any and all repairs required as a result of construction or other work performed by or on behalf of County on the Yacht Club Parcel following the termination of the Lease with respect to the Yacht Club Parcel (other than the required demolition by Lessee of the Existing Commercial Building and other Improvements on the Yacht Club Parcel), to the extent such repairs are necessary to restore the Promenade to the condition existing prior to any construction or other work (except with respect to the expansion of the Promenade as contemplated herein). The public easement described in Section 15.19 of the Lease shall apply to the entire width of the Promenade, as expanded.

6.3 If the Lease is terminated with respect to the Yacht Club Parcel, then Lessee is hereby granted an appurtenant easement over the portion of the Promenade to be located on the Yacht Club Parcel for the purpose of completing Lessee's construction of the Promenade Work on such portion of the Promenade and for the purpose of performing Lessee's maintenance and repair obligations under Section 15.19 of the Lease. If the Lease is terminated with respect to the Yacht Club Parcel, then all of the terms and provisions of the Lease applicable to Lessee's performance of the Promenade Work as part of the Redevelopment Work and Lessee's maintenance and

repair of the Promenade (including without limitation, Lessee's obligations with respect to insurance and indemnification) shall be equally applicable to the portion of the Promenade located on the Yacht Club Parcel as if such portion of the Promenade was located on the remaining portion of the Premises.

6.4 If the Lease is terminated with respect to the Yacht Club Parcel, then in connection with the demolition of the Existing Commercial Building on the Yacht Club Parcel and the construction of the Department administration facility, County reserves an appurtenant easement running in favor of the Yacht Club Parcel over the portion of the Promenade located adjacent to the Yacht Club Parcel for purposes of (a) construction staging, scaffolding and other construction purposes, and (b) subterranean footers, tie-backs and other subjacent and lateral support. If the Lease is terminated with respect to the Yacht Club Parcel, County also reserves an appurtenant easement running in favor of the Yacht Club Parcel over the portion of the Promenade located on the remaining Premises adjacent to the Yacht Club Parcel for purposes of pedestrian ingress and egress to and from the Yacht Club Parcel.

7. County Costs. Lessee shall promptly reimburse County for the Actual Costs incurred by County in the review, negotiation, preparation and documentation of this Amendment and the terms sheets and memoranda that preceded it. County shall deliver to Lessee a report detailing such expenditures within ninety (90) days after the Effective Amendment Date.

8. Encumbrances. Article 12 of the Lease is amended in full to read as follows:

"12. ENCUMBRANCES.

12.1 Financing Events.

12.1.1 Definitions. For the purposes of this Lease, including without limitation the provisions of Sections 4.6 through 4.8 hereof: (i) a "Financing Event" shall mean any financing or refinancing consummated by Lessee or by the holders of partnership interests or other direct or indirect ownership interests in Lessee (collectively, "Ownership Interests"), whether with private or institutional investors or lenders, where such financing or refinancing is an Encumbrance (as defined below); for purposes of subsection 12.1.2 below and Sections 4.6 through 4.8 above, a "Financing Event" shall also include all of the foregoing actions involving the granting of a mortgage, deed of trust or other security interest in a Major Sublease; and (ii) an "Encumbrance" shall mean any direct or indirect grant, pledge, assignment, transfer, mortgage, hypothecation, grant of control, grant of security interest, or other encumbrance, of or in all or any portion of (A) 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) or (B) Ownership

Interests if an absolute assignment from the holder of such Ownership Interests to the holder of the Encumbrance would have required County's consent under this Lease, to a lender (upon County approval of the Encumbrance and consummation thereof, the "Encumbrance Holder") as security for a loan. The term "Encumbrance Holder" shall also be deemed to include any successors and assigns of such Encumbrance Holder which have succeeded by assignment or otherwise to any rights, interests or liabilities of the Encumbrance Holder with respect to the Encumbrance, or any designee which has been designated by the Encumbrance Holder to exercise any rights or remedies under the Encumbrance or to take title to the leasehold estate under this Lease or to Ownership Interests, and such permitted successors, assigns or designees shall enjoy all of the rights and protections given to Encumbrance Holders under this Lease; provided, however, no successor, assign or designee of an Encumbrance Holder that is affiliated with Lessee or any person or entity with a direct or indirect ownership interest in Lessee shall be entitled to any of the rights or protections granted to Encumbrance Holders under this Lease. The term "Equity Encumbrance Holder" shall mean an Encumbrance Holder holding an Encumbrance with respect to Ownership Interests.

12.1.2 County Approval Required. Lessee may, with the prior written consent of Director, which shall not be unreasonably withheld, and subject to any specific conditions which may be reasonably imposed by Director, consummate one or more Financing Events. Lessee shall submit to Director a preliminary loan package and thereafter a complete set of all proposed transaction documents in connection with each proposed Financing Event. The preliminary loan package shall include the loan commitment (or the so-called "loan application" if the loan commitment is styled as a loan application) and any other documents, materials or other information reasonably requested by Director. Lessee shall have the right, but not the obligation, to include draft loan documents in the preliminary loan package. Director shall have sixty (60) days to grant or withhold approval of the preliminary loan package. Director shall have sixty (60) days after receipt of substantially complete loan documents conforming to the approved preliminary loan package in which to grant or withhold final approval of the Financing Event; provided, however, that if the preliminary loan package included draft loan documents, then the foregoing sixty (60) day period shall be reduced to thirty (30) days. If not approved by Director in writing within the foregoing periods, the proposed Financing Event shall be deemed disapproved by Director (and, if so requested in writing by Lessee), Director shall within thirty (30) days of such request deliver to Lessee a written description of Director's objections to said proposed Financing Event). Lessee shall reimburse County for County's Actual

Cost incurred in connection with its review of the proposed Financing Event. One 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. The same rights and obligations set forth above in this subsection 12.1.2 shall inure to the benefit of and shall be binding upon any holder of Ownership Interests with respect to any proposed Financing Event involving Ownership Interests.

12.2 Consent Requirements In The Event of a Foreclosure Transfer.

12.2.1 Definitions. As used herein, a "Foreclosure Transfer" shall mean any transfer of the entire leasehold estate under this Lease or of all of the Ownership Interests in Lessee pursuant to any judicial or nonjudicial foreclosure or other enforcement of remedies under or with respect to an Encumbrance, or by voluntary deed or other transfer in lieu thereof. A "Foreclosure Transferee" shall mean any transferee (including without limitation an Encumbrance Holder) which acquires title to the entire leasehold estate under this Lease or to all of the Ownership Interests in Lessee pursuant to a Foreclosure Transfer. An "Equity Foreclosure Transferee" shall mean a Foreclosure Transferee whose acquired interest consists of all of the Ownership Interests in Lessee.

12.2.2 Foreclosure Transfer. The consent of County shall not be required with respect to any Foreclosure Transfer. In addition, no Foreclosure Transfer, and no single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall trigger the obligation to pay a Net Proceeds Share to County or any recapture right of County under subsection 11.2.4 of this Lease.

12.2.3 Subsequent Transfer By Encumbrance Holder. For each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder, with respect to a single subsequent transfer of this Lease or the Ownership Interests (as applicable) by such Encumbrance Holder to any third party, (i) County's consent to such transfer shall be required, but shall not be unreasonably withheld or delayed, and the scope of such consent (notwithstanding anything in this Lease to the contrary) shall be limited to County's confirmation (which must be reasonable) that the Lessee following such transfer has sufficient financial capability to perform its remaining obligations under this Lease as they come due, along with any obligation of Lessee for which the Foreclosure Transferee from whom its receives such transfer is released under subsection 12.3.1 below, and (ii) such

transferee (other than a transferee of Ownership Interests) shall expressly agree in writing to assume and to perform all of the obligations under this Lease, other than Excluded Defaults (as defined below). For clarification purposes, the right to a single transfer under this Section shall apply to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder, so that there may be more than one "single transfer" under this Section.

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

12.3.1 Any Encumbrance Holder which is a commercial bank, savings bank, savings and loan institution, insurance company, pension fund, investment bank, opportunity fund, mortgage conduit, real estate investment trust, commercial finance lender or other similar financial institution which ordinarily engages in the business of making, holding or servicing commercial real estate loans, including any affiliate thereof (an "Institutional Lender"), shall, upon becoming a Foreclosure Transferee (other than an Equity Foreclosure Transferee), become liable to perform the full obligations of Lessee under this Lease (other than Excluded Defaults as defined below) accruing during its period of ownership of the leasehold. Upon a subsequent transfer of the leasehold in accordance with subsection 12.2.3 above, such Institutional Lender shall be automatically released of any further liability with respect to this Lease, other than for (i) rent payments, property tax payments, reserve account payments and other monetary obligations under specific terms of the Lease that accrue solely during such Institutional Lender's period of ownership of the leasehold, and (ii) Lessee's indemnification obligations under this Lease with respect to matters pertaining to or arising during such Institutional Lender's period of ownership of leasehold title.

12.3.2 Any other Foreclosure Transferee (i.e., other than an Institutional Lender as provided in subsection 12.3.1 above) shall, upon becoming a Foreclosure Transferee (other than an Equity Foreclosure Transferee), become liable to perform the full obligations of Lessee under this Lease (other than Excluded Defaults), subject to possible release of liability upon a subsequent transfer pursuant to Section 11.3 of this Lease.

12.3.3 Following any Foreclosure Transfer which is a transfer of the leasehold interest under the Lease, County shall recognize the Foreclosure Transferee as the Lessee under the Lease and shall not

disturb its use and enjoyment of the Premises, and the Foreclosure Transferee shall succeed to all rights of Lessee under this Lease as a direct lease between County and such Foreclosure Transferee, provided that the Foreclosure Transferee cures any pre-existing Event of Default other than any such pre-existing Event of Default that (i) is an incurable non-monetary default, (ii) is a non-monetary default that can only be cured by a prior lessee, (iii) is a non-monetary default that is not reasonably susceptible of being cured by such transferee, or (iv) relates to any obligation of a prior lessee to pay any Net Proceeds Share (collectively, "Excluded Defaults"), and thereafter performs the full obligations of Lessee under this Lease. Pursuant to subsection 12.3.7 below, following any Foreclosure Transfer which is a transfer of Ownership Interests, the foregoing rights under this subsection 12.3.3 shall also inure to the benefit of the Lessee.

12.3.4 No Encumbrance Holder shall become liable for any of Lessee's obligations under this Lease unless and until such Encumbrance Holder becomes a Foreclosure Transferee with respect to Lessee's leasehold interest under the Lease.

12.3.5 No Foreclosure Transfer, and no single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall trigger (i) any obligation to pay an Administrative Charge nor any Net Proceeds Share, (ii) any acceleration of the Extension Payments payable by Lessee under Section 2.2 of this Lease or any other financial obligation of Lessee under this Lease, (iii) any recapture right on the part of County, or (iv) any termination right under this Lease. Any Foreclosure Transfer, and any single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall be deemed to be excluded from the definitions of "Change of Ownership" for all purposes of this Lease. For clarification purposes, the "single subsequent transfer" referred to above applies to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder (as more fully explained in subsection 12.2.3), so that there may be more than one "single subsequent transfer" benefited by this Section.

12.3.6 In the event that an Institutional Lender becomes a Foreclosure Transferee, all obligations with respect to the construction work described in Sections 5.1 or 5.14 above (other than any obligations to make deposits into the Renovation Fund) shall be tolled for a period of time, not to exceed twelve months, until such Institutional Lender completes a subsequent transfer of its foreclosed interest in the Lease or Ownership Interests, provided that such Institutional Lender is making commercially reasonable and diligent efforts to market and sell its foreclosed interest. Nothing in this

subsection 12.3.6 shall be construed as a limit or outside date on any cure periods provided to Encumbrance Holders under this Lease.

12.3.7 Following a Foreclosure Transfer with respect to all of the Ownership Interests in Lessee, (i) any and all rights, privileges and/or liability limitations afforded to Foreclosure Transferees in this Article 12 or any other provision of this Lease shall also be afforded to Lessee from and after such Foreclosure Transfer, to the same extent as if the Foreclosure Transferee had acquired the leasehold interest of Lessee directly and became the Lessee under this Lease, and (ii) if the Foreclosure Transferee was also an Equity Encumbrance Holder, then any and all rights, privileges and/or liability limitations afforded to Foreclosure Transferees who are Encumbrance Holders in this Article 12 or any other provision of this Lease shall also be afforded to Lessee from and after such Foreclosure Transfer, to the same extent as if the Foreclosure Transferee had acquired the leasehold interest of Lessee directly and became the Lessee under this Lease.

12.4 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 subsection 12.1.2, 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 (other than Excluded Defaults or as otherwise provided herein).

12.5 Modification or Termination of Lease. This Lease shall not be modified or amended without the prior written consent in its sole discretion of each then existing Encumbrance Holder with respect to Lessee's entire leasehold interest in this Lease or all of the Ownership Interests in Lessee. Further, this Lease may not be surrendered or terminated (other than in accordance with the provisions of this Article 12) without the prior written consent of each such Encumbrance Holder in its sole discretion. No such modification, amendment, surrender or termination without the prior written consent of each such then existing Encumbrance Holder shall be binding on any such Encumbrance Holder or any other person who acquires title to its foreclosed interest pursuant to a Foreclosure Transfer.

12.6 Notice and Cure Rights of Encumbrance Holders and Major Sublessees.

12.6.1 Right to Cure. Each Encumbrance Holder and Major Sublessee shall have the right, at any time during the term of its Encumbrance or Major Sublease, as applicable, and in accordance with the provisions of this Article 12, 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.

12.6.2 Notice of Default. County shall not exercise any remedy available to it upon the occurrence of an Event of Default (other than exercising County's self-help remedies pursuant to Section 13.5 or imposing the daily payment set forth in Section 10.2), and no such exercise shall be effective, unless it first shall have given written notice of such default to each and every then existing Major Sublessee and Encumbrance Holder which has 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 herein. If such Event or Events of Default are so cured, this Lease shall remain in full force and effect. Notwithstanding any contrary provision hereof, the Lender's cure rights set forth in this Section 12.6 shall not delay or toll the County's right to impose the daily payment for Lessee breaches set forth in Section 10.2.

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

(a) 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 its receipt of the aforesaid notice of default. 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.

(b) 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:

(1) The Encumbrance Holder or Major Sublessee may cure the default within sixty (60) days after the end of Lessee's cure period as provided in Section 13.1 hereof (or, if the default involves health, safety or sanitation issues, County may by written notice reduce such sixty (60) day period to thirty (30) days, such 60 or 30 day period, as applicable, being referred to herein as the "initial cure period"), provided, however, if the curing of such default reasonably requires activity over a longer period of time, the initial cure period shall be extended for such additional time as may be reasonably necessary to cure such default, so long as the Encumbrance Holder or Major Sublessee commences a cure within the initial cure period 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 initial cure 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.

(2) With respect to an Encumbrance Holder, but not a Major Sublessee, if before the expiration of the initial cure 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, the initial cure period shall be extended by the time necessary to complete such foreclosure proceedings, or (ii) if said Encumbrance Holder is prevented from commencing or continuing foreclosure proceedings by any bankruptcy stay, or 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 stay, order, judgment or decree, the initial cure period shall be extended by the time necessary to obtain such release or reversal and thereafter to complete such foreclosure proceedings. Within thirty (30) days after a Foreclosure Transfer is completed, the Foreclosure Transferee shall (if such default has not been cured) commence to cure, remedy or correct the default and thereafter diligently pursue such cure until completed in the same manner as provided in subsection (a) above. The Encumbrance Holder shall have the right to terminate its foreclosure proceeding, and the extension of any relevant cure period shall lapse, in the event of a cure by Lessee.

12.7 New Lease.

12.7.1 Obligation to Enter Into New Lease. In the event that this Lease is terminated by reasons of bankruptcy, assignment for the benefit of creditors, insolvency or any similar proceedings, operation of law, an Excluded Default or other event beyond the reasonable ability of an Encumbrance Holder to cure or remedy, or if the Lease otherwise terminates for any reason, County shall, upon the written request of any Encumbrance Holder with respect to Lessee's entire leasehold estate under this Lease or all of the Ownership Interests in Lessee (according to the priority described below if there are multiple Encumbrance Holders), enter into a new lease (which shall be effective as of the date of termination of this Lease) with the Encumbrance Holder or an affiliate thereof for the then remaining Term of this Lease on the same terms and conditions as shall then be contained in this Lease, provided that the Encumbrance Holder cures all then existing monetary defaults under this Lease, and agrees to commence a cure of all then existing non-monetary Events of Default within sixty (60) days after the new lease is entered into, and thereafter diligently pursues such cure until completion. In no event, however, shall the Encumbrance Holder be obligated to cure any Excluded Defaults. County shall notify the most junior Encumbrance Holder of a termination described in this Section 12.7 within thirty (30) days after the occurrence of such termination, which notice shall state (i) that the Lease has terminated in accordance with Section 12.7 of this Lease, and (ii) that such Encumbrance Holder has sixty (60) days following receipt of such notice within which to exercise its right to a new lease under this Section 12.7, or else it will lose such right. An Encumbrance Holder's election shall be made by giving County written notice of such election within sixty (60) days after such Encumbrance Holder has received the above-described written notice from the County. Within a reasonable period after request therefor, County shall execute and return to the Encumbrance Holder any and all documents reasonably necessary to secure or evidence the Encumbrance Holder's interest in the new lease or the Premises. From and after the effective date of the new lease, the Encumbrance Holder (or its affiliate) shall have the same rights to a single transfer that are provided in subsection 12.2.3 above, and shall enjoy all of the other rights and protections that are provided to a Foreclosure Transferee in this Article 12. Any other subsequent transfer or assignment of such new lease shall be subject to all of the requirements of Article 11 of this Lease. If there are multiple Encumbrance Holders, this right shall inure to the most junior Encumbrance Holder in order of priority; provided, however, if such junior Encumbrance Holder shall accept the new lease, the priority of each of the more senior Encumbrance Holders shall be restored in accordance with all terms and conditions of such Encumbrances(s).

If a junior Encumbrance Holder does not elect to accept the new lease within thirty (30) days of receipt of notice from County, the right to enter into a new lease shall be provided to the next most junior Encumbrance Holder, under the terms and conditions described herein, until an Encumbrance Holder either elects to accept a new lease, or no Encumbrance Holder so elects.

12.7.2 Priority of New Lease. The new lease made pursuant to this Section 12.7 shall be prior to any mortgage or other lien, charge or encumbrance (except for easements or other matters to which this Lease is subject) on County's fee interest in the Premises (except for easements or other matters to which this Lease is subject), and any future fee mortgagee or other future holder of any lien on the fee interest in the Premises is hereby given notice of the provisions hereof.

12.8 Holding of Funds. Any Encumbrance Holder with respect to Lessee's entire leasehold interest in this Lease or all of the Ownership Interests in Lessee that is an Institutional Lender shall have the right to hold and control the disbursement of (i) any insurance or condemnation proceeds to which Lessee is entitled under this Lease and that are required by the terms of this Lease to be applied to restoration of the improvements on the Premises (provided that such funds shall be used for such restoration in accordance with the requirements of the Lease), and (ii) any funds required to be held in the Renovations Fund (provided that such funds shall be used for the purposes required by this Lease). If more than one such Encumbrance Holder desires to exercise the foregoing right, the most senior Encumbrance Holder shall have priority in the exercise of such right.

12.9 Participation in Certain Proceedings and Decisions. Any Encumbrance Holder shall have the right to intervene and become a party in any arbitration, litigation, condemnation or other proceeding affecting this Lease. Lessee's right to make any election or decision under this Lease with respect to any condemnation settlement, insurance settlement or restoration of the Premises following a casualty or condemnation shall be subject to the prior written approval of each then existing Encumbrance Holder.

12.10 Fee Mortgages and Encumbrances. Any mortgage, deed of trust or other similar encumbrance granted by County upon its fee interest in the Premises shall be subject and subordinate to all of the provisions of this Lease and to all Encumbrances. County shall require each such fee encumbrance holder to confirm the same in writing (in a form reasonably approved by each Encumbrance Holder or its title insurer) as a condition to granting such encumbrance, although the foregoing subordination shall

be automatic and self-executing whether or not such written confirmation is obtained.

12.11 No Merger. Without the written consent of each Encumbrance Holder, the leasehold interest created by this Lease shall not merge with the fee interest in all or any portion of the Premises, notwithstanding that the fee and leasehold interests are held at any time by the same person or entity.

12.12 Acceleration of Extension Fee. So long as (i) no Event of Default exists based on nonpayment of an individual Extension Payment payable by Lessee pursuant to Section 2.2. of this Lease (even if any other Event of Default exists that is not based on nonpayment of an individual Extension Payment), or (ii) if an Event of Default exists based on nonpayment of an individual Extension Payment, an Encumbrance Holder, Foreclosure Transferee or the single subsequent transferee of a Foreclosure Transferee pursuant to subsection 12.2.3 cures such Event of Default by paying to County all past-due individual Extension Payments together with any default interest and/or Late Fees that may be owing thereon; then County shall not declare the entire remaining unpaid Extension Fee immediately due and payable, or, if County has previously declared the entire remaining unpaid Extension Fee immediately due and payable, County shall rescind such acceleration and permit the reinstatement of the original payment terms of the Extension Fee (i.e., by annual Extension Payments)."

9. Lessee's Notice Address. Section 15.10 of this Lease is amended to replace the notice address information of Lessee with the following:

LESSEE:	Panay Way Marina, L.P. c/o Goldrich & Kest Industries 5150 Overland Avenue Culver City, California 90230 Attention: Warren Breslow Phone: 310/204-2050 Fax: 310/204-1900
With a copy to:	Panay Way Marina, L.P. c/o Goldrich & Kest Industries 5150 Overland Avenue Culver City, California 90230 Attention: William Yerrick, General Counsel Phone: 310/280-5043 Fax: 310/280-5014

10. Anchorage Improvements. For the purpose of correcting an inadvertent error in Section 5.14 of the Lease, all references in Section 5.14 of the Lease to "Anchorage Facilities" are amended to read "Anchorage Improvements."

11. No Other Modifications. Except as herein specifically amended, all terms, conditions, and provisions of the Lease shall be and continue to remain in full force and effect and are unmodified, and each of the parties hereto reaffirms and re-acknowledges its respective obligations under the Lease as amended hereby.

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

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this Amendment No. 12 to Amended and Restated Lease to be subscribed by the Chair of said Board and attested by its Executive Officer, and the Lessee has executed the same.

PANAY WAY MARINA, L.P.,
a California limited partnership

By: _____
Iona Goldrich, as Trustee of the Goldrich Trust No. 1, a general partner

COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

ATTEST:

SACHI HAMAI,
Executive Officer of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.,
County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PREMISES

Parcels 245 to 262 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, recorded in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said county.

Reserving and excepting therefrom unto the County of Los Angeles easements for sanitary sewer, fire access and harbor utility purposes over those portions thereof designated on said map to be reserved by said county for such purposes.

Subject to the public easement reserved by the County of Los Angeles in Section 15.19 of the Lease.

EXHIBIT "B"

LEGAL DESCRIPTION OF YACHT CLUB PARCEL

To enrich lives through effective and caring service

LOS ANGELES COUNTY
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

December 6, 2007

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan

SUBJECT: ITEM 5d – APPROVAL OF AMENDMENT NO.12 TO LEASE NO. 6684 TO MODIFY REDEVELOPMENT WORK AND LEASEHOLD AREA – PARCEL 20 (PANAY WAY MARINA) - MARINA DEL REY

Item 5d on your agenda pertains to an amendment to the Parcel 20 lease (Panay Way Marina), relating to the use and development of a portion of Parcel 20.

Attached is a copy of the Board letter that explains the details of the proposed Amendment. The exhibit to the Board letter includes a copy of the proposed Amendment and a Memorandum of Lease Amendment.

Your Commission's endorsement of the Chief Executive Officer's 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://marinadelrey.lacounty.gov

To enrich lives through effective and caring service

LOS ANGELES COUNTY
Caring for Your Coast
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

December 6, 2007

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan

SUBJECT: **ITEM 6a - ONGOING ACTIVITIES REPORT**

BOARD ACTIONS ON ITEMS RELATING TO MARINA DEL REY

There are no Board actions to report.

LOCAL COASTAL PROGRAM PERIODIC REVIEW—UPDATE

The California Coastal Commission is scheduled to consider the Marina del Rey LCP Periodic Review at its January 2008 meeting in Marina del Rey. The Department will be reviewing logistical issues with Commission staff to determine if Chace Park can accommodate their needs to host the meeting.

REGIONAL PLANNING COMMISSION'S CALENDAR

There is no Marina del Rey matter scheduled for consideration by the Regional Planning Commission during the rest of calendar year 2007.

DESIGN CONTROL BOARD MINUTES

The November 2007 Design Control Board meeting was postponed and will be held in Chace Park at 3 pm on December 13, 2007.

SW:rf

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://marinadelrey.lacounty.gov