To enrich lives through effective and caring service

LOS ANGELES COUNTY
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

January 17, 2008

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director

SUBJECT: **COMMISSION AGENDA** – January 23, 2008 Meeting

Enclosed is the Agenda for the January 23, 2008 meeting. Also enclosed are the minutes for your Commission's December 12, 2007 meeting. In addition, please find the reports related to Agenda Items 3a, 3b, 4a, 4b, 5a, and 6a.

The Election of Commission Officers is included as item 5b on your agenda, pursuant to Chapter III, Section 8, of the Small Craft Harbor Commission Rules, which states, "At its January meeting, the Commission shall elect both a Chairman and a Vice-Chairman to serve until the next January regular meeting."

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 310.821.6345 • internet: http://marinadelrey.lacounty.gov

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Los Angeles County Department of Beaches & Harbors

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SMALL CRAFT HARBOR COMMISSION

AGENDA
January 23, 2008
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: December 12, 2007 Meeting

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

   b. 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)

5. **NEW BUSINESS**

a. Parcel 10R (Neptune) and Parcel FF (Parking Lot 12) - Approval of Option to Amend Lease Agreement and Lease Option Agreement to Facilitate Redevelopment — (RECOMMEND TO BOARD OF SUPERVISORS)

b. Election of Officers — (ACTION REQUIRED)

6. **STAFF REPORTS**

a. Ongoing Activities — (DISCUSS REPORT)
- Board Actions on Items Relating to Marina del Rey
- Local Coastal Program Periodic Review – Update
- Report on Foundation Allegation Regarding Parcel 12 (Esprit I)
- Regional Planning Commission's Calendar

b. Children's W.A.T.E.R. Program — (PRESENTATION BY DUSTY CRANE, DIVISION CHIEF, COMMUNITY AND MARKETING SERVICES)

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).

SMALL CRAFT HARBOR COMMISSION
MINUTES
December 12, 2007

Commissioners Present
Harley Searcy, Chairman; Russ Lesser, Vice-Chairman; Albert Landini, Ed.D; Christopher Chuang-Lin, PhD

Commissioners Absent
Vanessa Delgado, MPA

Department of Beaches and Harbors
Stan Wisniewski, Director; Santos Kreimann, Deputy Director

County Staff
Thomas Faughnan, Principal Deputy County Counsel; Dusty Crane, Community and Marketing Division; Beverly Moore, MdR Convention and Visitors Bureau; Lt. Brookwell and 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 9:40 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.

Tim Riley stated the October minutes reflected a misleading statement attributed to him about price gouging. He clarified his statement by stating there is no price gouging in MdR.

Nancy Vernon Marino stated there should be more substance to the minutes.

John Rizzo commented the November minutes should reflect that the County is being defrauded $100 million dollars per year.

Motion was made by Chairman Searcy and Seconded by Vice Chairman Lesser to approve the August 2007, October 2007 and November 2007 minutes with the provision that John Rizzo submits a paragraph to be incorporated into the November, 2007 minutes. This motion was unanimously approved.

REGULAR REPORTS

ITEM 3a: Marina Sheriff – Crime Statistics

Lt. Brookwell reported about an increase in residential burglaries, and advised residents to keep doors locked. In addition, there were no incidents during the boat parade.

Deputy Rochford stated the Sheriff's Department continues to get boat renewals, and followed up on evictions.

Chairman Searcy opened the floor to public comments.

Nancy Vernon Marino asked for clarification on report titles for the number of evictions and suggested improvements to the report format to reduce the 3-page report into one page.

ITEM 3b: Marina del Rey and Beach Special Events

Dusty Crane thanked the MdR Holiday Boat Parade Committee for their fine work, mentioned there is a list of concerts that will be held at Fisherman's Village, and announced a fireworks show would be held on New Year's Eve.

Chairman Searcy opened the floor to public comments.

Ms. Marino commented on the impact of fireworks on the environment and marine life.

Chairman Searcy commented on a letter Donald Klein wrote regarding Marina del Rey Hotel Anchorage. Mr. Klein commended the anchorage staff on their excellent management style, and how valuable the monthly boater educational seminars are.

ITEM 3c: Marina del Rey Convention and Visitors Bureau

Ms. Beverly Moore, Director of Marina del Rey Convention and Visitor's Bureau, explained she recently returned from a meeting in Sacramento. In Sacramento, Ms. Moore met with meeting planners from state government organizations. Last month, the Marina del Rey Convention and Visitors Bureau hosted travel writers.

Chairman Searcy opened the floor to public comments

Ms. Marino commented on securing a large meeting hall in MdR for the California Coastal Commission meeting in January. Mr. Wisniewski indicated the meeting venue is not a County decision and suggested that members of the public contact the California Coastal Commission to find a suitable meeting hall.

OLD BUSINESS

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

Chairman Searcy explained he drafted a letter based on public input and was seeking additional public input at the meeting in order to transmit the letter to the Board of Supervisors.

Chairman Searcy opened the floor to public comments.

Mr. David Barish commented that the 2004 Williams-Kuebelbeck & Associates study was used in a prior submission to the California Coastal Commission and should, therefore, be released to the public. Mr. Faughnan was not aware the study was distributed, and will investigate. Mr. Barish also spoke about requesting an independent study for boat slip rates.

Ms. Ina Barish made remarks pertaining to the last paragraph of the draft letter.

Ms. Carla Andrus stated she is wasting her time at these meetings, and the process is defunct.

Mr. Wisniewski commented the meetings are held in a public forum, and all parties are entitled to voice their opinions, including disagreements.

Ms. Marino objected to the letter, and engaged Chairman Searcy in dialogue about various portions of the draft letter.

Mr. John Nahhas submitted a spreadsheet he created which contained pricing and amenity data of the various anchorages in MdR. The data in Mr. Nahhas' spreadsheet demonstrated the boat slip rents in MdR are lower than rates listed in the Department's boat slip study. Mr. Nahhas commented on the draft letter.

Mr. Rizzo echoed Ms. Andrus' sentiments, and suggested that the Commission should have an ongoing dialogue with the Board of Supervisors and that Chairman Searcy should put forth a firm recommendation on behalf of the people.

Mr. Ganary commented about the letter, and suggested having independent property valuations and audits of the MdR parcels.

Mr. David Levine, President of the Marina del Rey Lessee's Association, asked that the letter include a reference to the fact that a mediation process is available if tenants believe they have been overcharged. In addition, if a tenant has been evicted because of public comments that were made, there may be legal recourse for the tenant. Mr. Levine concluded that slip rates charged in MdR are not out of line with slip rates charged elsewhere.

Mr. Jun Yang requested public access to individual slip rental receipts, so that the public can review the numbers.

Mr. Wisniewski replied there is already a monthly gross income receipt report that the lessees submit, and it is open for public review. In addition, the lessees are audited on a rotating basis.

Commissioner Landini stated he could accept Chairman Searcy's letter with changes. A discussion followed covering the use of words such as 'subsidize', 'cost recovery', and other elements of the draft letter between the Commissioners, representatives of the Department, and the public.

Commissioner Landini motioned, seconded by Chairman Searcy, motion unanimously approved to accept the letter with the following changes;

- first paragraph, last sentence – "...small craft boating is beginning to disappear from Marina Del Rey"
- 2nd paragraph, 3rd sentence – change "feel" to "think"
- Last sentence on first page – " members of the public repeatedly took issue with county rent surveys which they think use an inadequate survey methodology and do not appropriately differentiate..."
- Last paragraph on the last page – "While we understand the desire for less expensive 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 we do not recommend any change in current Board policy which the Department is implementing. Nevertheless, the public is requesting the following:

    A. Independent audit of slip rental fees and practices.
    B. Development of a slip rental program on a cost recovery basis.
    C. An examination of the county economic policy of 'fair market price rates'. verses 'fair return on investment'.

{The final executed letter transmitted to the Board of Supervisors which reflects the agreed upon changes is attached to the Minutes as Exhibit 1.}

5. NEW BUSINESS

Item 5a: Parcel 27R (Jamaica Bay Inn) - Approval of Renewal of Option to Amend Lease No. 6573

This is an extension of time to lessee's previously approved option for lease amendment for redevelopment and expansion of Jamaica Bay Inn on Parcel 27R so the lessee can secure all entitlements.

Chairman Searcy opened the floor to public comments.

Ms. Marino commented on corruption and disruption of the view this project will cause. Ms. Marino recommends rejection.

Ms. Andrus commented on the delay of the developer to secure proper entitlements in a timely fashion.

Mr. Wisniewski responded the lessee was delayed by various government agencies through no fault of the lessee.

Mr. Barish asked why the reasons for the delays were not in the report.
Mrs. Barish commented on the contractual dates and delay of this project.

Mr. Faughnan stated the delay the lessee experienced in securing the entitlements was due in part to the Admiralty Way widening project.

Mr. Rizzo commented he did not see anything in the lease pertaining to price control.

Mr. Wisniewski spoke about 'baseball arbitration' in new leases, and how this would work in favor of the County.

Motion to approve by Commissioner Landini and Seconded by Chairman Searcy was unanimously approved.

Item 5b: Parcel OT (Parking Lot) [Future Parcel 147] – Approval of Option for Lease to Facilitate Redevelopment

Item 5b 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.

Commissioner Searcy asked if the proposed retirement residence is a market rate facility, and if there will be any affordable housing component to this project.

Mr. Faughnan stated Regional Planning is reviewing if this project would be subject to any affordable housing requirements.

Commissioner Landini asked if the project can be changed to non-senior market rate units in the future. Mr. Wisniewski replied such a change would be a violation of the lease.

Chairman Searcy opened the floor to public comments.

Mr. Barish commented on public parking and stated the development is not allowed.

Mrs. Barish spoke about the DCB ruling for this project, and played an excerpt of the tape from the meeting.

Commissioner Landini commented these are Regional Planning issues.

Ms. Marino spoke about the need for a master EIR.

Commissioner Landini indicated the Board of Supervisors has to initiate any changes in the Master Plan.

Ms. Andrus questioned why G&K was invited to participate in senior housing, since board and care is already zoned on Parcel 18. She also commented on the elimination of boat slips.

Commissioner Landini asked how the need for a senior residence was determined.

The applicant came forward and explained they determined the MdR area has a need for a high-end senior facility. In this project, 75% of the monthly payment is for services to the residents. The development will be a residential hotel, with central dining facilities. The applicant also explained that all parking spaces currently on parcel OT will be replaced with new parking spaces.

Vice Chairman Lesser moved and Chairman Searcy seconded a motion to approve Item 5B with the condition that eliminates the Director of the Department of Beaches and Harbors discretion to apply to the California Coastal Commission for the reduction of replacement public parking. The motion was unanimously approved.

Item 5c: Parcel 21 (Holiday Harbor) – Approval of Option for Amended and Restated Lease to Facilitate Redevelopment

Item 5c 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.

Commissioner Landini moved and Vice Chairman Lesser seconded a motion to carry over Item 5c of the agenda to the next meeting. This motion was unanimously approved.

Chairman Searcy opened the floor to public comments.

Ms. Marino commented that Parcel OT had no notice of the scoping meeting on the property, notification was not sent out to interested parties, and there are regional planning issues with the project.

Commissioner Lesser asked for information on the scoping meeting.

Ms. Andrus suggested to the Commissioners to request a tape of the meeting, as well as suggesting other uses for parcel 21.

Mr. Yang spoke about keeping as many boat slips in the marina as possible.

Item 5d: Parcel 20 (Panay Way Marina) – Approval of Amendment No. 12 to Lease No. 6684 to Modify Redevelopment Work and Leasehold Area.

No public comment will be taken on Item 5d.

Vice Chairman Lesser moved and Chairman Searcy seconded a motion to carry over Item 5d of the agenda to the next meeting. This motion was unanimously approved.

Item 6a: 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.

Chairman Searcy opened the floor to public comments.

Ms. Andrus commented Archstone and Capri are not at full occupancy due to high rents.

Mr. Bill Vreszk spoke about the legality and morality of unjust evictions.

Ms. Marino commented on the advertising of Capri. She also asked a series of questions: 1. Are any of the buildings at Esprit 1 sinking beyond the normal parameters? 2. Does water go into the lower level garages in any of the buildings at Esprit 1 during high tide? Ms. Marino asked the SCHC to place on their January agenda a review of the building engineer's recent reports on the safety and stability of the buildings of Esprit 1.

Mrs. Barish stated the negative public perception about Beaches and Harbors was not limited to Marina del Rey. She played a tape of Commissioner Burke, of the California Coastal Commission, stating his unflattering personal view about the Director of Beaches and Harbors.

Mr. Nahhas spoke about reduced boat slips, land values, re-development, and separation of classes.

ADJOURNMENT

Chairman Searcy adjourned the meeting at 1:00 p.m.

Respectfully submitted by:

R. L. Frisch
on behalf of the Commission Secretary

EXHIBIT 1

COUNTY OF LOS ANGELES

SMALL CRAFT HARBOR COMMISSION
(310) 305-9527

Beaches & Harbors

Harley A. Searcy, Chairman
Russ Lesser, Vice-Chairman
Vanessa Delgado
Albert Landini
Dr. Christopher Chuang-I Lin

December 19, 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 beginning to disappear 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 think 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 which they think uses an inadequate survey methodology and does 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 less expensive 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 we do not recommend any change in current Board policy which the Department is implementing. Nevertheless, the public is requesting an independent audit of the slip rental rates, development of a slip rental program on a cost recovery basis, and an examination of the County economic policy of 'fair market price rates' vs. 'fair return on investment'.

HAS:rf

Attachment

c: Chief Executive Officer
County Counsel

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	Bar Harbor Marina	$294	$11.75	$383	$12.76	$516	$14.75	$660	$16.50	$676	$19.50	$936	$18.76
8	Bay Club Apts Marina			$380	$12.66	$495	$14.14	$638	$15.95	$765	$16.99		
132	California Yacht Club	$280	$11.45	$419	$13.95	$604	$17.25	$798	$19.95	$899	$19.96	$1,083	$21.66
41	Catalina Yacht	$200	$8.00	$300	$10.00	$366	$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	$17.26	$833	$18.51	$1,080	$21.60
21	Holiday Harbor Marina	$319	$12.76	$425	$14.17	$526	$15.03	$690	$17.26	$833	$18.51	$1,080	$21.60
125	Marina City Slips	$355	$14.20	$435	$14.50	$556	$15.89	$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
26	Mariners Bay			$425	$14.17	$575	$16.43	$760	$19.75			$1,000	$20.00
10	Neptune Marina	$262.50	$10.50	$345	$11.50			$500	$12.50				
20	Penay Way Marina	$319	$12.76	$425	$14.17	$526	$15.03	$690	$17.26	$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			$488	$15.80	$613	$17.60	$700	$17.50	$907	$20.16	$1,008	$20.15
47	Windjammers Yacht	$281	$11.24	$329	$10.97	$437	$12.49	$578	$14.45				
64	Windward Yacht Club	$295	$11.80	$425	$14.16	$498	$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	$906.75	$20.15	$1,177.00	$23.54
	AVERAGE	$306.86	$12.24	$407.13	$13.57	$526.53	$15.04	$683.41	$17.09	$827.33	$18.38	$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	$608.00	$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	$265.00	$8.50	$332.50	$9.50	$400.00	$10.00	$450.00	$10.00	$575.00	$11.50
10	Island Yacht Anchorage	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	$10.95	$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	$798.25	$22.75	$1,010.00	$25.25			$1,325.00	$26.50
14	Balboa Marina	Newport Beach	$527.00	$21.00	$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	Peninsula 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	$284.00	$10.58	$338.00	$11.27			$582.00	$14.55	$752.00	$16.71		
24	Bayside Village Marina	Newport Beach	$506.25	$20.25	$740.00	$24.67	$857.50	$24.50	$1,266.00	$31.38	$1,406.25	$31.25	$1,895.00	$31.90
25	Cabrillo Marina	San Pedro	$271.25	$10.85	$356.40	$11.88	$497.00	$14.20	$586.00	$14.20	$720.45	$16.01	$900.50	$18.01
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	$21.00	$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	$315.55	$12.03	$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

MARINA DEL REY HARBOR ORDINANCE
SEAWORTHY & LIVEABOARD COMPLIANCE REPORT
2007

	November	December
Liveaboard Permits Issued (NEW)	**0**	**1**
(RENEW)	7	6
Total	**7**	**7**
Notices to Comply Issued	**0**	**0**

	Last Meeting	Present
Total Reported Liveaboards:	**382**	**405**
Total Current Liveaboard Permits Issued:	**170**	**145**
Total expired permits:	**99**	**138**
Total Reported Liveaboards without permits:	**138**	**122**

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

Percentage of vessels that are registered liveaboards: **9.17%**

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-three (233) vessels have been removed from the marina for disposal, Thirty (30) of those in 2007. Currently, six (6) vessels are awaiting disposal.

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
MARINA DEL REY STATION
PART I CRIMES-DECEMBER 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			1	3	5
Robbery: Strong-Arm							1	1	1	3
Aggravated Assault	1			1			2	1	2	7
Burglary: Residence	2	1			1		4	3	6	17
Burglary: Other Structure		3				1		1	2	7
Grand Theft	2	2				1	2		2	9
Grand Theft Auto	1				1		1	2	2	7
Arson										0
Boat Theft										0
Vehicle Burglary	2	1						1	3	7
Boat Burglary				4						4
Petty Theft	1	2		1	1		4			9
REPORTING DISTRICTS TOTALS	**9**	**9**		**6**	**4**	**2**	**14**	**10**	**21**	**75**

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

Source- LARCIS, **Date Prepared –JANUARY 2, 2008**
CRIME INFORMATION REPORT - OPTION B

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

MARINA DEL REY STATION

PART I CRIMES-DECEMBER 2007

Part I Crimes	MARINA AREA (RD'S 2760-2763)	EAST END (RD'S 2764-2768)
Homicide	0	0
Rape	0	0
Robbery: Weapon	0	5
Robbery: Strong-Arm	0	3
Aggravated Assault	2	5
Burglary: Residence	3	14
Burglary: Other Structure	3	4
Grand Theft	4	5
Grand Theft Auto	1	6
Arson	0	0
Boat Theft	0	0
Vehicle Burglary	3	4
Boat Burglary	4	0
Petty Theft	4	5
Total	**24**	**51**

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

Source- LARCIS, **Date Prepared –JANUARY 2 2008**
CRIME INFORMATION REPORT - OPTION B

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

MARINA DEL REY STATION

PART I CRIMES- DECEMBER-2007

Community Advisory Committee	Upper Ladera 2764	Lower Ladera 2766
Homicide	0	0
Rape	0	0
Robbery: Weapon	1	0
Robbery: Strong-Arm	0	1
Aggravated Assault	0	2
Burglary: Residence	1	4
Burglary: Other Structure	0	0
Grand Theft	0	2
Grand Theft Auto	1	1
Arson	0	0
Boat Theft	0	0
Vehicle Burglary	0	0
Boat Burglary	0	0
Petty Theft	1	4
Total	**4**	**14**

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

Source- LARCIS, **Date Prepared JANUARY 2, 2008**
CRIME INFORMATION REPORT - OPTION B

To enrich lives through effective and caring service

January 17, 2008

Los Angeles County Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director

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

MARINA DEL REY

FISHERMAN'S VILLAGE WEEKEND CONCERTS

Sponsored by Pacific Ocean Management, LLC
Concerts are from 1:00 p.m. - 4:00 p.m.

Saturday, January 19
Michael Haggins (Smooth Jazz with a kick)

Sunday, January 20
Kid & Nic Show (American Pop)

Saturday, January 26
Blue Breeze (Contemporary Jazz)

Sunday, January 27
Sullivan Hall Band (Soul and R & B)

Saturday, February 2
Malachi Nathan and the Elements (Rhythm & Blues)

Sunday, February 3
LA Cat (Reggae)

Saturday, February 9
Floyd & the Fly Boys (Soul Review)

Sunday, February 10
2 Azz 1 Body & Soul Band (Smooth Jazz)

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

BEACH EVENTS

There are no beach events this month.

SW:DC:ms

To enrich lives through effective and caring service

January 17, 2008

Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director

SUBJECT: ITEM 4a – APPROVAL OF OPTION FOR AMENDED AND RESTATED LEASE TO FACILITATE REDEVELOPMENT – PARCEL 21 (HOLIDAY HARBOR) - MARINA DEL REY

Item 4a 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. For your convenience, we have attached 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.

In addition, pursuant to your request at the last Small Craft Harbor Commission (SCHC) meeting, we have also attached a report that compares the existing dock configuration with the proposed reconfigured dock plan, which results in a reduction of the existing slip count from 182 slips to 87 slips. The reduction in slips is due to several factors, including 1) having to meet new ADA dock standards; 2) the need to include a pump-out station on site; 3) correction of an incursion of the current dock into the County's waters outside of the leased area; 4) elimination of outdated double loaded slips; 5) wider slip standards for modern boat designs; and 6) change in the existing slip size mix that is overwhelmingly made up of small slips to a size mix that will better meet market demand for larger slips.

While we recognize that the California Coastal Commission (CCC) at its last meeting included a recommendation as part of its periodic review of the Marina Local Coastal Program (LCP) to oppose any reduction in the number of slips sized under 34 feet, we are recommending approval of the option and lease extension agreement for Parcel 21 in order to conclude the proprietary phase of the development and allow the project to proceed to the regulatory phase, at which time the regulatory agencies including the CCC will evaluate the project, including the dock plan, on its merits.

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:KS:SHK:PW:gb
Attachments

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 a portion of Parcel 21 to expand a County-owned public parking lot (Parcel GR) serving the Marina Beach. 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 public parking spaces from 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 for additional public 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 the proposed development of a seniors' congregate care facility on 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 public parking spaces moved from 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

(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

REDEVELOPMENT (continued)	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 Marina Local Coastal Program 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 extension 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 $336,900, an annual increase of approximately $40,900.

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 January 23, 2008, 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:gb

Attachments (2)

c: County Counsel

Parcel 21 Marina Plan

The following chart shows a comparison of the slip size distribution using the historic Marina del Rey slip size groupings for both the current and the planned marina layouts.

Slip Size	Existing	%	New Plan	%
Under 26'	122	66.7%	7	8.0%
26' to 35'	50	27.3%	43	48.9%
36' to 50'	11	6.0%	38	43.1.0%
Over 50'	0	0%	0	0%
Totals	183		88	
Avg. Slip Size	25.17'		36.92'	

The current Parcel 21 dock plan has 67 slips that are 20 feet or under (36.6%) and 55 slips between 22 feet and 25 feet (30.0%), making 67% of the current slips 25' or less. An additional 50 slips are between 28 feet and 30 feet (27.3%), bringing the total to 172 slips out of 183 slips at 30 feet or less (94%). The overall average slip size for Parcel 21 is 25.17 feet, which is the smallest average slip size of any marina in Marina del Rey. The proposed layout has an average slip size of 36.92 feet.

Historically, the highest vacancy in Marina del Rey has always been in the smallest slip size category. The following chart shows the Parcel 21 vacancy reports for 2007 by size category. The majority of the vacancies are in the smallest size category, averaging 16.4 vacancies monthly in the under 26 foot category and 2.5 in the 26 foot to 35 foot category.

Slip Size	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
Under 26'	12	15	15	15	16	16	17	15	19	18	20	19	16.4
26' to 35'	0	2	4	5	3	3	3	2	2	2	2	2	2.5
36' to 50'	1	1	0	0	0	2	0	0	1	0	0	0	0.4
Over 50'	0	0	0	0	0	0	0	0	0	0	0	0	0
Totals	13	18	19	20	19	21	20	17	22	20	22	21	19.3

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").

WITNESSETH

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 207 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 87 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 (5^{th}) 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.

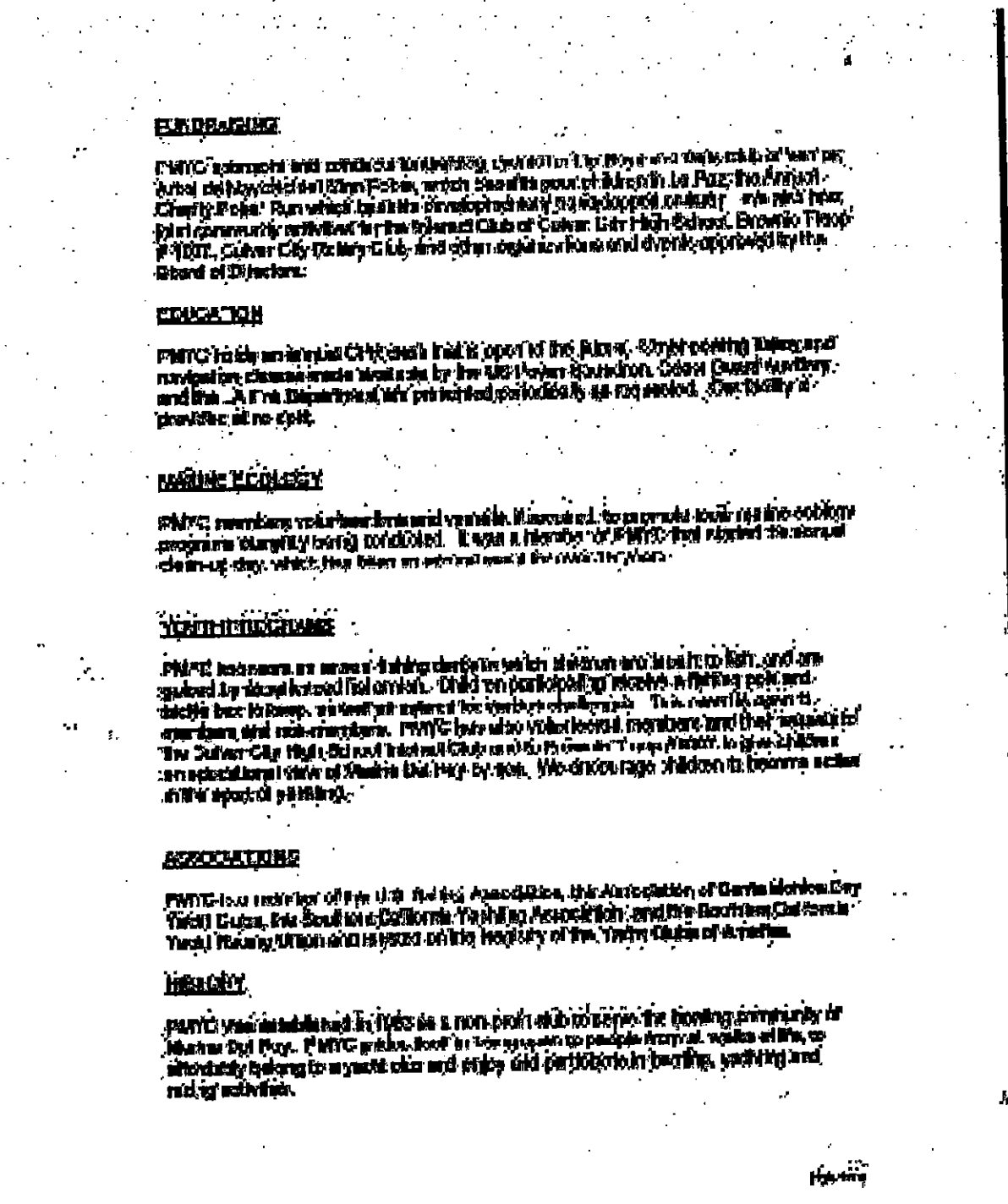
6. The terms of the proposed assignment will not detrimentally affect the efficient operation or management of the leasehold, the Premises or any Improvements thereon.

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



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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To enrich lives through effective and caring service

Los Angeles County Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

January 17, 2008

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director SW

SUBJECT: ITEM 4b - 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 4b 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

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 waterfront promenade fronting the new apartments, as well as replaced the docks.

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 containing the newly constructed 99-unit apartment building, boat slips and the related parking 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 Windjammers Yacht Club and a potential relocation to a larger facility in Chace Park 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

plans by the Board and the California Coastal Commission for the construction of the Administration Building and yacht club facility at alternative sites, 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 Relocates

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. If this occurs, the Department will recommend that the Board of Supervisors use the $800,000 to help fund the new expanded yacht club facility proposed for Chace Park.

The Amendment also amends certain other provisions of the Lease including: a) 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; b) provisions pertaining to the use and development of the portion of the promenade located adjacent to the Yacht Club Parcel; and c) 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, if it does not merge with the Santa Monica Windjammers 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

If the Department builds its Administration Building at the Yacht Club Parcel, the site will have been secured at no cost to the County. Additionally, if Pacific Mariners Yacht Club relocates, the County will receive $800,000, which the Department will recommend be used to fund the new expanded yacht club facility proposed for Chace Park.

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 January 23, 2008, 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

AMENDED AND RESTATED LEASE AGREEMENT

by and between

County of Los Angeles

and

Legacy Partners Neptune Marina L.P.

(Parcel 10R — Lease No. ____)

Dated as of _____, ____

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AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 10R— MARINA DEL REY

THIS AMENDED AND RESTATED LEASE AGREEMENT ("Lease") is made and entered into as of the _____ day of _____, ____ ("Effective Date"), by and between the COUNTY OF LOS ANGELES ("County"), as lessor, and LEGACY PARTNERS NEPTUNE MARINA L.P., a Delaware limited partnership (together with its permitted successors and assigns, "Lessee"), as lessee.

W I T N E S S E T H

WHEREAS, the parties hereto or their predecessors in interest, entered into Lease No. 5574 dated May 4, 1962 (as amended prior hereto, the "Existing Lease") whereby prior to the Effective Date hereof Lessee has leased from County that certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel 10R and which is more specifically described as Parcel 10R on Exhibit A attached hereto and incorporated herein by this reference (the "Premises"), the term of which commenced as of March 1, 1962 and currently extends through February 28, 2022 (the "Existing Expiration Date"); and

WHEREAS, County and Lessee have entered into that certain Option to Amend Lease Agreement dated _____, 2008 (the "Option Agreement"), pursuant to which County has granted Lessee an option (the "Option") to amend and restate the Existing Lease in its entirety, upon the terms and conditions more specifically provided herein, including, without limitation, (i) the extension of the term of the Existing Lease through February 28, 2061, and (ii) the redevelopment of the Premises in accordance with the terms and provisions hereof; and

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

NOW, THEREFORE, in reliance on the foregoing and in consideration of the mutual covenants, agreements and conditions set forth herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto and each of them do agree that the Existing Lease is hereby amended and restated in full 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 (i) the reasonable out-of-pocket costs and expenses incurred by County with respect to a particular activity or procedure, including without limitation, expenditures to third party legal counsel, financial consultants and advisors (including the use of County's environmental consultant), (ii) costs incurred in connection with appraisals, (iii) the reasonable value of services actually

provided by County's in-house counsel, and (iv) the reasonable value of services actually provided by County's lead lease negotiator/administrator and any other lease auditors and other County administrative staff below the level of deputy director (the administrative level which is two levels below County department head) required by the lead lease negotiator/administrator for technical expertise or assistance. In those instances in which Lessee is obligated to reimburse County for its Actual Costs incurred in performing obligations required to be performed by Lessee under this Lease which Lessee fails to perform within the applicable cure period, if any, provided under this Lease, Actual Costs shall also include a reasonable allocation of County overhead and administrative costs to compensate County for performing such obligations on behalf of Lessee.

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

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

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

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

1.1.7 "ANCHORAGE FACILITIES" shall have the meaning set forth in Section 5.1.

1.1.8 "ANCHORAGE FACILITIES QUALITY STANDARD" shall have the meaning set forth in Section 5.1.

1.1.9 "ANCHORAGE WORK" shall have the meaning set forth in Section 5.1.

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

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

1.1.12 "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 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.

1.1.13 "APPROVED APARTMENT/SLIP LEASE" shall have the meaning set forth in subsection 11.1.2.

1.1.14 "APPROVED GOVERNMENTAL CHANGES" shall have the meaning set forth in Section 6.3.1 of the Option Agreement.

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

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

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

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

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

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

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

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

1.1.23 "CAPITAL RESERVE FUND" shall have the meaning set forth in Section 5.14.

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

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

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

1.1.27 "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 apartment building constructed on the Premises as part of the Redevelopment Work pursuant to Article 5 of this Lease.

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

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

1.1.30 "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.

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

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

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

1.1.34 "COUNTY POOL RATE" shall have the meaning set forth in subsection 4.3.5 of this Lease.

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

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

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

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

1.1.46 "EXISTING APARTMENTS" shall mean the 136 apartments existing on the Premises as of the Effective Date.

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

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

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

1.1.50 "EXTENSION FEE" shall have the meaning set forth in Section 2.2.

1.1.51 "EXTENSION FEE BALANCE" shall have the meaning set forth in Section 2.2.

1.1.52 "EXTENSION FEE DOWNPAYMENT" shall have the meaning set forth in Section 2.2.

1.1.53 "EXTENSION PAYMENT" shall have the meaning set forth in Section 2.2 of this Lease.

1.1.54 "FAIR MARKET RENTAL VALUE" shall have the meaning set forth in subsection 4.3.1.

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

1.1.56 "FINAL REDEVELOPMENT WORK PLANS AND SPECIFICATIONS" shall have the meaning set forth in subsection 5.1.1.

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

1.1.58 "FIRST ADJUSTMENT DATE" shall have the meaning set forth in subsection 4.2.1.

1.1.59 "FORCE MAJEURE" shall have the meaning set forth in Section 5.6.

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

1.1.61 "GROSS TRANSFER PROCEEDS" shall have the meaning set forth in Section 4.8.

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

1.1.63 "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.

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

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

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

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

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

1.1.69 "LANDSIDE WORK" shall have the meaning set forth in Section 5.1.

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

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

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

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

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

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

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

1.1.77 "MINIMUM STANDARDS" shall mean 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 in a manner consistent with commercially

reasonable standards applicable to other comparable residential apartment project and marina facilities in Marina del Rey (the "Minimum Standards").

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

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

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

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

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

1.1.83 "NOTICE OF COMPLETION" shall have the meaning set forth in subsection 5.8.7.

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

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

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

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

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

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

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

1.1.91 "PREMISES" shall have the meaning set forth in the preamble to this Lease.

1.1.92 "PRIME RATE" shall mean the prime or reference rate announced from time to time by Bank of America, N.A. or it successor, or if Bank of America, N.A. and its successor cease to exist then the prime or reference rate announced from time to time by the largest state chartered bank in California in term of deposits.

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

1.1.94 "PUBLIC DOCKS" shall have the meaning set forth in subsection 5.1.

1.1.95 "PUBLIC DOCKS WORK" shall have the meaning set forth in subsection 5.1.

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

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

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

1.1.99 "RENEGOTIATION DATES" shall have the meaning set forth in Section 4.3.

1.1.100 "RENOVATION FUND" shall have the meaning set forth in Section 15.13.

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

1.1.102 "REQUIRED CONSTRUCTION COMMENCEMENT DATE" shall have the meaning set forth in Section 5.1.

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

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

1.1.105 "SEAWALL" shall have the meaning set forth in Section 10.7.

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

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

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

1.1.109 "STABILIZATION DATE" shall have the meaning set forth in Section 4.4.

1.1.110 "STATE" shall mean the State of California.

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

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

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

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

1.1.115 "SUBSTANTIAL COMMENCEMENT OF CONSTRUCTION" shall have the meaning set forth in Section 5.1.

1.1.116 "SUBSTANTIAL COMPLETION" shall have the meaning set forth in Section 5.1.

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

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

1.1.119 "UNINSURED LOSS" shall have the meaning set forth in Section 10.5.

1.1.120 "UNREASONABLE COUNTY ACT" shall have the meaning set forth in subsection 5.7.2.

1.1.121 "WRITTEN APPRAISAL EVIDENCE" shall have the meaning set forth in Section 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 1962, 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 Section 1.4, 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) subject to Section 1.3 below, the condition of title to the Premises, and (x) the economics of the operation of the Premises and/or any Improvements located thereon. Notwithstanding the foregoing, this subsection 1.2.1 shall not alter the parties' rights and obligations under the Existing Lease with respect to any environmental conditions existing on the Premises as of the Effective Date.

1.3 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 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.

1.4 Excluded Conditions. Notwithstanding anything to the contrary set forth herein, the terms and provisions of subsection 1.2.1 shall not be applicable to any sewer, storm drain or other improvements which have been dedicated to (and such dedication has been accepted by) the Department of Public Works of the County ("Excluded Conditions"); provided, however, that this Lease (as opposed to any separate dedication acceptance or other contractual or legal obligation) shall not create any obligation or liability on the part of County with respect to such sewer, storm drain and other improvements.

2. TERM.

2.1 Term. The term of this Lease ("Term") for the Premises commenced on March 1, 1962. Unless terminated sooner in accordance with the provisions of this Lease, the Term shall

expire at 11:59 p.m. on February 28, 2061. For purposes of this Lease, "Lease Year" shall mean each calendar year (or partial calendar) during the Term of this Lease. Notwithstanding the foregoing, with respect to any provision in this Lease that refers to a specified number of Lease Years after the Effective Date, the number of Lease Years after the Effective Date shall be calculated based on the following: (a) if the Effective Date is prior to July 1 of a calendar year , then the first Lease Year after the Effective Date shall mean the period from the Effective Date through December 31 of the calendar year during which the Effective Date occurs, and (b) if the Effective Date is on or after July 1 of a calendar year, then the first Lease Year shall mean the period from the Effective Date through December 31 of the calendar year following the calendar year during which the Effective Date occurs.

2.2 Extension Payments. In consideration for County's agreement to enter into this Lease, Lessee shall pay to County as hereinafter provided the principal sum of One Million Dollars ($1,000,000.00) (the "Extension Fee"). County received the first One Hundred Thousand Dollars ($100,000.00) of the Extension Fee in the form of the Option Fee that was paid by Lessee by County concurrent with the execution of the Option Agreement. The remaining portion of the Extension Fee balance of Nine Hundred Thousand Dollars ($900,000.00) (the "Extension Fee Balance") that remains unpaid from time to time shall bear interest from the Effective Date until the date of payment at an annual rate, compounded annually, equal to the Prime Rate in effect from time to time. The initial interest rate shall be the Prime Rate in effect on the Effective Date. The interest rate shall adjust thereafter on an annual basis on each anniversary of the Effective Date to the Prime Rate in effect on each such anniversary. Commencing on the first anniversary of the Effective Date and continuing on each successive anniversary of the Effective Date thereafter during the ten (10) year period following the Effective Date Lessee shall make annual payments of the Extension Fee in an amount of Ninety Thousand Dollars ($90,000.00) each, plus interest accrued on the outstanding unpaid balance of the Extension Fee (each, an "Extension Payment"). The entire outstanding unpaid principal balance of the Extension Fee and all accrued and unpaid interest shall be due and payable on the tenth (10th) anniversary of the Effective Date. The unpaid balance of the Extension Fee (including accrued interest thereon), may be prepaid by Lessee, in whole or in part, at any time. Any uncured failure by Lessee to make an Extension Payment or to repay the entire unpaid Extension Fee and accrued interest on or before the tenth (10th) anniversary of the Effective Date is acknowledged to be a monetary default of the terms and conditions of this Lease and shall give rise to County's remedies as set forth herein, including without limitation County's right to receive a Late Fee in connection with such late payment and/or County's right to terminate this Lease in accordance with Article 13. Upon the occurrence of an Event of Default, County shall have the right to declare the entire remaining unpaid Extension Fee (including accrued, but unpaid interest) immediately due and payable.

2.3 Intentionally Omitted

2.4 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.

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

2.5.1 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.

2.5.2 Duty to Remove. No earlier than eight (8) years, and no later than seven (7) years prior to the expiration of the Term, Lessee shall deliver to County a report prepared by a construction and demolition expert approved by County, such approval not to be unreasonably withheld or delayed, which report details and estimates the cost of removing all Improvements on the Premises at the expiration of the Term. County may give written notice (the "County Removal Notice") at any time, no later than six (6) 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 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. Lessee shall have the right, by written notice to County not later than thirty (30) days prior to the expiration of the Term, to extend the date by which Lessee must complete the Improvement removal and Premises surrender obligations under this subsection 2.5.2 and/or the Lessee's removal obligations under subsection 2.5.4 below to a date not more than one hundred twenty (120) days after the expiration of the Term; provided, however, that all of the Lessee's obligations and liabilities under the Lease (other than the obligation to affirmatively operate the Premises) shall be applicable during such additional period, including without limitation, the Lessee's obligations with respect to insurance and indemnification, and Lessee's obligation to pay County compensation for such period in an amount equal to the Monthly Minimum Rent rate in effect immediately prior to the expiration of the Term.

If County elects to require Lessee to remove Improvements hereunder pursuant to the County Removal Notice, Lessee shall, no later than the date which is thirty (30) days after Lessee's receipt of the County Removal Notice, provide County with a written plan which sets forth Lessee's proposed method of securing the discharge of Lessee's removal and restoration obligations pursuant to this subsection. Such security plan shall detail (i) the form of security proposed by Lessee, which security shall be either a deposit of funds, or a letter of credit, bond or other form of security in form and amount, and from an issuer, satisfactory to County, and (ii) a schedule satisfactory to County for the delivery by Lessee of the security described in clause (i) above, which schedule shall in all events provide for a full funding of the security not later than two (2) years prior to the expiration of the Term. The amount of the deposit or letter of credit, bond or other security shall be no less than the estimated costs to remove the Improvements set forth in the report described above, adjusted annually to reflect the increase or decrease, if any, in the ENR Index over the ENR Index as of the date of cost estimation set forth in such expert report; provided, however, that in no event shall such adjustment result in a deposit or letter of credit, bond or other security of an amount less than that set forth in the expert report. Any uncured failure by Lessee to deliver the removal and restoration security described in this subsection 2.5.2 shall constitute an Event of Default. If County fails to elect to require Lessee to remove the buildings, structures and Improvements on the Premises as provided above, then upon the expiration of the Term, or earlier termination of the Lease, Lessee shall turn over the Premises to County in good and workmanlike condition, consistent with the condition of other buildings, structures and Improvements of comparable age and construction quality.

2.5.3 County's Right to Remove Improvements. Should Lessee fail 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 any cost or expense thereof in excess of any funds received by County through the security above provided and any consideration received by County as a result of such sale, removal or demolition.

2.5.4 Duty to Remove Equipment, Etc. No later than the expiration of the Term or sooner termination of this Lease (or within the additional one hundred twenty (120) day period described in subsection 2.5.2 above), 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 thirty (30) 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.

2.5.5 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 company or other third party provider. Notwithstanding that title shall vest in County, all utility lines, transformer vaults and all other utility facilities (other than any sewer, storm drain or other utility systems which have been dedicated to and accepted by County pursuant to a dedication separate from this Lease), 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 luxury residential apartment project, (ii) boat anchorage facilities, including transient boat accommodations and liveaboards, and (iii) such other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the "Permitted Uses"). Except as specifically provided herein, the Premises shall 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 an imminent risk to public health and safety, nor shall any similar activity be permitted on any adjacent public street or adjacent property. Lessee shall be permitted to perform the Redevelopment Work on the Premises, provided that such work is conducted in compliance with Article 5 of this Lease.

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 in violation of any Applicable Laws;

3.2.2.2 The Premises shall not be used or developed in any way in a manner inconsistent with the Permitted Uses. Without limiting the foregoing, no part of the Premises shall be used by any person for any adult entertainment purposes, as such term refers to graphic, explicit and/or obscene depictions of sexual activity; provided, however, that this subsection 3.2.2.2 shall not be interpreted to regulate in violation of Applicable Law the private activity of an individual that is confined to such individual's private residence;

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 reasonable 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; provided that the foregoing requirement to obtain Director's approval as to any antennae or other transmission or reception devices shall be inapplicable to the extent that such requirement violates Applicable Law;

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 (i) as is necessary to allow Lessee to perform its maintenance and repair obligations pursuant to this Lease, and (ii) for such boring or drilling as necessary to perform water testing or monitoring, or any dewatering program to relieve soil water pressure;

3.2.2.7 Except for the Excluded Conditions and the Seawall, 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) trailer boat launching or storage; provided, however, that facilities for handling and storing dinghies, small skiffs and similar craft may be permitted upon prior approval in writing from Director.

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 (except to the extent that Lessee is prevented from doing so due to Force Majeure or due to temporary interruption for maintenance and repair) in light of these objectives, consistent with the operation of luxury residential apartment and boat anchorage 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 Promenade (as defined in Section 15.19) shall be open every day of the year. Lessee shall maintain a dockmaster on duty in accordance with a schedule approved by County, which approval shall not be unreasonably withheld. Any changes in the days and/or hours of operation of the Promenade and/or dockmaster 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. Director shall not unreasonably withhold its approval of the matters described in this Section 3.5. Any dispute as to whether Director has unreasonably withheld its approval of a matter described in this Section 3.5 shall be submitted to arbitration pursuant to Article 16 of this Lease.

3.6 Compliance with Regulations. Lessee shall comply with all Applicable Laws and shall pay for and maintain any and all licenses and permits related to or affecting the use, operation, maintenance, repair or improvement of the Premises. Without limitation of the foregoing, Lessee shall comply with (i) all conditions and requirements of Coastal Development Permit No(s). _____ **[PRIOR TO LEASE EXECUTION INSERT COASTAL DEVELOPMENT PERMIT NO(S). ISSUED FOR REDEVELOPMENT WORK]**, which conditions and requirements are attached to this Lease as Exhibit E and incorporated herein by this reference, and (ii) all public access requirements of the Marina del Rey Local Coastal Program, as amended. **[PRIOR TO LEASE EXECUTION INSERT REFERENCE TO THE AFFORDABLE HOUSING REQUIREMENTS APPLICABLE TO THE PREMISES IN ACCORDANCE WITH SECTION 8 OF THE OPTION AGREEMENT AND FINAL ENTITLEMENTS.]**

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 apartment and/or boat anchorage facilities in Marina del Rey, and delivered in writing to Lessee. Any dispute as to whether County has acted unreasonably in connection with the

matters described in this Section 3.7 shall be submitted to arbitration pursuant to Article 16 of this Lease.

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 of the Existing Lease or otherwise referenced in this Lease in, to, over or affecting the Premises for any purpose whatsoever, and also subject to any other encumbrances, reservations, licenses, easements and rights of way consented to by Lessee.

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. Notwithstanding the foregoing or anything herein to the contrary, County agrees to cooperate with Lessee, at Lessee's cost, in Lessee's efforts to address title matters, if any, which would prevent Lessee from proceeding with the redevelopment of the Premises in accordance with the Redevelopment Work, as long as such efforts do not materially adversely affect the County (e.g., cooperating with Lessee in the relocation at Lessee's cost of any easements which interfere with the Redevelopment Work, to the extent such relocation is reasonably acceptable to County).

4. PAYMENTS TO COUNTY.

4.1 Net Lease. The parties acknowledge that the rent to be paid by Lessee under this Lease is 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, or cause to be paid, 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 are derived from the Lessee's interest under this Lease and that Lessee's interest requires the payment of a possessory interest tax.

4.2 Rental Payments. Throughout the Term, for the possession and use of the Premises granted herein, Lessee shall pay County (a) the Annual Minimum Rent described in subsection 4.2.1 below, and (b) the Percentage Rent described in subsection 4.2.2 below. For purposes of this Lease "Annual Rent" shall mean the aggregate of the Annual Minimum Rent and Percentage Rent

4.2.1 Annual Minimum Rent and Monthly Minimum Rent. Lessee shall pay to County the minimum rent described in this subsection 4.2.1 (subject to adjustment pursuant to Sections 4.2.3 and 4.3 below) during each Lease 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"); provided, however, if any Lease Year is shorter or longer than a calendar year, then the Annual Minimum Rent shall be calculated on a pro rata basis based on the number of days in the applicable period as compared to 365, and Monthly Minimum Rent shall be payable in equal monthly installments of such pro rata Annual Minimum Rent. During each Lease Year (or portion thereof) during the period from the Effective Date through the day preceding the fifth (5th) anniversary of the Effective Date (the "First Adjustment Date"), the Annual Minimum Rent shall be equal to the annual square foot rental that was payable by Lessee under the Existing Lease for the last full year prior to the Effective 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 this Section 4.2.2, less the Annual Minimum Rent for such month or year. 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 the installment of Monthly 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;

(b) TWENTY PERCENT (20%) 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;

(c) TEN AND ONE-HALF PERCENT (10.5%) of Gross Receipts or other fees charged for (1) the occupancy of apartments, (2) the rental or use of meeting rooms, or (3) the rental or use of land and/or water or facilities for activities not otherwise provided for in this section, such as but not limited to television, motion pictures or other media filming purposes;

(c1) TEN PERCENT (10%) 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 (other than Lessee's management office), 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 omitted;

(e) FIVE PERCENT (5%) 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) With respect to service enterprises, including, without limitation, cable television, internet, satellite, telecommunication or other antennae fees, telephone and other utility services, and valet parking services, FIVE PERCENT (5%) of the Gross Receipts received by Lessee or sublessee from such enterprise if Lessee or a sublessee is the operator of such enterprise, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee or a sublessee from such enterprise if a third (3rd) party provider is the operator of such enterprise

(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) With respect to the installation and/or operation of coin-operated vending or service machines, including pay telephones, FIVE PERCENT (5%) of the Gross Receipts received by Lessee or sublessee from such enterprise if Lessee or a sublessee is the operator of such enterprise, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee or a sublessee from such enterprise if a third (3rd) party provider is the operator of such enterprise;

(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) THREE AND ONE-HALF PERCENT (3½%) of Gross Receipts from the operation of 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 omitted;

(o) Intentionally omitted;

(p) Intentionally omitted;

(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 PERCENT (20%) 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 percent (20%) 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 subsection;

(s1) FIVE PERCENT (5%) of the Gross Receipts from the operation of all stores, shops or boutiques selling items at retail; and,

If with the prior approval of County or Director Lessee hereafter engages in a use that is not currently permitted under this Lease and as to which there is no specific percentage set forth above applicable to such additional or related use, then concurrent with the approval by County or Director of such specific additional use, Director 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.

4.2.2.1 Other Activities. If Director or Lessee reasonably 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.

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, 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, calculated in accordance with the accounting method described in the last sentence of Section 14.1.

(1) Except as otherwise set forth herein, there shall be no deduction from Gross Receipts for any overhead or cost or expense of operation, such as, without limitation, salaries, wages, costs of goods, interest, debt amortization, rent credit (but the value of any free rent period shall not be imputed as Gross Receipts), collection costs, discounts from credit card operations, insurance and taxes.

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

(3) Gross Receipts reported by Lessee and its Sublessees, assignees, licensees, Lessees and permittees must include the usual charges for any services, goods, rentals or facilities provided by Lessee or its Sublessees, assignees, licensees, concessionaires or permittees. Bona fide bad debts actually accrued 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.

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

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

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

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

d. receipts from insurance claims other than rental interruption or business interruption insurance related to the replacement of Gross Receipts;

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

f. the Cost of Lessee's subtenants' submetered electricity, provided (1) each subtenant's obligation to reimburse Lessee for such subtenant's electrical charges is separate and apart from such tenant'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 subtenant's electricity; and, (3) the receipt is actually credited against the cost of the subtenant's electricity. For the purpose of the foregoing sentence, the "Cost" of the subtenant'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 subtenant based on such subtenant'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. The terms and provisions of this paragraph f shall also be applicable to other submetered utility charges to the extent that it is customary for subtenants to be responsible for such other utility charges.

g. amounts received for services rendered by a Sublessee of an individual apartment unit (or by a live-aboard) in connection with the operation by such Sublessee (or live-aboard) of an in-home business in such apartment unit (or the boat of such live-aboard), as long as the primary purpose of Sublessee's use of the apartment unit (or boat) is for residential occupancy and such in-home business is an incident to such residential use.

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.

4.2.3 Adjustments to Annual Minimum Rent. As of the First Adjustment Date (as defined in subsection 4.2.1 above) and continuing each third (3rd) consecutive anniversary thereafter until the first Renegotiation Date (as defined in Section 4.3 below), and thereafter each third (3rd), sixth (6th) and ninth (9th) anniversary of each Renegotiation Date (each an "Adjustment Date" and collectively the "Adjustment Dates"), the Annual Minimum Rent shall be adjusted as provided in this subsection 4.2.3. As of the First Adjustment Date, the Annual Minimum Rent shall be adjusted to the amount that equals seventy-five percent (75%) of the total Annual Rent (including Annual Minimum Rent and Percentage Rent, but without offset of any Lessee Credit that Lessee may have taken as described in Section 4.4 below) that was payable by Lessee to County for the one (1) year period immediately prior to the First Adjustment Date. As of each Adjustment Date thereafter, the Annual Minimum Rent shall be adjusted to the amount which equals seventy five percent (75%) of the average of the total Annual Rent (but without offset of any Lessee Credit which Lessee may have taken as described in Section 4.4 below) that was payable by Lessee to County during the three (3) year period immediately preceding the Adjustment Date.

4.3 Renegotiation of Annual Minimum and Percentage Rents. Effective on the twentieth (20th) anniversary of the Effective Date, and each tenth (10th) anniversary thereafter (each a "Renegotiation Date" and collectively, the "Renegotiation Dates"), the Annual Minimum

Rent and Percentage Rent shall be readjusted to the Fair Market Rental Value (as defined below) of the Premises.

4.3.1 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 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 of this Lease, in acknowledgment and consideration of the Lessee Credit granted to Lessee in Section 4.4 below, in no event shall the percentage of Gross Receipts applicable to the occupancy of apartments set forth in clause (1) of category (c) of subsection 4.2.2 ever be readjusted to less than TEN AND ONE-HALF PERCENT (10.5%), and if the Fair Market Rental Value percentage for the occupancy of apartments is less than TEN AND ONE-HALF PERCENT (10.5%), the requirement that the Gross Receipts percentage applicable to the occupancy of apartments not be readjusted to less than TEN AND ONE-HALF PERCENT (10.5%) shall have no effect on the determination of the Fair Market Rental Value percentages for the other categories of Gross Receipts set forth in subsection 4.2.2.

4.3.2 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 after the submittal by County to Lessee of County's determination of Fair Market Rental Value 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 within such fifteen (15) day period and County's notice to Lessee conspicuously stated in bold faced type that such determination of Fair Market Rental Value shall be binding on Lessee unless Lessee delivers notice of its disagreement within such fifteen (15) day period, then County's determination of Fair Market Rental Value shall be binding on Lessee as of the Renegotiation Date.

4.3.3 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 4.3.2, 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 continue to pay to County Annual Minimum Rent and Percentage Rent at the then-existing levels.

4.3.4 Arbitration. If County and Lessee fail to reach agreement during the sixty (60) day period set forth in subsection 4.3.3, 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.

4.3.5 Retroactivity. In the event that, pursuant to subsections 4.3.3 or 4.3.4 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 thirty (30) days after such execution, Lessee shall pay to County, or County shall at its

election pay or credit to Lessee, the difference, if any, between (a) such Fair Market Rental Value for the Premises and (b) the actual Annual Minimum Rent and Percentage Rent paid by Lessee to County, for the period of time from the Renegotiation Date until the date of such payment. Lessee (with respect to overpayments) or County (with respect to underpayments) shall further be entitled to interest on each portion of such payment from each date on which the applicable rental payments were payable under this Lease to the date paid or credited, whichever is applicable, at the following rates:

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

(2) the interest rate applicable to any period of time in excess of six (6) months following the Renegotiation Date shall be the Prime Rate of interest in effect from time to time during the period from the date that is six (6) months after the Renegotiation Date until the date of payment.

4.4 Lessee Credit. In consideration of Lessee's compliance with the affordable housing requirements referenced in Section 8 of the Option Agreement and Section 3.6 of this Lease, Lessee shall be entitled to a credit (the "Lessee Credit") in the principal amount of Fifteen Million One Hundred Thousand Dollars ($15,100,000.00). Lessee may apply the Lessee Credit (plus accrued interest on the Lessee Credit as described below) against that portion of Annual Rent (including Annual Minimum Rent (or Monthly Minimum Rent) and Percentage Rent) that becomes due and payable under the Lease on and after the Stabilization Date and that exceeds an aggregate of Five Hundred Thousand Dollars ($500,000.00) (the "Base Amount") in any Lease Year on and after the Stabilization Date. For any partial Lease Year following the Stabilization Date, the Base Amount shall be reduced on a pro rata basis based on the number of months in such partial Lease Year as compared to 12. The "Stabilization Date" means the first day of the month following the month in which the apartment units constructed in accordance with Section 5.1 below are ninety percent (90%) physically occupied by tenants for three (3) consecutive months. Lessee shall exercise its right to apply the Lessee Credit against a particular payment described above by delivering written notice to County of such election on or before the due date of such payment.

Commencing on the Stabilization Date and continuing until the earlier of the full application of the Lessee Credit or the tenth (10^{th}) anniversary of the Stabilization Date, unapplied portions of the original principal amount of the Lessee Credit shall accrue interest at an annual rate of 3.125%. Such interest shall be added to and considered a part of the Lessee Credit; provided, however, that interest shall accrue only on the unapplied portions of the original principal amount of the Lessee Credit, and no interest shall accrue on or with respect to previously accrued interest; but provided, further, that applications of the Lessee Credit first shall be made from accrued interest and then to reduce the principal balance of the Lessee Credit. Lessee shall be under no obligation to apply the Lessee Credit against the first or any particular amount of Annual Rent. No interest shall accrue prior to the Stabilization Date nor after the tenth (10^{th}) anniversary of the Stabilization Date.

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 under this Lease is not received by County by the date due, Lessee acknowledges that County will experience additional management, administrative and other costs that are impracticable or extremely difficult to determine. Therefore, a fee ("Late Fee") of six percent (6%) of the unpaid amount shall be added to any amount unpaid when 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); provided, however, with respect to any obligation of an Encumbrance Holder in connection with the exercise of its cure rights under Article 12 below, interest accrual on any particular obligation for periods prior to the Encumbrance Holder's acquisition of leasehold title to the Premises shall be limited to a maximum of three (3) years.

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 (that is not an Excluded Transfer) 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) subject to the remaining provisions of this paragraph, a Net Proceeds Share, in the event County approves such proposed Change of Ownership or Financing Event and such transaction is consummated. "Net Proceeds Share" shall mean the applicable amount determined pursuant to Section 4.8 of this

Lease. Changes of Ownership and Financing Events are further subject to County approval as provided in Articles 12 and 13 of this Lease.

Notwithstanding any contrary provision of this Section 4.6, Lessee shall not be obligated to pay a Net Proceeds Share with respect to (i) the first two Changes of Ownership occurring after the Effective Date but prior to the twelfth (12th) anniversary of the Completion Date, and any Financing Event used to fund the purchase price of such first two Changes of Ownership, (ii) the original construction loan obtained to finance the cost of the Redevelopment Work and the Financing Event to take out such original construction loan if as of the date of the closing of such original construction loan Lessee has obtained a forward commitment for such take-out financing, and (iii) the first two Financing Events (other than any Financing Events described in clauses (i) or (ii) above) occurring after the Effective Date but prior to the twelfth (12th) anniversary of the Completion Date. Lessee shall, however, be obligated to pay a Net Proceeds Share with respect to the third (3rd) and any subsequent Change of Ownership, and with respect to the third (3rd) and any subsequent Financing Event (other than the Financing Events described in clauses (i) or (ii) above), occurring during the period between the Effective Date and the twelfth (12th) anniversary of the Completion Date. In addition, Lessee shall be obligated to pay a Net Proceeds Share with respect to any Change of Ownership or Financing Event occurring after the twelfth (12th) anniversary of the Completion Date.

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, (b) the execution by Lessee of a Major Sublease or the transfer by the Major Sublessee under a Major Sublease of a five percent (5%) or greater direct ownership interest in such Major Sublease, (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 residual interests in Lessee or a Major Sublessee, or (d) a Change of Control (as defined below) of Lessee or a Major Sublessee. Notwithstanding the foregoing, with respect to any Aggregate Transfer of beneficial residual interests in Lessee by AIG Global Real Estate Investment Corp. or any person or entity that directly or indirectly controls, is controlled by, or is under common control with, AIG Global Real Estate Investment Corp. (collectively, an "AIG Entity"), the phrase "fifty percent (50%) or more" in clause (c) above shall be changed to "more than fifty percent (50%)."

For the purposes of this Lease, "Change of Control" shall refer to a transaction whereby the transferee acquires a beneficial residual interest in Lessee or a Major Sublessee which brings its cumulative beneficial residual interest in Lessee or a Major Sublessee, as appropriate, to over fifty percent (50%).

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

4.6.2.1 a transfer by any direct or indirect partner, shareholder or member of Lessee (or of a limited partnership, corporation or limited liability

company that is a direct or indirect owner in Lessee's ownership structure) as of the Effective Date or the date on which a Change of Ownership occurred as to the interest transferred, to any other direct or indirect partner, shareholder or member of Lessee (or of a limited partnership, corporation or limited liability company that is a direct or indirect owner in Lessee's ownership structure) as of the Effective Date, including in each case to or from a trust for the benefit of the immediate family (as defined in subsection 4.6.2.3 below) of any direct or indirect partner or member of Lessee who is an individual;

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

4.6.2.3 a transfer of ownership interests in Lessee or in constituent entities of Lessee (i) to a member of the immediate family of the transferor (which for purposes of this Lease shall be limited to the transferor's spouse, children, parents, siblings and grandchildren), (ii) to a trust for the benefit of a member of the immediate family of the transferor, (iii) from such a trust or any trust that is an owner in a constituent entity of Lessee as of the Effective Date, to the settlor or beneficiaries of such trust or to one or more other trusts created by or for the benefit of any of the foregoing persons, whether any such transfer described in this subsection 4.6.2.3 is the result of gift, devise, intestate succession or operation of law, or (iv) in connection with a pledge by any partners of a constituent entity of Lessee to an affiliate of such partner;

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 or other entity whose stock or securities is/are 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 (including, without limitation, the creation of single purpose entities) so long as the ultimate beneficial ownership remains the same as of the Effective Date, or as otherwise excluded in accordance with subsections 4.6.2.1 through 4.6.2.4 above;

4.6.2.6 any transfer consummated pursuant to Section 12.02(a) of the Limited Partnership Agreement of Lessee in the form of such partnership agreement existing as of the date of Lessee's acquisition of the leasehold under the Existing Lease and delivered to County on or prior to such date [IF PRIOR TO THE EXECUTION OF THE RESTATED LEASE DIRECTOR IN ITS DISCRETION APPROVES THE FORM OF SECTION 12.02(A) OF THE LIMITED PARTNERSHIP AGREEMENT OF LESSEE AS OF THE EFFECTIVE DATE, THEN PRIOR TO THE EXECUTION OF THE LEASE THE ABOVE REFERENCE TO THE FORM OF THE LIMITED PARTNERSHIP AGREEMENT AS OF A CERTAIN DATE SHALL BE REVISED TO BE THE FORM IN EFFECT AS OF THE EFFECTIVE DATE];

4.6.2.7 any transfer resulting from a Condemnation by County; or

4.6.2.8 any assignment of the Lease by Lessee to a parent, subsidiary or affiliate of Lessee in which there is no change to the direct and indirect beneficial ownership of the leasehold interest.

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 residual interests in Lessee or a Major Sublessee, as appropriate) transferred or assigned in one transaction or a series of related 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; provided, however, that there shall be no double counting of successive transfers of the same interest in the case of a transaction or series of related transactions involving successive transfers of the same interest. Isolated and unrelated transfers shall not be treated as a series of related transactions for purposes of the definition of Aggregate Transfer.

4.6.4 Beneficial Residual Interest. As used in this Lease, "beneficial residual interest" shall refer to the ultimate direct or indirect ownership interests in Lessee (or a Major Sublessee, as applicable), regardless of the form of ownership and regardless of whether such interests are owned directly or through one or more layers of constituent partnerships, corporations, limited liability companies or trusts.

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 (that is not an Excluded Transfer) 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 (including documentation in support of the calculation of 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 (including documentation in support of the calculation of the Administrative Charge) and any additional 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 (or deliver to County a letter of credit or other security reasonably acceptable to County in the amount of the disputed portion), which disputed 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 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 (c) 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. 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; provided, however, in the case of a transfer of an interest in Lessee (as opposed to a transfer by Lessee of an interest in the Lease or the Premises) in which the transferor and transferee fail to pay the Administrative Charge and/or Net Proceeds Share due hereunder, as long as Lessee uses its best efforts to cause the payment of the required Administrative Charge and Net Proceeds Share to be made, County shall, for a period of up to three (3) years following the Change of Ownership, forebear from exercising any right to terminate the Lease as a result thereof; provided further that at the end of such three (3) year period County shall no longer have any obligation to forebear from terminating the Lease if the Administrative Charge and Net Proceeds Share, plus interest as described below, has not been paid in full. An Administrative Charge and Net Proceeds Share not paid when due hereunder shall bear interest at the Prime Rate plus three percent (3%). For purposes of determining whether County is required to forebear from terminating the Lease as described above, Lessee's obligation to use its best efforts to cause the payment of the unpaid Administrative Charge and/or Net Proceeds Share shall include the obligation at Lessee's expense, to institute a legal action against the transferor and transferee within ninety (90) days following the date of the transfer and to diligently prosecute such legal action to completion.

4.8 Net Proceeds Share. If a Change of Ownership for which a Net Proceeds Share is payable hereunder occurs prior to the twenty-fifth (25th) anniversary of the Completion Date, the Net Proceeds Share shall be an amount equal to (a) one percent (1%) of the Gross Transfer Proceeds (as defined below) from the Change of Ownership, less (b) the Administrative Charge payable by Lessee in connection with the transaction. If a Change of Ownership for which a Net Proceeds Share is payable hereunder occurs after the twenty-fifth (25th) anniversary of the Completion Date, the Net Proceeds Share shall be the amount by which (a) the greater of (i) two

percent (2%) of the Gross Transfer Proceeds from such transfer, or (ii) twenty percent (20%) of the Net Transfer Proceeds from such transfer, exceeds (b) the Administrative Charge paid by Lessee to County in connection with the transaction. With respect to a Financing Event for which a Net Proceeds Share might be payable hereunder, the Net Proceeds Share (if any) shall be the amount by which (I) twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event exceeds (II) the Administrative Charge paid by Lessee to County in connection with the transaction. For purposes hereof, "Gross Transfer Proceeds" shall mean an amount equal to the gross sale or transfer proceeds and 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 which constitutes a Change of Ownership that is not an Excluded Transfer, such consideration shall in no event be deemed to be less than the fair value of the interests transferred; if Lessee and County are unable to agree upon such fair value, then the matter shall be determined pursuant to Article 16).

4.8.1 Transaction by Original Lessee. In the case of a transfer by Lessee (but not a transfer by a successor or assignee of Lessee) constituting a Change of Ownership for which a Net Proceeds Share is payable, "Net Transfer Proceeds" shall mean the Gross Transfer Proceeds from the transfer, less the following costs with respect to Lessee (but not its successors or assignees):

4.8.1.1 The sum of (a) the purchase price paid by Lessee for the acquisition from Neptune Marina in June, 2004 of the leasehold interest in the Premises under the Existing Lease, plus (b) the amount of the total Extension Fee that has been paid by Lessee as of the date of the Change of Ownership, plus (c) actual out-of-pocket costs incurred by Lessee for its third party consultants and attorneys and Actual Costs reimbursed to County in connection with the negotiation and consummation of the Option Agreement and this Lease (the sum of the amounts in (a), (b) and (c) are referred to as the "Base Value"), plus (d) the final actual construction costs paid by Lessee in connection with the construction of the Redevelopment Work, the Anchorage Facilities replacement work described in Section 5.2, and other capital renovations to the Premises, or other physical capital Improvements or Alterations to the Premises (including future capital redevelopment and rehabilitation work, but not periodic maintenance and repair) constructed by Lessee in compliance with Article 5 of this Lease (including in each case all hard and soft costs, 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), which costs have been submitted to County within ninety (90) days after the completion of such Improvements (or in the case of phased construction, within ninety (90) days after the completion of the applicable phase), together with a written certification from Lessee and Lessee's construction lender, if any, to the effect that such costs are accurate (the amounts described in this clause (c) are referred to as "Improvement Costs"). Notwithstanding the foregoing, with respect to Improvements or Alterations which are not part of the Redevelopment Work, Lessee shall submit the cost of such Improvements on an annual basis within ninety (90) days following the end of each fiscal year. If by the date that is ninety (90) days after the completion of the Redevelopment Work (or other

Improvements) the final amount of the Improvement Costs is not established because of a dispute or disputes between Lessee and its contractor(s), then Lessee shall note such dispute(s) in its submission of the Improvement Costs (including a description of the costs and the amounts under dispute). Lessee shall thereafter notify County in writing within thirty (30) days after the resolution of any such dispute as to any final adjustment required to the amount of the Improvement Costs to reflect the resolution of such dispute.

4.8.1.2 Commissions, title and escrow costs, documentary transfer taxes, sales and use taxes, reasonable attorneys' fees, prepayment fees, penalties or other similar charges (such as yield maintenance premiums or defeasance costs), and other bona fide closing costs actually paid to third parties and documented to the reasonable 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").

4.8.1.3 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 (or, in the case of a Financing Event on which Lessee would have paid a Net Proceeds Share but for the exceptions set forth in Section 4.6).

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 Gross Transfer Proceeds received by that successor, minus the following costs with respect to such successor Lessee:

4.8.2.1 The greatest of (a) the sum of the Base Value, plus Improvement Costs incurred subsequent to the Effective Date but prior to the acquisition of the leasehold interest by such successor, (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired 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 (or, in the case of a Financing Event on which Lessee would have paid a Net Proceeds Share but for the exceptions set forth in Section 4.6), 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 (but not duplicative of the principal amount of any Financing Event described in clause 4.8.2.1(c) above, the proceeds of which were used to fund such Improvement Costs); provided that such costs have been submitted to County,

with an appropriate lender and Lessee certification, as provided in subsection 4.8.1.1; 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 a percentage of which is passed through to County under any provision of this Lease (other than payment of Net Proceeds Share) shall be disregarded in the computation of Net Transfer Proceeds.

4.8.4 Other Transfers. With respect to any Change of Ownership that is not an Excluded Transfer and is not described in subsections 4.8.1 through 4.8.3 (e.g., 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 Base Value and Improvement Costs in determining Net Transfer Proceeds, the cost to the transferor of the interest being transferred or which was transferred in the past but constitutes a portion of an Aggregate Transfer (which cost shall in no event be deemed to be less than a pro rata share of the Base Value and Improvement Costs (or following a transfer by the original Lessee, such cost shall in no event be deemed to be less than a prorata share of the sum of subsections 4.8.2.1 plus 4.8.2.2 as of the respective date of the transfer of each interest in the aggregation pool)) shall be deducted. Furthermore, in the event that any such Change of Ownership produces a Net Proceeds Share, the then existing Improvement Costs shall be increased by an appropriate amount to reflect the basis on which the Net Proceeds Share was calculated, and the basis of the interest that was transferred and for which a Net Proceeds Share was paid shall also be increased for subsequent transfers of the same interest, as if realized by Lessee upon a transfer of a comparable interest in this Lease or in a Major Sublease, as appropriate.

4.8.5 Net Refinancing Proceeds. "Net Refinancing Proceeds" shall mean the gross principal amount of any Financing Event after the Effective Date (plus in the case of secondary financing the original principal balance of any existing financing that is not repaid as a part of such secondary financing), minus (i) the greatest of (a) the Base Value plus the Improvement Costs, (b) the original principal amount of any subsequent refinancing by Lessee in connection with which County was paid a Net Proceeds Share (or, in the case of a Financing Event in connection with which Lessee would have paid a Net Proceeds Share but for the exceptions set forth in Section 4.6) plus if the financing described in this clause (b) was secondary financing, the original principal balance of any then existing financing that was not repaid as a part of such secondary financing, or (c) in the case of a successor Lessee, the purchase price such successor paid to Lessee or such successor's seller for the interest acquired, (ii) any portion of the proceeds of the Financing Event which shall be used for Improvement Costs, (iii) other Improvement Costs incurred by Lessee and not paid for or repaid with the proceeds of any Financing Event, and (iv) Documented Transaction Costs with respect to such Financing Event, and

Documented Transaction Costs with respect to any previous refinancing to the extent such previous refinancing did not produce sufficient Net Refinancing Proceeds against which such Documented Transaction Costs could be offset. Notwithstanding the foregoing, there shall be no double counting of Improvement Costs in clauses (i), (ii) and (iii) above. In addition, notwithstanding any contrary provision of Section 4.6 above pursuant to which a Net Proceeds Share would be due upon a Financing Event, if the purpose of a Financing Event is to fund the acquisition cost (or a portion of the acquisition cost) of a Change of Ownership that is not an Excluded Transfer, then to the extent that the gross principal amount of the Financing does not exceed the gross sale or transfer price of such Change of Ownership, and if the Financing Event is consummated concurrently with the consummation of the Change of Ownership, there shall not be any separate Net Proceeds Share payable in connection with such Financing Event.

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

4.8.7 Payment. Net Proceeds Share shall be due and payable concurrently with the transfer giving rise to the obligation to pay such share 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; provided that in the case of a dispute as to the correct amount of the Net Proceeds Share there shall be no late fee payable as long as Lessee timely pays to County the undisputed portion of the Net Proceeds Share and deposits the disputed portion thereof in an interest bearing escrow account at the closing of the transaction (or delivers to County a letter of credit or other security reasonably acceptable to County in the amount of such disputed portion). In the event that the proceeds of the transaction giving rise to the obligation to pay Net Proceeds Share are comprised, in whole or in part, of assets other than cash, then the cash payment of the Net Proceeds Share shall reflect the fair market value of such non-cash assets as of the date of the Change of Ownership, which shall be set forth in the Calculation Notice. Notwithstanding the foregoing, in the case of a Change of Ownership described in subsection 4.6.1(b), the Net Proceeds Share shall be payable to County as and when the Net Transfer Proceeds are received, with the Net Proceeds Share being equitably apportioned to the payments derived by Lessee from said Change of Ownership (other than any payments passed through to County under this Lease).

4.8.8 Shareholder, Partner, Member, Trustee and Beneficiary List. Prior to the Effective Date, 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 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 a Major Sublease.

5. CONSTRUCTION OF IMPROVEMENTS.

5.1 Redevelopment Work. It is expressly understood and agreed that following the Effective Date Lessee shall proceed to demolish the existing landside Improvements located on the Premises and construct four hundred (400) new luxury apartment units on the Premises, consisting of two hundred forty six (246) one bedroom and one hundred fifty four (154) two bedroom units. The construction of such new apartments, along with all associated improvements, parking facilities, hardscape, landscape and other site work approved by County and to be performed in connection with the construction of such new apartments, are herein collectively referred to as the "Landside Work." The existing Improvements currently include one hundred eighty-four (184) anchorage slips and fourteen (14) end-ties. In addition to the Landside Work, Lessee shall demolish the existing anchorage slips, end-ties and related anchorage Improvements on the Premises, and replace the same with new anchorage slips, end-ties and related anchorage Improvements, including without limitation new docks, gangways and related components (collectively, the "Anchorage Facilities"), including one hundred sixty-one (161) anchorage slips and thirteen (13) end-ties, plus the one Transient Slip described in Section 17.10 below [IF NECESSARY, PRIOR TO EXECUTION OF THE LEASE THE NUMBER OF ANCHORAGE SLIPS/END TIES WILL BE REVISED TO REFLECT ANY CHANGE IN THE NUMBER OF SUCH ANCHORAGE SLIPS/END TIES IN THE LESSEE'S FINAL ENTITLEMENTS, AS APPROVED BY COUNTY UNDER THE OPTION AGREEMENT]. The new Anchorage Facilities shall meet current Applicable Laws, including without limitation all ADA requirements. The foregoing demolition and construction work pertaining to the Anchorage Facilities is referred to herein as the "Anchorage Work."

In addition to the foregoing, Lessee shall construct on a parcel to be created by County adjacent to the Premises as described in the general development plan attached to this Lease as Exhibit B, new public transient docks (the "Public Docks") in accordance with the design that

has been approved by County, Lessee and all necessary governmental regulatory agencies pursuant to the Option Agreement. County shall be responsible for the creation of the separate parcel for the Public Docks and providing all necessary easements or other rights for access and temporary construction easements required by Lessee in connection with the construction of the Public Docks. Any delays caused by County in providing the necessary rights in order to facilitate construction of the Public Docks, or in approving the Final Plans for the Public Docks pursuant to Section 5.1.1 below (to the extent such Final Plans are not approved prior to the Effective Date) shall extend the Required Construction Completion Date for the Public Docks. County shall own the Public Docks and following completion of the Public Docks County shall assume full control and responsibility for the operation and maintenance of the Public Docks. Lessee shall assign all construction warranties to County. The foregoing construction work pertaining to the Public Docks is referred to herein as the "Public Docks Work." The Landside Work, the Anchorage Work and the Public Docks Work are collectively referred to herein as the "Redevelopment Work."

The scope, 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 in accordance with the general development plan attached to this Lease as Exhibit B and shall be subject to County's approval as set forth in this Article 5 and Section 6.3 of the Option Agreement. The design and quality standards for the Landside Improvements shall be at least commensurate with those of luxury apartment projects recently constructed on the Westside of Los Angeles. The design and quality standards for the Anchorage Work and the Public Docks shall require that the Anchorage Facilities, as renovated, and the Public Docks are first-class, state of the art, and comply with (i) the then most recent edition of the Minimum Standards, (ii) the then most recent edition of Layout and Design Guidelines for Small Craft Facilities by the California Department of Boating and Waterways (or similar successor publication), and (iii) design memoranda as provided by the Harbor Engineer of the Los Angeles County Department of Beaches and Harbors (collectively, the "Anchorage Facilities Quality Standard").

Lessee shall be responsible for the acquisition and compliance with all required governmental (including, without limitation, County, Coastal Commission and Design Control Board) planning and entitlement approvals for the Redevelopment Work. 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 comply with all time deadlines and schedules set forth in this Article 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 period set forth in subsection 13.1.2, constitute an Event of Default. Except to the extent Lessee is prevented from so doing by the events identified in Sections 5.6 or 5.7, Lessee shall cause (1) the Substantial Commencement of Construction of the Redevelopment Work in accordance with the Final Redevelopment Work Plans and Specifications (as defined in subsection 5.1.1 below) to occur on or before that date (the "Required Construction Commencement Date") which is six (6) months following the Effective Date, and (2) the Substantial Completion of the Redevelopment Work to occur on or before that date (the "Required Construction Completion Date") that is thirty (30) months following the Effective Date.

For the purposes of this Lease, "Substantial Commencement" or "Substantial Commencement of Construction" shall mean the commencement of the demolition work required in connection with the Redevelopment Work, as long as following the commencement of demolition Lessee diligently proceeds to complete such demolition work and commences the actual construction of the new Improvements immediately following the completion of demolition. For purposes of this Lease, the terms "Substantial Completion" or "Substantially Complete" as they pertain to a portion of the Redevelopment Work shall mean the completion of such portion of the Redevelopment Work in accordance with the Final Redevelopment Work Plans and Specifications, subject to minor so-called punch list items that do not interfere with the use and occupancy of such portion of the Redevelopment Work. Without limitation of any other requirements for Substantial Completion, the requisite portion of the Redevelopment Work shall not be considered Substantially Completed until Lessee has received a temporary certificate of occupancy or equivalent approval required for the legal occupancy and use of such Redevelopment Work. The Required Construction Commencement Date and Required Construction Completion Date will be extended only under the specific circumstances set forth in Sections 5.6 or 5.7, and under no other circumstances. In the event that Lessee fails to Substantially Commence Construction of the Redevelopment Work on or before the Required Construction Commencement Date, or fails to substantially complete the Redevelopment Work on or before the Required Construction Completion Date (as such dates may be extended pursuant to Sections 5.6 or 5.7 below), then in addition to any other right or remedy which County may have in connection therewith, but subject to Section 12.12, this Lease shall be automatically amended such that the terms and provisions of this Lease revert back to the terms and provisions of the Existing Lease (including, without limitation, the Existing Expiration Date).

5.1.1 Final Redevelopment Work Plans and Specifications. Pursuant to Sections 6.3.1 and 6.3.2 of the Option Agreement, County has heretofore approved the Schematics and the Preliminary Plans for the Redevelopment Work. On or before ninety (90) days prior to the Required Construction Commencement Date, Lessee shall submit for approval by Director six (6) complete sets of final plans and detailed specifications for the Redevelopment Work on the Premises (the "Final Plans"), 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. The Final Plans shall reflect a natural progression and logical evolution from the Preliminary Plans approved under the Option Agreement. Lessee shall file duplicate copies of the Final Plans required by this subsection with the County Director of Public Works, together with the necessary and appropriate applications for building permits for the Redevelopment Work on the Premises. Any material difference in the scope, size, configuration, arrangement or motif of the Improvements described in the Final Plans from those described in the Preliminary Plans for the Premises approved under Section 6.3.2 of the Option Agreement shall be separately identified and described. Director shall have twenty one (21) days within which to approve or disapprove the Final Plans, which approval shall not be unreasonably withheld. Director may disapprove the Final Plans only on the grounds that they do not reflect a natural evolution from or that they materially differ from the approved Preliminary Plans (exclusive of any Approved Governmental Changes, as defined in Section 6.3.1 of the Option Agreement). Failure of Director to

disapprove said Final 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 contain substantial changes from the Preliminary Plans (other than any Approved Governmental Changes), then Director shall have sixty (60) days in which to approve the Final Plans, 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, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

> "PURSUANT TO SUBSECTION 5.1.1 OF THE LEASE, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES (OTHER THAN ANY APPROVED GOVERNMENTAL 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."

Following any deemed disapproval by Director of such submission, Director shall, within thirty (30) days after receipt of a written request from Lessee, disclose to Lessee in writing Director's objections to the submission. 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 (exclusive of any Approved Governmental Changes). Upon approval, the Final Plans shall be referred to herein as the "Final Redevelopment Work Plans and Specifications." No material modifications shall be made to the Improvements described in the approved Final Redevelopment Work Plans and Specifications, without the prior written approval of Director, which shall not be unreasonably withheld.

5.2 Future Replacement of Anchorage Facilities. During the period from the thirtieth (30th) anniversary of the Effective Date through the forty-fifth (45th) anniversary of the Effective Date, County shall have the right to have the condition of the Anchorage Facilities inspected from time to time by an independent, nationally recognized, marine engineering consultant selected by County. For purposes of this Section 5.2 only, the Anchorage Facilities shall include the landside lockers, restrooms and shower facilities to which the users of the anchorage improvements are provided access. County and Lessee shall equally share the fees and expenses incurred for the marine engineering consultant engaged by the County under this Section 5.2. If in the opinion of such engineering consultant the Anchorage Facilities (i) are unsafe, unsightly or at the end of their useful lives; or (ii) are of a lesser overall quality than a majority of the other anchorage facilities operated in Marina del Rey at the time of the inspection, then at the County's request Lessee shall, at Lessee's cost, replace the Anchorage Facilities with new Anchorage Facilities. For purposes of this Section 5.2, the Anchorage Facilities shall be inspected and evaluated by the engineering consultant on a section by section basis, and if a particular section, or a material portion of a particular section, of the Anchorage Facilities does not satisfy the test set forth above, then Lessee shall be required to replace all of the component parts of such section. For purposes hereof, the landside lockers, on the one hand,

and the restrooms and shower facilities, on the other hand, shall each be considered to be a separate "section" of the Anchorage Facilities. Notwithstanding that the inspection of the Anchorage Facilities shall be performed on a section by section basis, if multiple sections of the Anchorage Facilities do not meet the test set forth above in this Section 5.2, then Lessee shall be required to perform the replacement of all of such deficient Anchorage Facilities at the same time unless Lessee and Director otherwise agree upon a mutually acceptable phasing schedule for such replacement. In all events, all of the Anchorage Facilities shall be replaced at one point or another during the period between the thirtieth (30th) and forty-fifth (45th) anniversaries of the Effective Date.

The replacement Anchorage Facilities under this Section 5.2 shall comply with the Anchorage Facilities Quality Standard defined in Section 5.1 above and shall be performed in accordance with all terms and provisions of this Article 5 applicable to Alterations. The consultant's determination as to the date that the Anchorage Facilities, or portions thereof, require replacement pursuant to this Section 5.2 shall be based solely on the actual condition of such Anchorage Facilities, and no consideration shall be given to the duration of the remaining Term of the Lease in making such determination. If the consultant determines that Anchorage Facilities replacement work is required, then concurrent with such determination, the consultant shall include as a part of such determination its opinion as to the period of time reasonably necessary to perform the design, permitting and construction of such work. Lessee shall commence any required work (i.e., commence any design and permitting work) within sixty (60) days following receipt of the consultant's determination and thereafter complete the installation and construction of the work within the period prescribed in the consultant's determination. Notwithstanding any contrary provision of this Section 5.2, with respect to the landside lockers, restrooms and shower facilities included in the Anchorage Facilities, Lessee shall have the right to choose to renovate such facilities in a manner that meets the Anchorage Facilities Quality Standard in lieu of the complete replacement thereof.

5.3 Plans and Specifics for Alterations. For purposes of this Lease, "Alterations" means any and all alterations or modifications to the Improvements located on the Premises or the construction of any new Improvements on the Premises, other than the Redevelopment Work. Lessee shall make no Alterations to the Improvements located on the Premises without the prior written approval by Director of such Alterations (including the Director's approval of the plans, specifications and other materials pertaining to such Alterations required under this Section 5.3). Prior and as a condition precedent to the construction of any Alterations, Lessee shall submit to Director, for Director's approval, the plans, specifications and other materials described in this Section 5.3 pertaining to such Alterations. All Alterations must be consistent with the Permitted Uses set forth in Article 3 of this Lease. The plan submittal and approval procedures set forth in subsections 5.3.1 through 5.3.3 below shall not be applicable to the Redevelopment Work. The Redevelopment Work shall be subject to the plan submittal and approval procedures set forth in the Option Agreement and subsection 5.1.1 of this Lease.

5.3.1 Schematics and Narrative. Lessee shall submit to the Director six (6) sets of schematic plans together with a narrative description and construction cost estimate summary clearly delineating the nature, size, configuration and layout of the Alterations. Such plans shall, among other things, clearly delineate the architectural theme or motif of the Alterations and shall identify and illustrate all affected boundaries

of the Premises and all affected rights-of-way or other areas reserved to County or third parties which are located thereon. Director shall have sixty (60) days within which to approve or disapprove such submission. Failure of Director to approve such submission in writing within said sixty (60) day period shall be deemed disapproval of said submission. Following any deemed disapproval of such submission by Director, Director shall, within thirty (30) days after receipt of a written request from Lessee, disclose to Lessee in writing Director's objections to the submission. After approval of schematic plans (or subsequent approval of preliminary or final plans) by Director, if changes in such plans are required by conditions of approval of the Alterations imposed by the California Coastal Commission or other governmental agency having jurisdiction thereover, Lessee shall promptly advise Director in writing of such changes and Director shall not disapprove those changes which constitute Approved Governmental Changes.

5.3.2 Preliminary Plans and Specifications. After Director's approval of the materials submitted pursuant to subsection 5.3.1, Lessee shall submit to Director six (6) sets of preliminary plans, outline specifications and construction cost estimates for the Alterations. The preliminary plans, outline specifications and construction cost estimate shall conform to, expand upon and reflect a natural evolution from the descriptions and estimates set forth in the approved schematic plans and narrative. Any difference in the scope, size, configuration, arrangement or motif of the Improvements from those described in the approved schematics and narrative shall be separately identified and described. Director shall have twenty-one (21) days within which to approve or reasonably disapprove such submission, and Director may disapprove said preliminary plans only on the grounds that (i) they do not reflect a natural evolution from the approved schematic plans or that they materially differ from the approved schematic plans and narrative (exclusive of any Approved Governmental Changes), or (ii) that any new, different or additional specifications for the Improvements not expressly set forth in, and approved by Director as a part of, the schematic plans do not meet the requirements for the Improvements set forth in this Article 5. 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 (other than Approved Governmental Changes), then Director shall have sixty (60) days in which to approve said submission, which approval shall be deemed withheld if not granted in writing within such sixty (60) day period; and provided further, that together with the submission of the preliminary plans, outline specifications and construction cost estimates, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

> "PURSUANT TO SUBSECTION 5.3.2 OF THE AMENDED AND RESTATED LEASE AGREEMENT, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES (OTHER THAN APPROVED GOVERNMENTAL 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."

Following any deemed disapproval of such submission by Director, Director shall, within thirty (30) days after receipt of a written request from Lessee, disclose to Lessee in writing Director's objections to the submission.

5.3.3 Final Plans and Specifications. After approval of the preliminary plans, Lessee shall submit for approval by Director six (6) complete sets of final plans, detailed specifications and a construction cost statement for the Alterations, together with one (1) set of appropriate structural computations, identical to those requested or required by the County Director of Public Works incident to the issuance of building permits under the relevant provisions of the Los Angeles County Building Code. Lessee shall file duplicate copies of the final plans, detailed specifications and construction cost statement required by this Section with the County Director of Public Works, together with the necessary and appropriate applications for building permits. Any difference in the scope, size, configuration, arrangement or motif of the Alterations from those described in the approved preliminary plans and specifications shall be separately identified and described. Director shall have twenty one (21) days within which to approve or disapprove such submission, and Director may disapprove such submission only on the grounds that (i) they do not reflect a natural evolution from or that they materially differ from the approved preliminary plans, outline specifications and construction cost estimates (exclusive of any Approved Governmental Changes), or (ii) that any new, different or additional specifications for the Improvements not expressly set forth in, and approved by Director as a part of, the preliminary plans do not meet the requirements for the Improvements set forth in this Article 5. Failure of Director to disapprove said materials within twenty one (21) days after Director's receipt shall be deemed Director's approval thereof; provided, however, that in the event that the final plans, detailed construction specifications and construction cost statement contain substantial changes from the preliminary plans, outline specifications and construction cost estimates (other than Approved Governmental Changes), then Director shall have sixty (60) days in which to approve said submission, which approval shall be deemed withheld if not granted in writing within such sixty (60) day period; and provided further, that together with the submission of the final plans, detailed construction specifications and construction cost statement, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

"PURSUANT TO SUBSECTION 5.3.3 OF THE AMENDED AND RESTATED LEASE AGREEMENT, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES (OTHER THAN APPROVED GOVERNMENTAL 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."

Following any deemed disapproval of such submission by Director, Director shall, within thirty (30) days after receipt of a written request from Lessee, disclose to Lessee in writing Director's objections to the submission. 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 (exclusive of any Approved Governmental Changes), or which contains new, different or additional specifications for the Improvements which were not expressly set forth in, and approved by Director as a part of, the preliminary plans and which do not meet the requirements for the Improvements set forth in this Article 5. No material modification shall be made to the Alterations described in the approved final plans, specifications and costs (the "Final Alteration Plans and Specifications") without the prior written approval of Director, which shall not be unreasonably withheld.

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

5.4.1 Permits and Other Approvals. Lessee shall have received and furnished the Department with copies of all permits, licenses and other governmental approvals necessary for commencement of the Redevelopment Work or Alterations, as the case may be. All permits, licenses and other governmental approvals necessary for subsequent stages of the Redevelopment Work or Alterations shall be furnished to the County prior to commencement of such stages.

5.4.2 Copies of Construction Contracts. Lessee shall have furnished County with copies of any contract(s) entered into between Lessee and any general contractor(s) employed for the purpose of constructing the Redevelopment Work or Alterations, as the case may be.

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

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

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

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

5.4.4 Alternative Security. In lieu of providing the Payment and Performance Bonds, Lessee may, in its discretion, provide any one or any combination of the following alternative security: (i) a completion guaranty, in form and substance reasonably acceptable to County, made by an individual or entity with a sufficient net worth and liquidity, in the sole discretion of Director, to comply with the terms of such guaranty in view of the potential financial responsibility involved, (ii) a Certificate of Deposit, cash or United States governmental security, (iii) an additional Letter of Credit, or (iv) a Set Aside Letter from Lessee's construction lender. The security described in clauses (ii), (iii) and (iv) above shall be in an amount equal to one hundred percent (100%) of the construction contract price for hard costs, and shall permit County to draw thereon to complete the construction of the Improvements if same have not been completed by Lessee or if a material Event of Default has occurred under this Lease. In addition, Director also shall have the authority to accept in lieu of the Payment and Performance Bonds, so-called "Subguard" insurance in such amount, on such terms and issued by such carrier as approved by Director, in combination with such other security, such as a completion guaranty, as acceptable to Director. Any alternative security provided by Lessee pursuant to this subsection may name County and Lessee's construction lender as co-beneficiaries. A condition precedent to Lessee's right to provide the alternate security described in this subsection 5.4.4 shall be delivery by Lessee to County of an opinion of counsel from a firm and in a form acceptable to County to the effect that the construction work does not constitute a public work of improvement requiring the delivery of the bonds described in subsection 5.4.3 above. Director shall have the authority, in his reasonable discretion, to modify, waive or reduce the amount of any bonds or alternate security required hereunder.

5.4.5 Evidence of Financing. Lessee shall have provided evidence satisfactory to County of its having sufficient financial resources, as determined by

Director, to complete the Redevelopment Work or Alterations, as applicable. 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.

5.4.6 Work Schedule. With respect to the Redevelopment Work, Lessee shall have provided County with a construction schedule which will result in the completion of the Redevelopment Work on or before the Required Construction Completion Date, as such date may be extended as provided in this Article 5.

5.5 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 described in Section 5.1 above, the future Anchorage Facilities replacement work described in Section 5.2 above, and the Subsequent Renovations described in Section 5.13 below, as applicable. 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 25536 or 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.

5.6 Delays in Completion of Redevelopment Work. Once construction of the Redevelopment Work has been Substantially Commenced, Lessee shall thereafter diligently pursue the completion of such construction by the Required Construction Completion Date. During this period, delays due to fire, earthquake, flood, tornado or other act of God, civil disturbance, war, organized labor dispute, freight embargo or other unforeseeable event reasonably beyond the control of Lessee, or a hidden condition, including without limitation environmental contamination, relating to the foundation, substructure or subsurface of the Premises which was not known to Lessee as of the commencement of such construction activity ("Force Majeure") shall extend the Required Construction Completion Date by the length of time of such delay, although Lessee shall to the extent possible commence and complete the portions, if any, of the Improvements not impacted by such delay within the timeframe set forth in this Lease. For purposes of this Section 5.6, "Force Majeure" shall also include delays in the completion of construction caused (i) by a third party restraining order or injunction (filed by a plaintiff other than County or the California Coastal Commission) obtained after the commencement of construction, subject to Lessee's obligation to diligently pursue the removal

or appeal of any such restraining order or injunction, or (ii) by Unreasonable County Activity after the commencement of construction, subject to the procedures set forth in subsection 5.7.2 below for establishing Unreasonable County Activity. Lessee and Director shall discuss and attempt to agree on the length of time of any entitled delay due to Force Majeure pursuant to this Section 5.6. If they are unable to agree within thirty (30) days after the event or occurrence giving rise to Lessee's claim to an entitlement to a delay under this Section 5.6, the matter shall be arbitrated as set forth in Article 16.

5.7 Extension of Dates. Other than as set forth in Section 5.6 above, the Required Construction Commencement Date and Required Construction Completion Date shall be extended only for the reasons set forth in this Section.

5.7.1 Injunction by Third Party, Nonregulatory Body. The Required Construction Commencement Date shall be extended if the commencement of construction of the Redevelopment Work has been enjoined or restrained by a court action commenced by a plaintiff other than County or the California Coastal Commission acting in their governmental capacity. In such case, the Required Construction Commencement Date shall be extended until forty-five (45) days after the restraining order and/or injunction is removed; provided that in no event shall the Required Construction Commencement Date be extended beyond the second (2nd) anniversary of the Effective Date. Whether or not a named party in such action, Lessee shall diligently pursue the removal of any restraining order or injunction so issued and shall exhaust all commercially reasonable efforts to appeal such restraining order or injunction. If the Required Construction Commencement Date is extended pursuant to this subsection 5.7.1, then the Required Construction Completion Date shall be extended by the same period of the extension of the Required Construction Commencement Date.

5.7.2 Delay Caused by Unreasonable County Acts. The Required Construction Commencement Date shall be extended if Lessee has been delayed in the obtaining of any permits or other approvals necessary for the commencement of construction due to Unreasonable County Activity. For the purposes of this Lease, the following shall be deemed to be "Unreasonable County Activity": (i) County's failure to provide required joinder, if any, in Lessee's proposals for the Improvements described in the Final Redevelopment Work Plans and Specifications before any governmental agency; or (ii) 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; or (iii) County's failure to comply with the time periods imposed upon County under this Article 5, except in the case where a failure of County to notify Lessee of its approval or disapproval of a matter constitutes County's deemed approval of such matter, or constitutes County's deemed disapproval of such matter and County's disapproval of such matter is authorized under the circumstances. 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:

(a) Within a reasonable time under the circumstances, 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. If Lessee fails to notify Director in writing as specified in the immediately preceding sentence within five (5) days following Lessee's discovery of the alleged Unreasonable County Activity, then notwithstanding any contrary provision of this subsection 5.7.2, in no event shall Lessee be entitled to an extension for any period of the delay occurring prior to the date of Lessee's notice described in this paragraph (a).

(b) 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.

(c) 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. If the Required Construction Commencement Date is extended pursuant to this subsection 5.7.2, then the Required Construction Completion Date shall be extended by the same period of the extension of the Required Construction Commencement Date.

5.7.3 Delay in Obtaining Permits or Approvals. Except as otherwise provided in subsection 5.7.4, if as of the Required Construction Commencement Date (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 Construction Commencement Date shall be extended to forty-five (45) 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 Construction Commencement Date shall not be later than the second (2nd) anniversary of the Effective Date. If the Required Construction Commencement Date is so extended, then the Required Construction Completion Date shall be extended by the same period of the extension of the Required Construction Commencement Date. 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.

5.7.4 Limitation of Extensions. Notwithstanding the foregoing, Lessee shall not be entitled to any extension 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 Final Redevelopment Work Plans and Specifications, and (ii) the land use laws and regulations and the Local Coastal Plan (except for any required density transfer between Development Zones) existing as of the date of execution of this Lease by Lessee.

5.7.5 Obligation to Pay Rent. Notwithstanding anything to the contrary contained in this Lease, no extension, relaxation or modification of the requirement to Substantially Commence construction of the Redevelopment Work by the Required Construction Commencement Date and complete such Improvements by the Required Construction 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.

5.8 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 caused by such work, and shall restore the area upon which such work is performed to a condition which is at least equal to or better than the condition which existed before such work was commenced. Additionally, Lessee shall pay or cause to be paid all costs and expenses associated therewith and shall indemnify, defend and hold County harmless from and against all damages, costs, expenses, losses or claims arising out of or in connection with the performance of such work, except to the extent that such damages, costs, expenses, losses or claims are caused by County. Dust, noise and other effects of such work shall be controlled using accepted measures customarily utilized in order to control 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, upon at least one (1) Business Day advance notice, timely inspect the Premises to assure proper safeguarding of any County-owned improvements existing on or around the Premises or the Public Docks, including but not limited to seawalls, underground conduits and utility lines. If any such County-owned improvement is damaged as a result of construction activity by Lessee or its contractors, Lessee agrees to repair such damage immediately at no cost or expense to County. Lessee shall add the work necessary to repair such damage to the construction schedule for the Redevelopment Work (or other Alteration work, as applicable), and shall complete such repair work in accordance with such schedule; provided that if such damage to County-owned improvements creates a threat to public health and safety or materially adversely affects the condition, appearance or operation of any County-owned improvement or of any other property, then Lessee shall promptly commence the completion of such repair work and complete such repair work as soon as reasonably possible thereafter. In the event that Lessee fails to effectuate such repair in accordance with the foregoing requirements, County may upon written notice to Lessee enter upon the Premises to make such repairs, the Actual Cost of which shall be paid by Lessee within five (5) business days after demand by County. This subsection 5.8.5 shall not be deemed to impose upon Lessee any obligation to repair damage to County-owned improvements existing on or around the Premises if such damage was not incurred as a result of Lessee's construction activities.

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 during normal business hours, 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, and County shall comply with industry safety standards in

connection with any such access. 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 Redevelopment Work or any Alterations (including the Subsequent Renovation described in Section 5.13), Lessee shall file or cause to be filed in the Official Records of the County of Los Angeles a Notice of Completion (the "Notice of Completion") with respect to the Improvements and Lessee shall deliver to County, at no cost to County, two (2) sets of reproducible final as-built plans and specifications of the relevant Improvements.

5.8.8 Final Completion Certificate. Promptly after completion of the Redevelopment Work, the Anchorage Facilities replacement work described in Section 5.2 or the Subsequent Renovations described in Section 5.13, upon Lessee's request, County shall execute and deliver to Lessee a final completion certificate (the "Final Completion Certificate") as to the work which is the subject thereof, which shall conclusively evidence the completion of such work by Lessee in accordance with the terms of this Lease.

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 (and Lessee's Encumbrance Holder(s) if required by Lessee's Encumbrance Holder(s)) 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 (or if County enters into a new lease with Lessee's Encumbrance Holder pursuant to Article 12, then Lessee's Encumbrance Holder) 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. The assignment to County and Lessee's Encumbrance Holder(s) described in this Section 5.9 shall be effective until the Final Completion Certificate for the subject work is issued, and shall be subordinate to the security interest, if any, of Lessee's construction lender in the assigned contract, which subordination shall be in a form reasonably acceptable to Lessee's construction lender.

5.10 Where Director Approval Not Required. Notwithstanding the foregoing, and notwithstanding anything to the contrary in this Article 5, Lessee shall not be required to seek or obtain the approvals of Director described in this Article 5 (including those set forth in Section 5.3) for Alterations where all of the following conditions are satisfied: (i) the total cost of the project is less than One Hundred Thousand Dollars ($100,000), adjusted annually to reflect the increase or decrease in the ENR Index from and after the Effective Date (provided, however, that

in no event shall such adjustment result in a reduction of the threshold for Director approval to less than One Hundred Thousand Dollars ($100,000); (ii) none of the proposed construction activity is structural in nature; and, (iii) none of the proposed construction, additions, modifications or changes affect or are visible from the exterior of the Premises; provided, however, that whenever Lessee makes or constructs or permits any improvements in or to the Premises, Lessee shall (a) give written notice thereof (including a description of the work to be done and the permits obtained for such work), and (b) furnish a copy of "as-built" plans upon completion of such work to County.

5.11 County's Inducement. Lessee acknowledges that the principal inducement to County to enter into this Amended and Restated Lease Agreement and to extend the Term as provided herein is the timely improvement of the Premises by Lessee with the Redevelopment Work described in Section 5.1 above and the timely performance by Lessee of the future Anchorage Facilities replacement work described in Section 5.2 above. Accordingly, Lessee expressly acknowledges that any failure by Lessee to perform its obligations under such Sections 5.1 or 5.2 in all material respects by the dates set forth herein (as such dates may be extended pursuant to Section 5.6 or 5.7) shall constitute a material breach of and default under the Lease by Lessee which entitles County to exercise any and all rights and remedies which County may have as a result thereof, under this Lease, at law and/or in equity.

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 County's interest in 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's interest in the Premises 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 under this Article 5, 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 Redevelopment Work, the Premises or 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 Public Docks Parcel and 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 any one of the following, as determined by Lessee: (i) the bond described in California Civil Code Section 3143, or successor statute, which results in the removal of such lien from the Premises, (ii) a Set Aside Letter from Lessee's construction lender, in form and substance reasonably satisfactory to County, setting aside sufficient funds from Lessee's construction loan for the satisfaction of such lien, or (iii) a title insurance policy or endorsement insuring County against any loss or liability arising out of such lien, 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 Renovation Fund/Subsequent Renovations. During the period from the eleventh (11th) Lease Year following the Effective Date through the fortieth (40th) Lease Year following the Effective Date, Lessee shall establish and maintain a reserve fund (the "Renovation Fund") in accordance with the provisions of this Section 5.13 for the cost of capital renovations to the Improvements as described in this Section 5.13. Lessee and County agree and acknowledge that the purpose of the Renovation Fund shall be to provide funds for a renovation of the common areas and exterior of the Improvements (not including the Anchorage Facilities) on two separate occasions, once during the period from the nineteenth (19th) through twenty-second (22nd) Lease Years following the Effective Date and again during the period from the thirty-ninth (39th) through forty-second (42nd) Lease Years following the Effective Date (each, a "Subsequent Renovation"). Each of the Subsequent Renovations shall proceed in accordance with (i) a schedule that provides for the completion of the Subsequent Renovation prior to the completion of the twenty-second (22nd) or forty-second (42nd) Lease Year following the Effective Date, as applicable, and (ii) a renovation plan approved by the Director that provides for the revitalization and upgrade of the common areas and exterior of the Improvements (excluding the Anchorage Facilities) to a condition and appearance at least equal to that of other first class residential apartment projects then recently constructed or being constructed in Marina del Rey.

Prior to the commencement of the construction work for a Subsequent Renovation, Lessee shall submit to Director a renovation plan for such Subsequent Renovation, which renovation plan ("Subsequent Renovation Plan") shall (a) describe the proposed renovation work in detail reasonably acceptable to Director, (b) include a design, governmental approvals and construction schedule for the work, (c) include a budget for all work costs, and (d) address such other matters as Director reasonably requests. The Subsequent Renovation Plan shall be submitted by Lessee to County not later than such date (taking into consideration the approval periods described in this Section 5.13 and Section 5.3 above, the estimated time required to obtain all necessary governmental approval and permits, and the estimated time required to complete the work) as will permit the completion of the work by the required completion date under this Section 5.13. Director shall have sixty (60) days within which to reasonably approve or disapprove the Subsequent Renovation Plan, or to approve the Subsequent Renovation Plan subject to conditions imposed by Director in its reasonable judgment. Failure of Director to

notify Lessee in writing of its approval or disapproval of the Subsequent Renovation Plan shall be deemed Director's disapproval of the Subsequent Renovation Plan. Upon Director's approval of the Subsequent Renovation Plan, Lessee shall proceed to satisfy all conditions in this Article 5 to the commencement of the Subsequent Renovation and to commence and complete the Subsequent Renovation in accordance with the Subsequent Renovation Plan and the terms and conditions of this Article 5. Director's approval of the actual plans and specifications for the Subsequent Renovations shall proceed in accordance with the protocol for plan submission and approval set forth in Section 5.3 of this Lease, except that the schematic plan submittal requirements set forth in subsection 5.3.1 shall not be applicable to the extent that the Subsequent Renovation Plan approved by Director satisfies the requirements of such subsection 5.3.1. Lessee's failure to comply with the schedule approved by Director as part of a Subsequent Renovation Plan and/or to meet the completion deadline pertaining to the Subsequent Renovation set forth in this Section 5.13 shall, if not cured within the cure period set forth in subsection 13.1.2, constitute an Event of Default. Any dispute as to whether Director has failed to exercise reasonable judgment in the approval or disapproval of the Subsequent Renovation Plan shall be submitted to arbitration pursuant to Article 16 of this Lease. If the arbitrator determines that Director failed to exercise reasonable judgment in the approval or disapproval of the Subsequent Renovation Plan and as a result thereof Lessee is delayed in the completion of the Subsequent Renovation by the required completion date set forth in the first paragraph of this Section 5.13, then the required date for the completion of such Subsequent Renovation shall be extended by the duration of the delay caused by Director's failure to reasonably approve the Subsequent Renovation Plan, provided that the required date for the completion of the Subsequent Renovation shall not be extended beyond the date reasonably required Lessee for the completion by Lessee of the Subsequent Renovation.

The Renovation 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 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 5.13. On or before the fifteenth (15th) day of each calendar month commencing with the month of February during the eleventh (11th) Lease Year following the Effective Date and continuing through the month of January of the forty-first (41st) Lease Year following the Effective Date, Lessee shall make a deposit to the Renovation Fund on a monthly basis in the amount of one percent (1%) of Gross Receipts received during the preceding month, excluding Gross Receipts from the Anchorage Facilities described in subsection 4.2.2(a) of this Lease. All interest and earnings on the Renovation Fund shall be added to the Renovation Fund, but shall not be treated as a credit against, or otherwise reduce, the deposits required to be made by Lessee to the Renovation Fund. 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 5.13. 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 Subsequent Renovation Plan for such Subsequent Renovation

and Lessee has furnished to Director evidence reasonably satisfactory to Director that Lessee has sufficient financial resources to pay for all costs of such Subsequent Renovation. All remaining amounts in the Renovation Fund shall be used for the costs of the Subsequent Renovation Plan to be implemented by Lessee by the end of the forty-second (42nd) Lease Year following the Effective Date, and Lessee shall not be required to make further contributions to the Renovation Fund after the month of January of the forty-first (41st) Lease Year following the Effective Date.

In lieu of the periodic Renovation Fund contributions described in this Section 5.13, Lessee agrees that Director shall have the authority, in the exercise of the Director's discretion, to consider the delivery by Lessee of substitute security acceptable to Director (e.g., a letter of credit or bonding mechanism) to secure the performance by Lessee of the Subsequent Renovations described above in this Section 5.13. Such substitute security shall be in not less than the same amounts and delivered not later than the same times, as amounts that would have otherwise been required to be delivered into the Renovation Fund.

5.14 Capital Reserve Fund. In addition to the Renovation Fund described in Section 5.13 above, during the period commencing with the eleventh (11th) Lease Year after the Effective Date and continuing through the end of the Term, Lessee shall establish and maintain a reserve fund (the "Capital Reserve Fund") in accordance with the provisions of this Section 5.14 for the cost of Permitted Capital Expenditures (as defined below) for the Premises. Lessee and County agree and acknowledge that the purpose of the Capital Reserve Fund shall be to provide funds for the costs of additions, replacements, renovations or significant upgrades of or to the Improvements on the Premises, including building exteriors and major building systems (such as HVAC, mechanical, electrical, plumbing, vertical transportation, security, communications, structural or roof) that significantly increase the capacity, efficiency, useful life or economy of operation of the Improvements or their major systems, after the completion of the Redevelopment Work ("Permitted Capital Expenditures"). Notwithstanding any contrary provision hereof, the Capital Reserve Fund shall not be used to fund any portion of the cost of work pertaining to the Anchorage Facilities, nor for any portion of the cost of the Subsequent Renovations described in Section 5.13 above. In addition, Permitted Capital Expenditures shall not include the cost of periodic, recurring or ordinary expenditures, repairs or replacements that keep the Improvements in a good, operating condition, nor for any necessary repairs, replacements or renovations of the Anchorage Facilities (including any landside lockers, restrooms or shower facilities to which the anchorage users are provided access), all of which costs shall be separately funded by Lessee. By way of example, set forth on Exhibit G attached to this Lease are categories of Permitted Capital Expenditures that qualify as proper costs to be funded from the Capital Reserve Fund. All purposes and costs for which Lessee desires to utilize amounts from the Capital Reserve Fund shall be subject to Director's approval, which approval shall not be unreasonably withheld.

The Capital Reserve 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 5.14. The amounts to be added to the Capital Reserve 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.

On or before the fifteenth (15th) day of each calendar month during the Term commencing with the month of February in the eleventh (11th) Lease Year following the Effective Date and continuing during the remainder of the Term, Lessee shall make a deposit to the Capital Reserve Fund on a monthly basis in the amount of one percent (1%) of Gross Receipts received during the preceding month, excluding Gross Receipts from the Anchorage Facilities described in subsection 4.2.2(a) of this Lease. All interest and earnings on the Capital Reserve Fund shall be added to the Capital Reserve Fund, but shall not be treated as a credit against the Capital Reserve Fund deposits required to be made by Lessee pursuant to this Section 5.14. Disbursements shall be made from the Capital Reserve 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 Capital Reserve Fund disbursements, Lessee shall submit to Director on an annual basis on or before the commencement of the eleventh (11th) Lease Year after the Effective Date and each anniversary thereafter a capital expenditure plan for the upcoming year which details the amount and purpose of anticipated Capital Reserve Fund expenditures for which Lessee requests Director's approval, which approval shall not be unreasonably withheld. Any anticipated expenditure set forth in such capital expenditure plan which is approved by Director as an acceptable Capital Reserve Fund disbursement shall be considered pre-approved by Director (but only up to the amount of such expenditure set forth in the annual capital expenditure plan) for the duration of the upcoming year. Lessee shall have the right during the course of each year to submit to Director for Director's approval revisions to the then current capital expenditure plan in effect for such year or individual expenditures not noted on the previously submitted capital expenditure plan. Prior to the disbursement of any amounts from the Capital Reserve 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 Reserve Fund. As long as Lessee is not then in default under the Lease, including without limitation, its obligations under this Section 5.14, if, and at such time during the last ten (10) years of the Term as, County notifies Lessee that County shall require the removal of Improvements at the end of the Term pursuant to subsection 2.5.2, Lessee shall have the right to use all remaining amounts in the Capital Reserve Fund for Improvement removal fund purposes under such subsection 2.5.2.

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 4.2.3 above, if any, for the purposes of adjusting the Annual Minimum Rent, all Annual Minimum Rent and Percentage Rent paid by Lessee to County prior to the date of the Partial Taking shall be adjusted, for the purposes of this calculation only, to the proportion that the fair market value of the portion of the Premises which remains after the taking bears to the fair market value of the entire Premises immediately prior to the taking. If the parties cannot agree upon the appropriate Annual Minimum Rent, the matter shall be settled through arbitration

in the manner set forth in Article 16 hereof. Any determinations of fair market value made pursuant to this Section 6.5 in connection with any arbitration proceeding shall be predicated upon the "income approach" or "income capitalization approach" to property valuation, as defined in The Dictionary of Real Estate Appraisal and/or The Appraisal of Real Estate, published by the Appraisal Institute or any successor organization (the "Income Approach"). All other obligations of Lessee under this Lease, including but not limited to the obligation to pay Percentage Rent, shall remain in full force and effect.

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

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

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

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

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

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

First: There shall be paid to County an amount equal to the greater of (a) the sum of (1) the present value of all Annual Minimum Rent, Percentage Rent and other

sums which would become due through the expiration of the Term if it were not for the taking less, in the event of a Partial Taking, an amount equal to the present value of the fair rental value of the portion of the Premises (with the Improvements thereon) not subject to the Partial Taking, from the date of the Partial Taking through the expiration of the Term and (2) the present value of the portion of the Premises (with the Improvements thereon) subject to the taking from and after the expiration of the Term or (b) in the event of a Partial Taking, the present value of the fair market rental value of the portion of the Premises (with the Improvements thereon) subject to the Partial Taking, from and after the expiration of the Term.

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

Third: There shall be paid to Lessee an amount equal to the value of Lessee's interest in the remainder of the Term of this Lease, including the value of the ownership interest in and use of the Improvements constructed on the Premises, determined as of the date of such taking, less payments made under paragraph Second above. For such purposes, the Term of this Lease shall not be deemed to have terminated even if Lessee so elects under Section 6.4.

Fourth: The balance shall be paid to County.

If County is the condemning authority in connection with a total taking or a partial taking that results in the termination of the Lease, and the taking pertains to only Lessee's interest, then Lessee shall be entitled to the entire amount of any Net Awards and Payments.

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. On or prior to the Effective Date, Lessee shall deliver to County a security deposit (the "Security Deposit") in the amount of one-fourth (1/4) of the total Annual Rent that was payable by Lessee for the year immediately preceding the Effective Date. County shall apply the current balance of any security deposit under the Existing Lease as a credit against the Security Deposit required to be delivered by Lessee under this Section 7.1. Effective as of the fifth (5th) anniversary of the Effective Date and each and every subsequent fifth (5th) anniversary thereafter during the remainder of the Term, the Security Deposit maintained by Lessee with County shall be adjusted to a sum equal to one-fourth (1/4) of the

total Annual Rent which was payable by Lessee for the immediately preceding calendar year; provided, however, in no event shall the Security Deposit ever be reduced below the amount of the Security Deposit required to be in effect prior to such adjustment. The Security Deposit shall secure Lessee's obligations pursuant to this Lease, and may be drawn on by County, in whole or in part, to cover (a) delinquent rent not paid by Lessee within any applicable notice and cure period, and (b) any other Events of Default of Lessee under this Lease. The Security Deposit shall be applied at the discretion of County. Lessee shall have the right to maintain the Security Deposit in form of cash or in lieu or replacement of the cash Security Deposit requirement described above, in the form of a certificate of deposit, letter of credit or other approved investment instrument acceptable to County with respect to form, content and issuer. As long as no Event of Default by Lessee exists under the Lease, Lessee shall be entitled to any interest or other earnings which are actually earned on any unapplied portions of the Security Deposit delivered to County in the form of a certificate of deposit or other approved investment instrument (as opposed to cash, on which Lessee shall not be entitled to interest). Provided that no Event of Default then exists under the Lease, at the end of each Lease Year Lessee shall be entitled to a credit for all unexpended interest accruing to Lessee's benefit with respect to the Security Deposit during such Lease Year pursuant to the immediately preceding sentence. Notwithstanding any contrary provision hereof, County shall have the right at any time to apply any accrued but uncredited interest (which accrued during non-Event of Default periods) against delinquent rents and other amounts owed by Lessee under the Lease.

7.2 Replacement. In the event that some or all of the Security Deposit is drawn against by County and applied against any delinquent rent not paid by Lessee within any applicable notice or cure period, or against other Events of Default of Lessee hereunder, Lessee shall, within ten (10) 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 ten (10) 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 (other than the Promenade and the Seawall) 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, (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, or (d) the construction work performed by or on behalf of Lessee with respect to the Public Docks. The obligation of Lessee to so relieve, indemnify, protect, and save harmless County and each of its respective Boards, officers, agents, consultants, counsel, employees and volunteers, shall continue during any periods of occupancy or of holding over by Lessee, its agents, officers, employees, licensees, concessionaires, permittees or Sublessees, beyond the expiration of the Term or other termination of this Lease. Notwithstanding anything in this Lease to the contrary, Lessee and County acknowledge that their respective liability, if any, arising out of the operation, maintenance, use and/or occupation of the Promenade shall be governed by Applicable Law.

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:	$20,000,000
Products/Completed Operations Aggregate:	$20,000,000
Personal and Advertising Injury:	$10,000,000
Each Occurrence:	$10,000,000

Lessee may satisfy the above coverage limits with a combination of primary coverage ("Primary Coverage") and excess liability coverage ("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, and (b) the combination

of such Primary Coverage and Umbrella Coverage provides County with the same protection as if Lessee had carried primary coverage for the entire limits and coverages required under this Section 9.1.1.

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 One Million Dollars ($1,000,000) of Primary Coverage and One Million Dollars ($1,000,000) of Umbrella Coverage, for each accident and providing coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto." During any period of operation of valet parking facilities, 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 Three Million Dollars ($3,000,000) 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:	$1,000,000
Disease - policy limit:	$1,000,000
Disease - each employee:	$1,000,000

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 Improvements, 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 eighteen (18) months of rent, with proceeds payable to Lessee and County as their interests may appear and utilized for repair and restoration of the Premises and Improvements. Notwithstanding the foregoing, during any period during which no Improvements exist on the Premises or all of the existing Improvements are being demolished in connection with the construction of Redevelopment Work, the obligation to provide insurance under this subsection 9.1.4 shall not be applicable so long as the insurance coverage described in subsection 9.1.5 below is carried.

9.1.5 For construction projects, including the Redevelopment Work, any Alterations or restoration of the Improvements on the Premises, Lessee or Lessee's contractor or subcontractors 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 reasonably required by the County for the Alterations or Redevelopment Work. The products/completed operations coverage shall continue to be maintained for the following periods: (a) in the case of the Redevelopment Work, three (3) years after the date the Redevelopment Work is completed and accepted by the Lessee, or (b) in the case of Alterations after the completion of the Redevelopment Work, such period after the date such Alterations are completed and accepted by Lessee as reasonably determined by County, but not to exceed three (3) years after such completion and acceptance.

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 reasonably required by the County for the Alterations or Redevelopment Work. 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.). This coverage shall also provide an extended two-year reporting period commencing upon termination or cancellation of the construction project. The limits of the coverage required under this subsection 9.1.5.4 shall be (a) Three Million Dollars ($3,000,000) with respect to the prime architect for the Redevelopment Work (or such lesser amount as required by Director for the prime architect in connection with any subsequent Alterations), and (b) One Million Dollars ($1,000,000) with respect to each other contractor, subcontractor, architect, engineer, surveyor or other licensed professional rendering services in connection with the design or construction of the Redevelopment Work or subsequent Alterations, provided that Director shall have the discretion to reduce the coverage limits under this clause (b) if appropriate in the judgment of Director based on the nature and scope of the services being provided.

9.1.5.5 Asbestos Liability or Contractors Pollution Liability insurance, if construction requires remediation of asbestos or pollutants, and if such insurance is available. 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 order. 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 reasonably required by the County for the Alterations or Redevelopment Work.

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), which limits may be covered by a combination of Primary Coverage and Umbrella Coverage. 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 or Redevelopment Work. 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 or such other commercially reasonable amount as approved by the Director; 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 days 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) to the extent of the indemnification obligations of Lessee in favor of any additional insureds, the property and commercial general liability insurance policies shall provide coverage on a primary and non-contributory basis with respect to such 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 notify County of any accident or incident on or about the Premises which involves injury or property damage over Fifty Thousand Dollars ($50,000.00) in the aggregate and pursuant to which a claim against Lessee and/or County is made or threatened. Such notification shall be made in writing within 72 hours after Lessee first becomes aware of the claim or threatened claim.

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 (including the Promenade, but excluding the Excluded Conditions and excluding the Seawall), in conformance with the Minimum Standards regarding the use and occupancy of residential apartment buildings in Marina del Rey (such as the Premises) as revised from time to time by County in a manner consistent with commercially reasonable maintenance standards applicable to other comparable residential apartment buildings in Marina del Rey (the "Maintenance Standard"). Any dispute as to whether revisions to the Maintenance Standard adopted by the County from time to time pursuant to the immediately preceding sentence are commercially reasonable shall be submitted to arbitration pursuant to Article 16 of this Lease. 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 (including the Promenade) 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, the Maintenance Standard and the terms and provisions of this Article 10. Lessee shall maintain all Improvements on the Premises (other than the Excluded Conditions and the Seawall) in a safe, clean, wholesome and sanitary condition, in the commercially reasonable judgment 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 necessary in the commercially reasonable judgment of the Director to maintain the appearance of the Premises in a manner consistent with the Maintenance Standard. 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. The exclusion of the Excluded Conditions and the Seawall from Lessee's maintenance obligations under this Section 10.1 shall not relieve Lessee from the obligation to repair and restore any damage to the Excluded Conditions and/or the Seawall caused by Lessee, its agents, employees, subtenants or contractors, or by Improvements constructed by or on behalf of Lessee, and Lessee hereby agrees to perform such repair or restoration work at Lessee's sole cost and expense.

10.2 Maintenance of Anchorage Facilities. Lessee shall at all times during the Term keep all Anchorage Facilities in good repair and condition in accordance with the requirements of the Minimum Standards. During the Term Lessee shall also complete float repair and replacement on an as-needed basis. Any requirement for repair of the Anchorage Facilities 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.

10.3 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 any Coastal Development Permit for the Anchorage Work required in Section 5.1 above and the future replacement of the Anchorage Facilities required in Section 5.2 above; provided, however, that Lessee shall in all events comply at least with the water quality management requirements set forth in Exhibit F attached to this Lease. In addition, during the remaining Term of the Lease, Lessee shall remove floating debris from the water surrounding the Anchorage Facilities in accordance with a program and regular schedule reasonably acceptable to the Director.

10.4 Deficiency Notices. 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 this Article 10, then Lessee shall promptly commence the cure thereof and shall complete such cure within the time period for such cure set forth in the County's deficiency notice, which cure period shall not be less than thirty (30) days except if the deficiency pertains to a condition that is a threat to health or safety or otherwise constitutes an emergency situation, in which case County shall have the right to immediately require Lessee to take all appropriate steps to avoid

damage or injury. If Lessee fails to cure any such deficiency within the cure period set forth in County's deficiency notice (which cure period shall comply with the requirements of the immediately preceding sentence of this Section 10.4), then in addition to, and not in lieu of, any rights or remedies that County may have under Article 13 of this Lease for defaults not cured within the applicable notice and cure periods set forth therein, Lessee shall pay to County an amount equal to One Hundred Dollars ($100) per day per item of deficiency for each day after such cure period that the deficiency item remains uncured; provided, however, if the nature of the deficiency is such that it is not capable of cure within the cure period specified in County's notice (for example, as a result of permitting requirements or construction material procurement delays beyond the control of Lessee), then as long as during the specified cure period Lessee commences the cure of the deficiency and thereafter continues the prosecution of the completion of such cure in a manner and with such diligence that will effectuate the cure in as short a period as reasonably possible, then the cure period specified in County's deficiency notice shall be extended for such additional time as necessary to complete the cure in as short a period as reasonably possible.

For purposes of determining the number of items of deficiency set forth in a deficiency notice received from the County, County shall reasonably identify the separate deficiencies so as not to unfairly increase the daily amount payable under this Section 10.4 by separating the work into unreasonably particularized items (e.g., the requirement to paint the exterior of a building shall not be split into individual deficiency items for the painting of each individual door, window or other component of such building). If a cited deficiency is not health or safety related and does not otherwise constitute an emergency, and if in the reasonable and good faith business judgment of Lessee the deficiency notice was erroneously issued by County, then Lessee shall have the right to contest such deficiency notice by written notice to Director within five (5) business days after the date the deficiency notice is received by Lessee. If Lessee files any such contest with Director, then Director shall have the right, in the exercise of Director's discretion, to consider such contest. If Lessee's contest is made on a reasonable and good faith basis, then the cure period for the deficiency notice shall be tolled during the period between the date Director receives written notice of such contest and continuing until Director notifies Lessee in writing that either Director denies Lessee's contest or that Director has determined not to consider such contest, and the daily penalty set forth above in this Section 10.4 shall not be applicable during the period that the cure period is tolled. The One Hundred Dollars ($100) per diem amount set forth in this Section 10.4 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 10.4 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.

10.5 Option to Terminate for Uninsured Casualty. In the event of any damage to or destruction of the Premises, or any Improvements located thereon (other than the Excluded Conditions and the Seawall, except to the extent damage thereto is caused by the Lessee, its agents, employees, subtenants or contractors, or by Improvements constructed by or on behalf of Lessee), Lessee shall, except as otherwise expressly provided in this Section 10.5, promptly (taking into consideration the necessity of obtaining approvals and permits for such reconstruction) repair and/or restore such Improvements to their condition existing prior to the

damage or destruction. Except as otherwise expressly provided in this Section 10.5, such obligation to repair and restore is absolute, and is in no way dependent upon the existence or availability of insurance proceeds. Repair and restoration of any damage or destruction shall take place in accordance with the provisions of Article 5. Notwithstanding the foregoing, 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 the Premises (other than the Excluded Conditions and the Seawall) 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:

10.5.1 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 10.5.1. 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.

10.5.2 No more than sixty (60) days following the giving of the notice required by subsection 10.5.1 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.

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

10.5.4 Within ten (10) days following the County's receipt of the notice referred to in subsection 10.5.1, 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.

10.6 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.

10.7 No County Obligation to Make Repairs. County shall have no obligation whatsoever to make any repairs or perform any maintenance on the Premises; provided, however, that Director shall in its good faith discretion consider the application of funds toward

the maintenance, repair and replacement of the existing seawall protecting the Premises (the "Seawall") if and to the extent such funds are made available to Director for such uses by County and its Board of Supervisors. Director shall undertake such maintenance, repair and replacement, if any, with due diligence consistent with the funding provided. In the event the Seawall is in imminent danger of collapse or has collapsed, Director shall promptly seek funding from the Board of Supervisors for repair or replacement as may be necessary to avoid or repair such collapse. If County is obligated to maintain or repair the Seawall under the terms of a lease between the County and any other lessee in Marina del Rey, or if County in fact maintains or repairs the Seawall for the benefit of any other lessee in Marina del Rey, County shall have the same obligation(s) with respect to the Seawall protecting the Premises. Except as expressly provided in this Section 10.7, County shall have no obligation to maintain or repair the Seawall.

10.8 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.

10.9 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. Any entry by County onto the Premises pursuant to this Section 10.9 and any entry onto the Premises to perform work on the Seawall pursuant to Section 10.7 above, shall be made in accordance with the following requirements: (i) prior to entry onto the Premises County shall cause each of its contractors to provide to Lessee evidence that such contractor has procured commercial general liability insurance coverage pertaining to such contractor's activities on the Premises, which insurance coverage shall be consistent with County's insurance requirements generally applicable to County contractors, and shall name Lessee as an additional insured; (ii) County's contractors shall comply with industry standard safety requirements; (iii) County shall repair, or cause its contractors to repair, any damage to the Premises caused by the activities of County and/or it contractors on the Premises pursuant to this Section 10.9 or Section 10.7 above; and (iv) any entry onto the Premises by County or its contractors for the purpose of performing work pertaining to the Seawall shall be confined to the Promenade and the fire access lane over the Premises, except in extraordinary circumstances to the extent that due to the scope or nature of the work and/or due to safety concerns, the work cannot reasonably be confined to such area. In any such extraordinary situation County and Lessee agree to cooperate to define a work and/or access area that is reasonably acceptable to both parties.

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

10.11 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 Apartment/Slip Lease (as defined below), or of any assignment or material amendment of such Sublease, Lessee shall submit a copy of such Sublease (or assignment or amendment thereof), to Director for approval, which approval shall not be unreasonably withheld. 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 apartment or boat slip 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 apartment lease or boat slip lease, as the case may be, hereafter submitted to and approved by County and the term of such Sublease does not exceed twelve (12) months (each, an "Approved Apartment/Slip Lease"). The terms and provisions of Sections 11.2 and 11.3 of this Lease shall not be applicable to Approved Apartment/Slip Leases. Upon request by County, Lessee shall furnish County with a current rent roll respecting the Approved Apartment/Slip Leases and a copy of all of such Approved Apartment/Slip 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 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"), and which shall be applied in a commercially reasonable manner, 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. Notwithstanding the foregoing, Lessee shall have the right, without the prior approval of County, to retain an affiliate of Lessee as the property manager for the Premises. Any Change of Ownership that is not an Excluded Transfer shall constitute an assignment of Lessee's interest under this Lease. In addition, for purposes of this provision, the following acts of Lessee (except for Excluded Transfers) shall require the prior written consent of County to be effective: (1) the addition, removal or replacement of one or more general partners or managing members in a Lessee which is a limited partnership or limited liability entity, except (a) by death, insolvency, incapacity, resignation (except for a sole general partner, if any) or removal of a general partner or managing member and his replacement by a vote of the limited partners, the remaining general partners or remaining members, or (b) if any general partner or managing member owning more than fifty percent (50%) of the interests of the partnership or limited liability entity acquires the interest of another general partner or managing member owning fifteen percent (15%) or less of the interests in the partnership or limited liability entity; or (2) the sale, assignment, or transfer of fifty-percent (50%) or more of the stock, partnership interests or limited liability company interests in an entity which owns, or is a general partner or managing member of an entity which owns, an interest in this Lease; provided, however, that with respect to any sale, assignment or transfer of an AIG Entity or ownership interests therein, the phrase "fifty percent (50%) or more" in clause (2) above shall be changed to "more than fifty percent (50%)." Lessee shall provide County with any information reasonably requested by County in order to determine whether or not to grant approval of the matters provided herein requiring County's consent. These same limitations and approval requirements as to Lessee's interest under the Lease shall also 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 withhold or unreasonably 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 of the Lessee's interest in this Lease (as opposed to ownership interests in Lessee itself) 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 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 its Actual Costs incurred in connection with the proposed assignment, whether or not County ultimately grants its approval to the proposed assignment (without duplication with any Administrative Charge payable under Section 4.6).

11.2.3.5 Lessee or the proposed assignee shall provide County with sufficient information for County to determine if the public interest will be served by approving the proposed transaction. The information that must be provided includes, but shall not be limited to, the following:

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

(b) Financial Condition of Assignee. County shall be provided with current, certified financial statements, including balance sheets and profit and loss statements, demonstrating the proposed assignee's financial condition for the preceding five (5) years, or such shorter period that assignee has been in existence. This requirement shall

also apply to any related person or entity which will be responsible for or guarantee the obligations of the proposed assignee or provide any funds or credit to such proposed assignee.

(c) Financial Analysis. County shall be provided with the proposed assignee's financing plan for the operation of the Premises (unless the assignment is pursuant to a Change of Ownership that is an Excluded Transfer or is pursuant to a Change of Ownership that involves the transfer of only beneficial ownership interests in the constituent owners of Lessee, and following such transfer there is no intended change in the financing plan for the operation and improvement of the Premises) and for any contemplated improvement thereof, demonstrating such proposed assignee's financial capability to so operate the Premises and construct such improvements. Such financing plan shall include, but not be limited to, information detailing (1) equity capital; (2) sources and uses of funds; (3) terms of financing; (4) debt service coverage and ratio; and (5) loan to value ratio. The proposed assignee shall also provide County with documentation demonstrating such proposed assignee's financial viability, such as letters of commitment from financial institutions which demonstrate the availability of sufficient funds to complete any proposed construction or improvements on the Premises. Further, such proposed assignee shall authorize the release of financial information to County from financial institutions relating to the proposed assignee or other information supplied in support of the proposed assignment.

(d) Business Plan. County shall be provided with the proposed assignee's business plan for the Premises (unless the assignment is pursuant to a Change of Ownership that constitutes an Excluded Transfer or is pursuant to a Change of Ownership that involves the transfer of only beneficial ownership interests in the constituent owners of Lessee, and following such transfer there is no intended change in the business plan for the Premises), including pro forma financial projections for the Premises for the five (5) year period beginning upon the commencement of the proposed assignment. Such pro forma projections will include capital costs, income and expenses, as well as debt service and all other payments to providers of debt and equity, and will be accompanied by a statement of basic assumptions and an identification of the sources of the data used in the production of such projections.

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

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

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

(h) Other Information. County shall be provided with a clear description of the terms and conditions of the proposed assignment, including a description of the proposed use of the Premises and any proposed alterations or improvements to the Premises. Additionally, County shall be provided with any and all other information which it reasonably requests of Lessee to assist in 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 and a ground lessor's estoppel certificate 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. The terms and provisions of this subsection 11.2.4 shall be applicable only on and after March 1, 2021 and continuing during the remaining Term of the Lease. 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"), on or after March 1, 2021, 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 during the nine (9) month period following the later of (a) or (b), Lessee shall be entitled to enter into an agreement to consummate the Proposed Transfer with a third party (subject to County's approval rights as otherwise set forth in this Lease) so long as (1) the actual price for the Proposed Transfer is equal to or greater than the Lessee Sale Price last offered to County and upon no more favorable material terms to the assignee, and (2) the transfer is consummated not later than twelve (12) months after the later of (a) or (b). In the event of a proposed Major Sublease or other permitted assignment of less than all of the Premises, County's election shall pertain to such portion of the Premises subject to the proposed Major Sublease or assignment and, in the event that County elects to acquire such portion of Lessee's interest in the Premises, Lessee's Annual Minimum Rent shall be proportionally reduced and Lessee's obligation to pay Percentage Rent shall pertain only to the amounts derived from the portion of the Premises retained by Lessee. In the event that County elects to recapture all or any portion of the Premises as provided herein, Lessee agrees to execute promptly a termination agreement and such other documentation as may be reasonably necessary to evidence the termination of this Lease, to set a termination date and to prorate rent and other charges with respect to the termination. 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 (including a provisional credit in an amount reasonably acceptable to County for any amounts that may arise from an audit by County, but that have not yet been determined as of that date), 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 the case of any unpaid rental amounts that may be found to be owing to County in connection with any uncompleted audit by County, in lieu of a provisional credit for such amounts, 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.

11.4 Family Transfers. Notwithstanding any contrary provision of this Article 11, the County's approval shall not be required, nor shall the County's rights of recapture under subsection 11.2.4 be applicable, with respect to any transfer of ownership interests in Lessee or in constituent entities of Lessee, if such transfer is to a member of the immediate family of the transferor (or to a trust for the benefit of a member of the immediate family of the transferor) for estate planning purposes, whether such transfer is the result of gift, devise, intestate succession or operation of law.

11.5 Property Management. Notwithstanding any contrary provision of this Article 11, Lessee shall be permitted to hire one or more management companies of its choosing for property management of the Premises and/or may conduct such property management activities using its own staff. Any management company hired by Lessee to perform property management of the Premises shall at the time of such engagement (a) have at least five (5) years' of experience in the operation and management of at least 2,000 rental apartments, without material violations of law or discrimination, and (b) have a valid license to manage residential dwelling units issued by the California Department of Real Estate (or its successor). To the extent Lessee uses Lessee's own staff for property management of the Premises, Lessee's own staff at the time of such engagement shall have at least (i) five (5) years' of experience in the operation and management of at least 2,000 rental apartments, without material violations of law or discrimination, and (ii) have a valid license to manage residential dwelling units issued by the California Department of Real Estate (or its successor).

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 Section 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 and all affiliates 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 which have 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 affiliates shall enjoy all of the rights and protections given 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 Event(s). 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 (thirty (30) days for the initial construction loan for the Redevelopment Work) to grant or withhold approval of the preliminary loan package. Director shall have sixty (60) days (thirty (30) days for the initial construction loan for the Redevelopment Work) 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 (1) copy of any and all security devices or instruments as finally executed or recorded by the parties in connection with any approved Encumbrance shall be filed with Director not later than seven (7) days after the effective date thereof. 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.

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 Section 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 above.

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 Section 12.3.7 below, following any Foreclosure Transfer which is a transfer of Ownership Interests, the foregoing rights under this Section 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 Fee 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 definition 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 Section 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 and renovation work described in Sections 5.1, 5.2 or 5.13 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 Section 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 10.4 in the case of emergency situations), 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 10.4.

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 on County's fee interest in the Premises, 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 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.

12.12 Rights of Encumbrance Holders With Respect to Reversion. As used in this Section 12.12, the "Reversion" refers to the automatic amendment of this Lease described in Section 5.1 whereby the terms and conditions of this Lease are automatically amended and revert back to the terms and provisions of the Existing Lease, and a "Reversion Condition" refers to any of the conditions under which the Reversion will occur, namely (i) the failure of Lessee to Substantially Commence Construction of the Redevelopment Work on or before the Required Construction Commencement Date, or (ii) the failure of Lessee to substantially complete the Redevelopment Work on or before the Required Construction Completion Date (as such date may be extended pursuant to Sections 5.6 or 5.7). Notwithstanding anything in Section 5.1 or any other provision of this Lease to the contrary, so long as an Encumbrance Holder exists with respect to Lessee's entire leasehold interest in this Lease or all of the Ownership Interests in Lessee, the Reversion shall not occur unless and until (i) the County has given written notice of the occurrence of the Reversion Condition to each such Encumbrance Holder in accordance with subsection 12.6.2 (which notice shall describe the Reversion Condition that has occurred, and shall include the following statement in all capital and bold letters: "**YOUR FAILURE TO COMMENCE A CURE OF THE DEFAULT DESCRIBE IN THIS NOTICE WITHIN 60 DAYS OF YOUR RECEIPT OF THIS NOTICE, AND TO THEREAFTER PURSUE SUCH CURE TO COMPLETION IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION 12.6.3(b) OF THE LEASE APPLICABLE TO NONMONETARY DEFAULTS, WILL RESULT IN AN AUTOMATIC AMENDMENT AND REVERSION OF THE TERMS OF THE LEASE BACK TO THE TERMS OF A PRIOR LEASE, AS MORE PARTICULARLY DESCRIBED IN SECTION 5.1 OF THE LEASE**"), and (ii) no such Encumbrance Holder commences a cure of the default within 60 days of its receipt of such notice and thereafter pursues such cure to completion in accordance with the provisions of subsection 12.6.3(b) of the Lease applicable to nonmonetary defaults. Further, in the event that a Reversion occurs, such Reversion shall be subject to the "new lease" provisions of Section 12.7 of the Lease (and in such event the Reversion shall be deemed a "termination" of this Lease

solely for purposes of Section 12.7 and the "new lease" to be entered into pursuant to Section 12.7 shall mean a new lease on the same terms as this Lease, not the Existing Lease).

12.13 Acceleration of Extension Fee. So long as (i) no Event of Default exists based on nonpayment of an individual Extension Payment (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).

[12.14 Supplemental Agreement With Initial Encumbrance Holders. County, Lessee, and the initial Encumbrance Holder(s) of this Lease [i.e., (i) _____ (holder of an Encumbrance which encumbers Lessee's leasehold interests under this Lease) and (ii) _____ (holder of an Encumbrance which encumbers all of the Ownership Interests in Lessee)], have entered into a Ground Lessor's Consent and Agreement of substantially even date with this Lease which will be recorded in the Official Records of Los Angeles County, containing (among other things) provisions that alter and supplement certain provisions of this Article 12 and other provisions of the Lease (the "Ground Lessor's Consent and Agreement"). For so long as such initial Encumbrances are outstanding, this Article 12 (and any other provisions of this Lease, to the extent applicable) shall be subject to the provisions of the Ground Lessor's Consent and Agreement, and the provisions of the Ground Lessor's Consent and Agreement shall govern in the event of any conflicts with this Lease.]

13. DEFAULT.

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

13.1.1 Monetary Defaults. The failure of Lessee to pay the rentals due, or make any other monetary payments required under this Lease (including, without limitation, Extension Payments or deposits to the Renovation Fund or Capital Reserve Fund), within ten (10) 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, if any, within such ten (10) day period.

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

13.1.3 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. Notwithstanding any contrary provision of this Section 13.1.3, the proviso set forth in the immediately preceding sentence providing for an extension of the cure period beyond thirty five (35) days shall not be applicable to any failure of Lessee to comply with the Required Construction Commencement Date and/or the Required Construction Completion Date set forth in Section 5.1 above (as such dates may extended pursuant to Sections 5.6 or 5.7, and subject to Section 12.12).

13.1.4 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 after written notice by Lessor, 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 13.1.3 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, and shall permit such access to the Premises as is reasonably necessary to permit Lessee to comply with its removal obligations.

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. With respect to the calculation of Gross Receipts and the preparation of the reports and maintenance of records required herein, Lessee shall utilize either: (i) the accrual method of accounting, or (ii) a modified accrual method of accounting, modified in that (A) delinquent rents due from individual tenants (but not corporate tenants) is not accrued, (B) expenses are accrued on an approximate basis (i.e., materiality) each month during the fiscal year with full accrual treatment for the full fiscal year financial statements, and (C) depreciation is calculated on a tax basis rather than a GAAP basis.

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 or delayed.

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 for the then current and five (5) prior Accounting Years as 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 and on reasonable prior notice 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. Upon at least one (1) business day advance notice, 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. Upon written notice from County, County may require the installation of any additional accounting methods or machines which are typically used by major residential and/or boat anchorage management 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, Lessee shall deliver to County the following financial statements: (i) a balance sheet of Lessee as of the end of such Accounting Year, certified by Lessee's chief financial officer as accurately reflecting Lessee's assets and liabilities, which balance sheet shall not be required to be audited, provided that at County's request not more often than every two years, such balance sheet shall be audited by a Certified Public Accountant who is a member of the American Institute of Certified Public Accountants and is satisfactory to County (a "Qualified CPA"); (ii) a profit and loss statement of Lessee for such Accounting Year, audited and certified by a Qualified CPA; and (iii) a Gross Receipts and Percentage Rent statement for such Accounting Year, audited and certified by a Qualified CPA, which statement shall include a certification and unqualified opinion of such Qualified CPA (1) concerning Lessee's Gross Receipts (including a breakdown by category), and (2) that the correct amount of Percentage Rent has been paid to the County in connection with such Gross Receipts. 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. County shall provide written notice to Lessee of the failure of any sublessee, concessionaire or other person to comply with this subsection after County's discovery of such failure, and provide Lessee with the right to cure any failure to so comply by payment to County of amounts which may be owing to County, as shown on an audit conducted by County, or on an audit supplied by Lessee or such sublessee, concessionaire or other person and accepted by County, or as otherwise determined pursuant to Section 14.10. In such event County shall permit Lessee to subrogate to any right of County to enforce this provision against such sublessee, concessionaire or other person, to the extent Lessee does not have a direct right of enforcement against sublessee, concessionaire or other person.

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 reasonably 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 paid all Actual Costs incurred by County through _____, and has on deposit with County the sum of $_____ toward costs incurred after _____. County shall deliver to Lessee a report detailing such expenditures (along with invoice summaries or other supporting documentation) within ninety (90) days after the Effective Date.

15.4 County Disclosure and Lessee's Waiver.

15.4.1 Disclosures and Waiver.

15.4.1.1 "AS IS". Lessee acknowledges that it is currently in possession of the Premises and that Lessee or its predecessor-in-interest has continuously occupied and/or managed and operated the Premises since 1963. 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. The waiver and release set forth in this subsection 15.4.1.3 (i) shall not apply to the Excluded Conditions, and (ii) shall not alter the parties' rights and obligations under the Existing Lease with respect to any abandoned wells or other environmental conditions existing on the Premises as of the Effective Date.

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, provided that County notifies Lessee that Lessee's failure to timely surrender the Premises will cause County to incur such lost profits.

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 in the case of an Event of Default, 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.

Except to the extent arising out of or caused by the gross negligence or willful misconduct of County, 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 in the case of an Event of Default, including 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 (or other similar evidence of delivery by overnight delivery service) 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:	Legacy Partners Neptune Marina L.P. 30 Executive Park, Suite 100 Irvine, California 92614 Attention: Dennis Cavallari Phone: 949/930-6600 Fax: 949/833-3062
With a Copy to:	Cox, Castle & Nicholson LLP 2049 Century Park East 28th Floor Los Angeles, California 90067 Attention: Ira J. Waldman, Esq. Phone: 310/277-4222 Fax: 310/277-7889

Either party shall have the right to change its notice address by written notice to the other party of such change in accordance with the provisions of this Section 15.10.

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 within five (5) days after Lessee's receipt of written 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 reasonable 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 one implemented through 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 a 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 reasonably necessary in order to secure such approval or vote, and County shall not be deemed to be in default hereunder in the event that it fails to perform such action within the time periods otherwise set forth herein.

15.17 Estoppel Certificates. Each party agrees to execute, within ten (10) business days after the receipt of a written request therefor from the other party, a certificate stating: (i) that this Lease is in full force and effect and is unmodified (or stating otherwise, if true); (ii) 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); and (iii) if requested, the amount of the Security Deposit, Annual Minimum Rent, Percentage Rent and other material economic terms and conditions of this Lease. Prospective purchasers, Major Sublessees 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. Lessee shall develop a continuous pedestrian walkway with landscaping, lighting, seating, fencing and other improvements (the "Promenade") as described in Exhibit D. Lessee shall complete the foregoing work by the Required Construction Completion Date (as such date may be extended as provided in Article 5 above), subject to extension for delays in such completion of the Promenade caused by Force Majeure. No Force Majeure delay shall commence until after Lessee has notified County of the existence of such Force Majeure event. Lessee and Director shall discuss and attempt to agree on the length of any such delay. If they are unable to agree within thirty (30) days after the event or occurrence giving rise to Lessee's claim to such delay, the matter shall be arbitrated as set forth in Article 16. The facilities to be constructed under this Section 15.19 shall be constructed in accordance with the provisions of Article 5. County hereby reserves a public easement for access over and use of the Promenade for fire lane uses, 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. Such public easement shall also include the right to use at least one set of the restrooms marked on Exhibit D for public use. Lessee shall be responsible for the maintenance and repair of the Promenade in accordance with commercially reasonable maintenance and repair standards for the Promenade established by the County from time to time on a nondiscriminatory basis. 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 Management of Anchorage Facilities/Dockmaster. During the Term of the Lease, Lessee shall maintain a dockmaster program, and engage an experienced, professional marina management firm, reasonably acceptable to the Director for the day to day management and operation of the Anchorage Facilities. After Director's approval of such management firm, Lessee shall not have the right to change the management firm without first obtaining the prior approval of Director, which approval shall not be unreasonably withheld. If during the Term in the reasonable judgment of the Director the then current management firm is performing in an unsatisfactory manner, then at the request of the Director Lessee shall replace such management firm with a new management firm reasonably acceptable to the Director. If during the Term the then current management firm terminates its contract, then Lessee shall have the right to replace such management firm with another management firm approved by Director, which approval shall not be unreasonably withheld.

15.21 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 Director, that

as a condition of slip rental and continued slip tenancy, all new slip tenanted vessels from and after the immediately preceding certification (or in the case of the initial certification, 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.

15.22 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.

15.23 Pump-Out Station. Lessee shall make available on the Premises a pump-out station for use of boat pump-out services at a nominal fee.

16. ARBITRATION.

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

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

forth Initiating Party's description of the Additional Disputes and contentions regarding the Additional Disputes.

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

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

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

16.3 Scope of Arbitration. County and Lessee affirm that the mutual objective of such arbitration is to resolve the dispute as expeditiously as possible. The arbitration process shall not apply or be used to determine issues other than (i) those presented to the arbitrator by the Initiating Party provided those disputes are arbitrable disputes pursuant to this Lease, (ii) Additional Disputes presented to the arbitrator by the Responding Party, provided that any such Additional Disputes constitute arbitrable disputes pursuant to this Lease and (iii) such related preliminary or procedural issues as are necessary to resolve (i) and/or (ii) above. The arbitrator shall render an award. Either party may, at its sole cost and expense, request a statement of decision explaining the arbitrator's reasoning which shall be in such detail as the arbitrator may determine. Unless otherwise expressly agreed by the parties in writing, the award shall be made by the arbitrator no later than the sooner of six (6) months after the date on which the arbitrator is selected by mutual agreement or court order, whichever is applicable, or five (5) months after the date of a denial of a petition to disqualify a potential arbitrator for cause. County and Lessee hereby instruct the arbitrator to take any and all actions deemed reasonably necessary, appropriate or prudent to ensure the issuance of an award within such period. Notwithstanding the foregoing, failure to complete the arbitration process within such period shall not render such arbitration or any determination made therein void or voidable; however, at any time after the expiration of the foregoing five (5) or six (6) month periods, as applicable, either party may deliver written notice to the arbitrator and the other party either terminating the arbitration or declaring such party's intent to terminate the arbitration if the award is not issued within a specified number of days after delivery of such notice. If the arbitrator's award is not issued prior to the expiration of said specified period, the arbitration shall be terminated and the parties shall recommence arbitration proceedings pursuant to this Article 16.

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

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

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

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

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

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

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

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

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

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

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

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

(d) if the issue involves Fair Market Rental Value or a valuation matter, a list of all Written Appraisal Evidence, or written critiques of the other party's Written Appraisal Evidence if any, each intends to introduce at the hearing to rebut the evidence presented by the other party, together with complete and correct copies of all of such

Written Appraisal Evidence (unless, upon a showing of good cause by either party, the arbitrator establishes a different deadline for delivering true and correct copies of such Written Appraisal Evidence); and

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

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

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

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

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

16.7 Written Appraisal Evidence. Neither party may, at any time during the proceedings, introduce any written report which expresses an opinion regarding Fair Market Rental Value or the fair market value of the Premises, or any portion thereof, ("Written Appraisal Evidence") unless such Written Appraisal Evidence substantially complies with the following standards: it shall describe the Premises; identify the uses permitted thereon; describe or take into consideration the terms, conditions and restrictions of this Lease; correlate the appraisal method(s) applied; discuss the relevant factors and data considered; review rentals paid by lessees in Marina del Rey and other marina locations within Southern California who are authorized to conduct similar activities on comparable leaseholds; and, describe the technique of analysis, limiting conditions and computations that were used in the formulation of the valuation opinion expressed. With respect to disputes regarding Fair Market Rental Value, such Written Appraisal Evidence shall express an opinion regarding the fair market rental value of the Premises as prescribed by Section 4.3.1. Written Appraisal Evidence in connection with disputes arising out of Article 6 of this Lease shall predicate any valuation conclusions contained therein on the Income Approach. Written Appraisal Evidence shall in all other respects be in material conformity and subject to the requirements of the Code of Professional Ethics and the Standards of Professional Practice of The Appraisal Institute or any successor entity.

16.8 Evidence. The provisions of Code of Civil Procedure § 1282.2(a)(2)(E) shall not apply to the arbitration proceeding. The arbitrator shall have no discretion to allow a party to introduce witnesses, documents or Written Appraisal Evidence (other than impeachment testimony) unless such information was previously delivered to the other party in accordance

with Section 16.5 and, in the case of Written Appraisal Evidence, substantially complies with the requirements of Section 16.7, or such evidence consists of a transcript of a deposition of an expert witness conducted pursuant to Section 16.9. Notwithstanding the foregoing, the arbitrator may allow a party to introduce evidence which, in the exercise of reasonable diligence, could not have been delivered to the other party in accordance with Section 16.5, provided such evidence is otherwise permissible hereunder.

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

16.10 Awards of Arbitrators.

16.10.1 Monetary Issues. With respect to monetary disputes (including without limitation disputes regarding Percentage Rent, Fair Market Rental Value and the amount of coverage under the policies of insurance required pursuant to Article 9 of this Lease), the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position. The arbitrator shall instead select whichever of the two Statements of Position is the closest to the monetary or numerical amount that the arbitrator determines to be the appropriate determination of the rent, expense, claim, cost, delay, coverage or other matter in dispute and shall render an award consistent with such Statement of Position. For purposes of this Section 16.10, each dispute regarding Annual Minimum Rent, each category of Percentage Rent and the amount of required insurance coverage shall be considered separate disputes (a "Separate Dispute"). While the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position concerning a Separate Dispute, the arbitrator shall have the right, if the arbitrator so chooses, to choose one party's Statement of Position on one or more of the Separate Disputes, while selecting the other party's Statement of Position on the remaining Separate Disputes. For example, if the parties are unable to agree on the Annual Minimum Rent and three Percentage Rent categories to be renegotiated pursuant to Section 4.3 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 (with any revisions to the proposed amendment necessary to accurately reflect the arbitration award) and return the executed copy to the County, which shall thereafter be executed by County as soon as reasonably practicable.

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

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

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

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

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, and shall include "Optional Bank Holidays" as defined in Section 7.1 of the California Civil Code.

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

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

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

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

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

17.9 Counterparts. This Lease may be executed in counterparts, each of which shall constitute an original and all of which shall collectively constitute one fully-executed document.

17.10 Guest/Water Taxi Docking Slip. Lessee shall make available one (1) docking slip to be reserved for transient boat purposes (the "Transient Slip"). Until such time as otherwise designated by the County, the Transient Slip shall be rented on an hourly or daily basis for guest boat docking purposes. During any future period that a water taxi program is in operation in the Marina, County shall have the right to require that the Transient Slip be made available for water taxi docking purposes. The Transient Slip shall be located at an end-tie or side-tie location reasonably acceptable to County. Lessee shall make the Transient Slip available for the uses described in this Section 17.10 commencing not later than the completion by Lessee of the Anchorage Facilities replacement work described in Section 5.1. Throughout the Term Lessee shall be responsible for ensuring that the Transient Slip (but not the water taxi operator) is in compliance with all Applicable Laws for the uses described in this Section 17.10. The operation of the Transient Slip shall be subject to such security procedures and insurance requirements as are reasonably acceptable to Lessee and County and consistent with those applicable to the operation of the Anchorage Facilities from time to time.

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

LEGACY PARTNERS NEPTUNE MARINA L.P.,
a Delaware limited partnership

By: Legacy Partners 2598 L.P., a California limited partnership, its general partner

By: _____
Name: _____
Its: _____

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

[To be added]

Subject to the public easement reserved by Lessor in Section 15.19 of this Lease.

EXHIBIT B

DEVELOPMENT PLAN

[To be added]

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 under the Lease (equal to at least six (6) times the total Annual Minimum Rent and Percentage Rent due to County for the most recent fiscal). A letter of credit, cash deposit, guarantee from a parent entity or participating individual(s) having sufficient net worth or similar security satisfactory to the County may be substituted for the net worth requirement. 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 the 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 Lease as required under the 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

DESCRIPTION OF PROMENADE

EXHIBIT E

CONDITIONS TO COASTAL DEVELOPMENT PERMIT

EXHIBIT F

WATER QUALITY MANAGEMENT PROGRAM

EXHIBIT G

PERMITTED CAPITAL EXPENDITURES

The purpose of the Capital Reserve Fund is be to provide funds for the cost of additions, replacements, renovations or upgrades of or to the Improvements on the Premises, including building exteriors and major building systems (such as HVAC, mechanical, electrical, plumbing, vertical transportation, security, communications, structural or roof) that significantly increase the capacity, efficiency, useful life or economy of operation of the Improvements or their major systems, after the completion of the Redevelopment Work. Permitted Capital Expenditures shall not include the cost of periodic, recurring or ordinary expenditures, repairs or replacements that keep the buildings or their major systems in an ordinarily efficient operating condition, but that do not significantly add to their value or appreciably prolong their useful life. The Capital Reserve Fund shall not be used to fund any portion of the cost of the Redevelopment Work or the Subsequent Renovation (as defined in Section 5.14 of the Lease). Permitted Capital Expenditures must constitute capital replacements, improvements or equipment under generally accepted accounting principles consistently applied. Permitted Capital Expenditures shall not include costs for any necessary repairs to remedy any broken or damaged Improvements, all of which costs shall be separately funded by Lessee.

Subject to the foregoing, set forth below is a list of examples of elements, systems or categories of Improvements for which Permitted Capital Expenditures may be made. The Capital Reserve Fund shall not be used for the repair or replacement of an individual or a selected group of individual items, unless such repair or replacement is part of a larger plan (which may be a phased plan) of repair or replacement of all, or substantially all, similar items.

1. Painting of the building exterior*

2. Walkways and driveway replacement* (if asphalt, a minimum of resurfacing, not slurry seal)

3. Windows replacement*

4. Roof replacement* (may be on a building by building basis)

5. Elevators (replacement or addition)

6. HVAC replacement

7. Light fixtures replacement* (interior and exterior)

8. Irrigation system* (replacement or major addition)

* To qualify, these expenditures need to incorporate replacement or renovation of at least 70% of the items or facilities in question

To enrich lives through effective and caring service

LOS ANGELES COUNTY Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

January 17, 2008

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director

SUBJECT: ITEM 5a – APPROVAL OF OPTION TO AMEND LEASE AGREEMENT AND LEASE OPTION AGREEMENT TO FACILITATE REDEVELOPMENT – PARCEL 10R (NEPTUNE MARINA APARTMENTS) AND PARCEL FF (PARKING LOT 12) - MARINA DEL REY

Item 5a on your agenda pertains to options to extend the lease for Parcel 10R (Neptune Marina Apartments) and to lease Parcel FF (Parking Lot 12), in order to facilitate development of a new 161-slip and seven end-tie marina, 526 apartment units and parking for 1,194 cars on these parcels.

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 for Parcel 10R and a copy of the proposed Amended and Restated Lease Agreement, as well as a copy of the proposed Lease Option Agreement for Parcel FF and a copy of the proposed Lease Agreement.

With respect to the apartments, the redevelopment plan will require a Local Coastal Program (LCP) amendment, allowing for the transfer of apartment entitlements across development zones and for apartments to be constructed on Parcel FF, with replacement of the Parcel FF open space designation at Parcel 9U. The anchorage plan also has a change in the slip mix and a reduction in the number of slips from 184 to 161. While we recognize that the California Coastal Commission (CCC) at its last meeting included recommendations as part of its LCP periodic review to oppose any reduction in the number of slips sized under 34 feet and to have a comprehensive LCP amendment presented rather than individual project-by-project LCP amendments, we are recommending approval of the option and lease extension agreement for Parcel 10 in order to conclude the proprietary phase of the development and allow the project to proceed to the regulatory phase, at which time the regulatory agencies including the CCC will evaluate the project on its merits.

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:ks
Attachment

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February 5, 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 TO AMEND LEASE AGREEMENT AND LEASE OPTION AGREEMENT TO FACILITATE REDEVEOPMENT – NEPTUNE MARINA APARTMENTS (Parcel 10R at 14100 Marquesas Way) AND PUBLIC PARKING LOT 12 (Parcel FF) - MARINA DEL REY (4th DISTRICT) (4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that approval of the recommended actions 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 Option to Amend Lease Agreement, attached as Exhibit A, granting to the current lessee, Legacy Partners Neptune Marina L.P., a Delaware limited partnership, upon fulfillment of stated conditions, the right to extend the term of its existing ground lease on Parcel 10R by 39 years.

3. Approve and authorize the Chair of the Board to sign the Lease Option Agreement attached as Exhibit B, granting to Legacy Partners Neptune Marina L.P., a Delaware limited partnership, upon fulfillment of stated conditions, the right to lease Parcel FF for a term coterminus to the extended lease for Parcel 10R.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Your Board previously approved a negotiated deal in Closed Session to facilitate the redevelopment of Parcel 10R, currently improved with apartments and an anchorage, and development of Parcel FF, currently a County public parking lot. Subsequent to that approval, the development plan was initially delayed due to the presence of wetlands on County Parcel 9U that affected the lessee's obligation to construct a park on that parcel (as a replacement for the use designation on Parcel FF of "Open Space")

and then, more recently, changes to the County affordable housing policy. The new development plan was also changed so that in addition to being obligated to pay not less than ½ of the cost to design and construct a wetland park on Parcel 9U as a condition of building on Parcel FF, Legacy Partners Neptune Marina L.P. ("Lessee"), both the existing lessee for Parcel 10R and the proposed lessee for Parcel FF, must also construct new public docks for the County at the end of Basin B and pay for constructing 103 replacement public parking spaces in a parking structure proposed for the expanded Chace Park. Instead of paying an in-lieu fee for its affordable housing obligation as previously agreed upon, Lessee will provide a total of 62 affordable housing units (20 low-income and 42 moderate-income units) on-site on both parcels.

The Parcel 10R Amended and Restated Lease provides for a 39-year lease extension and the new coterminus Lease for Parcel FF provides for a 53-year lease, both with termination dates of February 28, 2061; payment of a $1,000,000 lease extension fee for the extended lease at Parcel 10R; the demolition of all existing structures at both parcels, including the existing 136 apartments and 184-slip and seven end-tie anchorage at Parcel 10R; construction of 400 new apartments in three four-story buildings over two levels of parking and a new 161-slip and seven end-tie (plus one transient/water taxi slip) anchorage on Parcel 10R and construction of 126 new apartments in one four-story building over two levels of parking on Parcel FF; replacement of the docks on Parcel 10R a second time not later than 45 years from the effective date of the lease extension; payment of not less than ½ of the cost of constructing a wetland park on Parcel 9U and construction of new public docks for the County at the end of Basin B that can accommodate vessels ranging from dinghies to boats up to 60 feet, unless the Parcel FF option is not exercised; provision of 1,194 parking spaces in structured and surface parking on-site at both parcels and payment by Lessee of the cost to develop 103 replacement public parking spaces off-site; establishment of reserves for capital improvements equal to 1.0% of the gross revenues derived from each leasehold, excluding anchorage income at Parcel 10R; establishment of Renovation Funds equal to 1.0% of the gross revenues derived from each leasehold (excluding anchorage income at Parcel 10R) that must be fully expended to physically reposition each project to then current market requirements within a four-year period beginning two years prior to each of the 20th and 40th anniversaries of exercise of the lease options; establishment of new minimum and percentage rents; County participation in leasehold sale and/or refinance; revised arbitration procedures; County right to recapture the leaseholds if the Lessee pursues their sale; establishment of sinking funds to remove leasehold improvements at each parcel at lease termination; liquidated damages of $100 per day (adjusted for inflation) for each cited maintenance deficiency at each parcel that remains uncured after the specified cure period; and other miscellaneous improvements to the leases (e.g., payment of late fees and interest on overdue County payments and enhanced audit and record-keeping standards). Once

the Lessee has obtained all necessary project entitlements and has fulfilled the other requirements entitling it to exercise an option, we will return to your Board for authority to execute the relevant lease (the Amended and Restated Lease for Parcel 10R or the new Lease for Parcel FF) in substantially the form attached.

The Department of Beaches and Harbors ("Department") has obtained an appraisal that confirms the returns to the County from the lease extension for Parcel 10R and new lease for Parcel FF are 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 39-year lease extension for Parcel 10R and of the coterminus lease for Parcel FF as they relate to your Board's existing lease extension policy:

BOARD POLICY ITEM	*TERMS*
DEVELOPMENT Development of new improvements	• Demolition of existing 136 apartments and parking lot on Parcels 10R and FF, respectively, and construction of 526 new apartments; demolition of existing 184 slips and seven end-ties and construction of 161 new slips and seven end-ties plus one transient/water taxi slip on Parcel 10R. Parcel 10R improvements to be completed within 30 months. Parcel FF improvements to be completed by not later than the latter of 12 months following completion date for Parcel 10R improvements or 22 months after exercise of Parcel FF option. All anchorage facilities at Parcel 10R to be replaced again not later than the 45th anniversary of the effective date of lease extension. If the Parcel FF option is exercised, construction of new public docks for the County at the end of Basin B and payment of not less than ½ of the cost of building a wetland park on Parcel 9U. • In conformance with the proposed new affordable housing policy, the lessee will provide on-site at both parcels a total of 20 low-income units and 42 moderate-income units. • Total development cost of not less than $162,000,000 for both parcels.

BOARD POLICY ITEM	*TERMS*
DEVELOPMENT Development of new improvements (continued)	• Lessee responsible for providing all required parking for the project in conformance with applicable regulatory requirements and, if the Parcel FF option is exercised, payment for the cost of relocating 103 of the 206 Parcel FF public parking spaces as described in the Marina del Rey Local Coastal Program (LCP). • A Capital Reserve Fund shall be accrued as a lease obligation of each lease in amount equal to 1% of annual gross income (excluding anchorage income at Parcel 10R) beginning in the 11th year after the effective date of the lease extension amendment and new lease agreement to cover Permitted Capital Expenditures. • A Renovation Fund shall be accrued as a lease obligation of each lease in an amount equal to 1% of yearly gross income (excluding anchorage income at Parcel 10R) beginning in the 11th year after the effective date of the lease extension amendment for Parcel 10R and of the new lease agreement for Parcel FF to cover replacement/upgrades of the common areas and updates to the exterior of the facility, but not to be used for anchorage facilities at Parcel 10R. All amounts so accrued shall be fully expended pursuant to a Renovation Plan approved by the Department Director ("Director") within a four-year period beginning two years prior to each of the 20th and 40th anniversaries of exercise of the lease options, after which further accruals to the Renovation Fund will no longer be required. In lieu of the Renovation Fund accrual, Lessee may elect to complete arrangements, to the satisfaction of the Director, for either a bonding mechanism or letter of credit, in the same amounts and timing, to be available as the Renovation Fund.
EXTENSION/LEASE TERM	• Option to extend lease on Parcel 10R by 39 years, from 2/28/2022 to 2/28/2061, and a new lease on Parcel FF coterminus with the term of Parcel 10R lease. • Option fee of $100,000 for each option, payable immediately upon Board approval of each option. The option fee payments are non-refundable. Only the option fee payment for Parcel 10R is applicable to the Parcel 10R extension fee.
EXTENSION FEE Fee equal to or commensurate with value of the extension	• Extension fee of $1 million for Parcel 10R, with the Parcel 10R $100,000 option fee to be applied against it; balance to be paid over a period of ten years after exercise of Parcel 10R option in equal installments of principal plus interest at prime rate.

BOARD POLICY ITEM	*TERMS*
MARKET RATE RENTS Ensure fair market rents	• Minimum annual rent for Parcel 10R for the five-year period following exercise of option equal to minimum annual rent prior to exercise of option. Minimum annual rent for Parcel FF for the five-year period following exercise of option equal to pro rata amount (126/400) of minimum annual rent for land portion of Parcel 10R prior to exercise of option. • Minimum annual rent in year six following exercise of option equal to 75% of total County rent for year five, and reset every third year thereafter at 75% of prior three years' average annual rent. • Percentage rents: Apartments: 10.5% of gross receipts. Slips: 25% of gross receipts. • Annual rent will be the greater of percentage rent or minimum rent. • Renegotiation of minimum rent and fair market percentage rental 20 years from execution of lease extension and new lease agreement and every ten years thereafter. • Affordable housing rent credit of $19.5 million, plus interest on unapplied amount at 3.125% per annum from stabilization date for up to ten years, can be applied to the lease extension fee and to all rents in excess of $500,000 per year until fully amortized.
PARTICIPATION IN SALE AND REFINANCE Secure County participation in sale and refinance of leasehold	• Sale Participation: Sale #1 or #2 exempt if sale occurs during the first 12 years after issuance of the initial Certificate of Occupancy; 1.0% of gross proceeds for any third or subsequent sale during first 12 years or for any sale occurring during years 13 through 25; the greater of 2.0% of gross proceeds or 20.0% of net proceeds for any sale thereafter. • Refinance Participation: Refinance #1 or #2 exempt if refinance occurs during the first 12 years after issuance of the initial Certificate of Occupancy; 20% of net proceeds not reinvested in leasehold improvements for any third or subsequent refinance during first 12 years or for any refinance thereafter.
COUNTY ADMIN. COSTS Ensure payment for County costs for lease extension	• Lessee agrees to reimburse County for costs associated with lease negotiations and option and lease preparation, including all appraisal and consultant legal costs.
COUNTY INCOME CONTINUITY Ensure County revenue flow during development	• Pay current apartment minimum rent during construction period. Minimum rent and all market percentage rents as set forth in "Market Rate Rents" section above payable thereafter.

BOARD POLICY ITEM	*TERMS*
RIGHT TO RECAPTURE	• County has right to recapture the leaseholds if sale is proposed during the last 40 years of lease terms of each of Parcels 10R and FF.
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 full-time Dockmaster to manage anchorage at Parcel 10R.
PROMENADE	• Lessee to construct promenade in compliance with LCP and subject to County's reasonable approval of plans.
APPRAISAL	• The Department has obtained an independent appraisal confirming the return to the County from the lease extension and new lease is equivalent to, or greater than, fair market value.
ENTITLEMENTS: SITE COVERAGE, HEIGHT & LAND USES	• Lessee must obtain all regulatory approvals within 24 months of grant of option by Board of Supervisors. If Lessee is unable to obtain all of the necessary approvals within the 24-month requirement, the Director may grant extensions totaling up to 12 months if Lessee can demonstrate it has diligently pursued those approvals. If Lessee obtains its approvals within the 24-month (or 36-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 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 planning and entitlement approvals.

Additional Matters

OTHER TERMS	a) Seven years prior to expiration of leases, 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 at each parcel that remains uncured after a specified cure period, to be assessed against the security deposit.

FISCAL IMPACT/FINANCING

The financial terms are as previously approved with one exception: interest to be paid on the unpaid affordable housing rent credit. Based on there initially being a bona fide misunderstanding, a compromise has been negotiated that the unused rent credit will bear interest at a rate of 3.125% per annum commencing when the project rent reaches stabilization, presently estimated to be in 2013. Consequently, the estimated amount of the rent credit required to offset the economic effect of constructing the affordable housing units on-site increases from $19.5 million to approximately $22 million. Upon full amortization of the rent credit, County rents are projected to be $2.9 million per year, an annual increase of $2.4 million from these two parcels.

Both the Amended and Restated Lease for Parcel 10R and the new Lease for Parcel FF reflect the County's current market rate percentage rents for all relevant categories. They will produce the following fiscal benefit to the County: 1) an extension fee for Parcel 10R; 2) option fees; and 3) revenue increases due to construction of 526 apartment units on both Parcels 10R and FF and a new 161-slip anchorage with seven end-ties and one transient/water taxi slip on Parcel 10R. Each component is discussed in detail below.

Extension Fee

Lessee will pay an extension fee of $1,000,000 due on exercise of the option for Parcel 10R, payable as a non-refundable option fee of $100,000 concurrent with the execution of the option, with the remaining balance of $900,000 payable in ten equal installments of $90,000 in principal, plus interest on the unpaid balance at the prime rate.

Option Fee

Lessee shall pay an option fee of $100,000 for each option, due upon grant of each option by your Board.

Revenue Increase Due to New Construction

The total revenue derived from Parcel 10R during fiscal year 2006-2007 was approximately $488,000, while the total revenue derived from parking on Parcel FF during fiscal year 2006-2007 was approximately $21,000. After construction, lease-up and stabilization of these two projects and exhaustion of the rent credit, annual County rent is projected to be approximately $2.9 million, an annual increase of approximately $2.4 million.

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

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The existing 60-year lease for Parcel 10R expires on February 28, 2022. Lessee will have separate option and lease agreements for each parcel, but will not be allowed to exercise the option on Parcel FF unless it either has previously exercised or simultaneously exercises the option on Parcel 10R or it provides adequate assurances of the completion of the redevelopment of Parcel 10R.

Parcel 10R consists of 136 existing apartments and an anchorage with 184 slips and seven end-ties and is located between Esprit I (Parcel 12) and an undeveloped lot (Parcel 9, for which a restored wetland park and high-rise hotel are proposed), with frontage on Via Marina and Marquesas Way. Parcel FF is a public parking lot located between the Bar Harbor Apartments (Parcel 15) and the Villa Del Mar Apartments (Parcel 13), with frontage on Via Marina and Marquesas Way.

The Lessee has made application to the Department of Regional Planning for discretionary land use entitlements, including an LCP amendment allowing apartments on Parcel FF, with replacement of the Parcel FF open space designation at Parcel 9U, and the transfer of additional apartment entitlements from another development zone, as well as authorization for the relocation of the replacement public parking off-site. The application is still under review. Approval of both options 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 options.

Entering into leases of the County's Marina del Rey real property is authorized by Government Code Sections 25907 and 25536. The lease terms are in conformance with the maximum 99-year period authorized by California law.

At its meeting of January 23, 2008, the Small Craft Harbor Commission _____ the recommendations to approve both options and the Amended and Restated Lease for Parcel 10R and the new Lease for Parcel FF in the forms attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

Approval of the recommended actions 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 options does not authorize construction or reconstruction of any improvements on the parcels. The discretionary land use entitlements and the corresponding environmental documentation necessary to implement the proposed redevelopment contemplated by both options and the Amended and Restated Lease and new Lease are under review by the Department of Regional Planning.

CONTRACTING PROCESS

The Lessee's proposal for a lease extension and new lease was received in response to the release of the Board-authorized RFP. The Amended and Restated Lease for Parcel 10R and the new Lease for Parcel FF will be available to the Lessee upon the exercise of the options. Upon Lessee's demonstration that it has satisfied the conditions for exercise contained in either of the options and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the development projects associated with that option, we will return to your Board with final confirmation that the conditions and approvals for exercise contained in the option has been satisfied and will at that time request authorization for execution of either the Amended and Restated Lease for

Parcel 10R and the new Lease for Parcel FF, whichever is relevant.

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 each of the executed options to the Department of Beaches and Harbors.

Respectfully submitted,

William T Fujioka

SW:SK:GB:gb

Attachments (2)

c: County Counsel

LEASE AGREEMENT

by and between

County of Los Angeles

and

Legacy Partners Neptune Marina L.P.

(Parcel FF — Lease No. ____)

Dated as of _____, ____

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LEASE AGREEMENT
PARCEL FF — MARINA DEL REY

THIS LEASE AGREEMENT ("Lease") is made and entered into as of the _____ day of _____, ____ ("Effective Date"), by and between the COUNTY OF LOS ANGELES ("County"), as lessor, and LEGACY PARTNERS NEPTUNE MARINA L.P., a Delaware limited partnership (together with its permitted successors and assigns, "Lessee"), as lessee.

WITNESSETH

WHEREAS, County owns fee title to certain real property in Marina del Rey commonly known as Parcel FF and more particularly described in Exhibit A attached hereto (the "Premises"); and

WHEREAS, County and Lessee have entered into that certain Lease Option Agreement dated _____, 2008 (the "Option Agreement"), pursuant to which County has 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 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 (i) the reasonable out-of-pocket costs and expenses incurred by County with respect to a particular activity or procedure, including without limitation, expenditures to third party legal counsel, financial consultants and advisors (including the use of County's environmental consultant), (ii) costs incurred in connection with appraisals, (iii) the reasonable value of services actually provided by County's in-house counsel, and (iv) the reasonable value of services actually provided by County's lead lease negotiator/administrator and any other lease auditors and other County administrative staff below the level of deputy director (the administrative level which is two levels below County department head) required by the lead lease negotiator/administrator for technical expertise or assistance. In those instances in which Lessee is obligated to reimburse County for its Actual Costs incurred in performing obligations required to be performed by Lessee under this Lease which Lessee fails to

perform within the applicable cure period, if any, provided under this Lease, Actual Costs shall also include a reasonable allocation of County overhead and administrative costs to compensate County for performing such obligations on behalf of Lessee.

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

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

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

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

1.1.7 "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, 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 APARTMENT LEASE" shall have the meaning set forth in subsection 11.1.2.

1.1.11 "APPROVED GOVERNMENTAL CHANGES" shall have the meaning set forth in Section 6.3.1 of the Option Agreement.

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 RESERVE FUND" shall have the meaning set forth in Section 5.14.

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 receipt of the first Temporary Certificate of Occupancy or other applicable governmental permit, certificate or approval for the legal occupancy of any apartment building 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 4.3.5 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 "EVENTS OF DEFAULT" shall have the meaning set forth in Section 13.1.

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

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

1.1.45 "FAIR MARKET RENTAL VALUE" shall have the meaning set forth in subsection 4.3.1.

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

1.1.47 "FINAL DEVELOPMENT WORK PLANS AND SPECIFICATIONS" shall have the meaning set forth in subsection 5.1.1.

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

1.1.49 "FIRST ADJUSTMENT DATE" shall have the meaning set forth in subsection 4.2.1.

1.1.50 "FORCE MAJEURE" shall have the meaning set forth in Section 5.6.

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

1.1.52 "GROSS TRANSFER PROCEEDS" shall have the meaning set forth in Section 4.8.

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

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

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

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

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

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

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

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

1.1.61 "LEASE" shall mean this Lease Agreement.

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

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

1.1.64 "LESSEE PARKING FACILITY CONSTRUCTION COST SHARE" shall have the meaning set forth in Section 5.15.

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

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

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

1.1.68 "MINIMUM STANDARDS" shall mean 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 in a manner consistent with commercially reasonable standards applicable to other comparable residential apartment project in Marina del Rey (the "Minimum Standards").

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

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

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

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

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

1.1.74 "NOTICE OF COMPLETION" shall have the meaning set forth in subsection 5.8.7.

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

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

1.1.77 "PARCEL 10R RESTATED LEASE" shall have the meaning set forth in subsection 4.2.1.

1.1.78 "PARCEL 10R OPTION" shall have the meaning set forth in Section 5.1.

1.1.79 "PARCEL 10R PREMISES" shall have the meaning set forth in the subsection 4.2.1.

1.1.80 "PARCEL 10R REDEVELOPMENT WORK" shall have the meaning set forth in Section 5.1.

1.1.81 "PARKING FACILITY" shall have the meaning set forth in Section 5.15.

1.1.82 "PARKING FACILITY CONSTRUCTION BUDGET" shall have the meaning set forth in Section 5.15.

1.1.83 "PARKING FACILITY CONSTRUCTION COSTS" shall have the meaning set forth in Section 5.15.

1.1.84 "PARKING FACILITY CONSTRUCTION COST DEPOSIT" shall have the meaning set forth in Section 5.15.

1.1.85 "PARKING FACILITY CONSTRUCTION COST REPORT" shall have the meaning set forth in Section 5.15.

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

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

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

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

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

1.1.91 "PRE-EXISTING PARCEL 10R LEASE" shall have the meaning set forth in subsection 4.2.1.

1.1.92 "PREMISES" shall have the meaning set forth in the preamble to this Lease.

1.1.93 "PRIME RATE" shall mean the prime or reference rate announced from time to time by Bank of America, N.A. or it successor, or if Bank of America, N.A. and its successor cease to exist then the prime or reference rate announced from time to time by the largest state chartered bank in California in term of deposits.

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

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

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

1.1.97 "RENEGOTIATION DATES" shall have the meaning set forth in Section 4.3.

1.1.98 "RENOVATION FUND" shall have the meaning set forth in Section 15.13.

1.1.99 "REPLACEMENT PARKING OBLIGATION" shall have the meaning set forth in Section 5.15.

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

1.1.101 "REQUIRED CONSTRUCTION COMMENCEMENT DATE" shall have the meaning set forth in Section 5.1.

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

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

1.1.104 "SEAWALL" shall have the meaning set forth in Section 10.7.

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

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

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

1.1.108 "STABILIZATION DATE" shall have the meaning set forth in Section 4.4.

1.1.109 "STATE" shall mean the State of California.

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

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

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

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

1.1.114 "SUBSTANTIAL COMMENCEMENT OF CONSTRUCTION" shall have the meaning set forth in Section 5.1.

1.1.115 "SUBSTANTIAL COMPLETION" shall have the meaning set forth in Section 5.1.

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

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

1.1.118 "UNINSURED LOSS" shall have the meaning set forth in Section 10.5.

1.1.119 "UNREASONABLE COUNTY ACT" shall have the meaning set forth in subsection 5.7.2.

1.1.120 "WETLAND PARK" shall have the meaning set forth in Section 5.2.

1.1.121 **[IF ALTERNATIVE 1 IN SECTION 5.2: "WETLAND PARK AGREEMENT" shall have the meaning set forth in Section 5.2.]**

1.1.122 "WETLAND PARK DEVELOPMENT COSTS" shall have the meaning set forth in Section 5.2.

1.1.123 "WETLAND PARK DEVELOPMENT COSTS REPORT" shall have the meaning set forth in Section 5.2.

1.1.124 "WRITTEN APPRAISAL EVIDENCE" shall have the meaning set forth in Section 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 Section 1.4, 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) subject to Section 1.3 below, the condition of title to the Premises, and (x) the economics of the operation of the Premises and/or any Improvements located thereon.

1.3 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 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.

1.4 Excluded Conditions. Notwithstanding anything to the contrary set forth herein, the terms and provisions of subsection 1.2.1 shall not be applicable to any sewer, storm drain or other improvements which have been dedicated to (and such dedication has been accepted by) the Department of Public Works of the County ("Excluded Conditions"); provided, however, that this Lease (as opposed to any separate dedication acceptance or other contractual or legal obligation) shall not create any obligation or liability on the part of County with respect to such sewer, storm drain and other improvements.

2. TERM.

2.1 Term. The term of this Lease ("Term") shall commence on the Effective Date set forth herein. Unless terminated sooner in accordance with the provisions of this Lease, the Term

shall expire at 11:59 p.m. on February 28, 2061. For purposes of this Lease, "Lease Year" shall mean each calendar year (or partial calendar) during the Term of this Lease. Notwithstanding the foregoing, with respect to any provision in this Lease that refers to a specified number of Lease Years after the Effective Date, the number of Lease Years after the Effective Date shall be calculated based on the following: (a) if the Effective Date is prior to July 1 of a calendar year , then the first Lease Year after the Effective Date shall mean the period from the Effective Date through December 31 of the calendar year during which the Effective Date occurs, and (b) if the Effective Date is on or after July 1 of a calendar year, then the first Lease Year shall mean the period from the Effective Date through December 31 of the calendar year following the calendar year during which the Effective Date occurs.

2.2 Intentionally Omitted Intentionally OmittedOwnership 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.

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

2.5.1 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.

2.5.2 Duty to Remove. No earlier than eight (8) years, and no later than seven (7) years prior to the expiration of the Term, Lessee shall deliver to County a report prepared by a construction and demolition expert approved by County, such approval not to be unreasonably withheld or delayed, which report details and estimates the cost of removing all Improvements on the Premises at the expiration of the Term. County may give written notice (the "County Removal Notice") at any time, no later than six (6) 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 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. Lessee shall have the right, by written notice to County not later than thirty (30) days prior to the expiration of the Term, to extend the date by which Lessee must complete the Improvement removal and Premises surrender obligations under this subsection 2.5.2 and/or the Lessee's removal obligations under subsection 2.5.4 below to a date not more than one hundred twenty (120) days after the expiration of the Term; provided, however, that all of the Lessee's obligations and liabilities under the Lease (other than the obligation to affirmatively operate the Premises) shall be applicable during such additional period, including without limitation, the Lessee's obligations with respect to insurance and indemnification, and Lessee's obligation to pay County compensation for such period in an amount equal to the Monthly Minimum Rent rate in effect immediately prior to the expiration of the Term.

If County elects to require Lessee to remove Improvements hereunder pursuant to the County Removal Notice, Lessee shall, no later than the date which is thirty (30) days after Lessee's receipt of the County Removal Notice, provide County with a written plan which sets forth Lessee's proposed method of securing the discharge of Lessee's removal and restoration obligations pursuant to this subsection. Such security plan shall detail (i) the form of security proposed by Lessee, which security shall be either a deposit of funds, or a letter of credit, bond or other form of security in form and amount, and from an issuer, satisfactory to County, and (ii) a schedule satisfactory to County for the delivery by Lessee of the security described in clause (i) above, which schedule shall in all events provide for a full funding of the security not later than two (2) years prior to the expiration of the Term. The amount of the deposit or letter of credit, bond or other security shall be no less than the estimated costs to remove the Improvements set forth in the report described above, adjusted annually to reflect the increase or decrease, if any, in the ENR Index over the ENR Index as of the date of cost estimation set forth in such expert report; provided, however, that in no event shall such adjustment result in a deposit or letter of credit, bond or other security of an amount less than that set forth in the expert report. Any uncured failure by Lessee to deliver the removal and restoration security described in this subsection 2.5.2 shall constitute an Event of Default. If County fails to elect to require Lessee to remove the buildings, structures and Improvements on the Premises as provided above, then upon the expiration of the Term, or earlier termination of the Lease, Lessee shall turn over the Premises to County in good and workmanlike condition, consistent with the condition of other buildings, structures and Improvements of comparable age and construction quality.

2.5.3 County's Right to Remove Improvements. Should Lessee fail 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 any cost or expense thereof in excess of any funds

received by County through the security above provided and any consideration received by County as a result of such sale, removal or demolition.

2.5.4 Duty to Remove Equipment, Etc. No later than the expiration of the Term or sooner termination of this Lease (or within the additional one hundred twenty (120) day period described in subsection 2.5.2 above), 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 thirty (30) 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.

2.5.5 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 company or other third party provider. Notwithstanding that title shall vest in County, all utility lines, transformer vaults and all other utility facilities (other than any sewer, storm drain or other utility systems which have been dedicated to and accepted by County pursuant to a dedication separate from this Lease), 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 luxury residential apartment project and (ii) 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 an imminent risk to public health and safety, nor shall any similar activity be permitted on any adjacent public street or adjacent property.

Lessee shall be permitted to perform the Development Work on the Premises, provided that such work is conducted in compliance with Article 5 of this Lease.

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 in violation of any Applicable Laws;

3.2.2.2 The Premises shall not be used or developed in any way in a manner inconsistent with the Permitted Uses. Without limiting the foregoing, no part of the Premises shall be used by any person for any adult entertainment purposes, as such term refers to graphic, explicit and/or obscene depictions of sexual activity; provided, however, that this subsection 3.2.2.2 shall not be interpreted to regulate in violation of Applicable Law the private activity of an individual that is confined to such individual's private residence;

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 reasonable 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; provided that the foregoing requirement to obtain Director's approval as to any antennae or other transmission or reception devices shall be inapplicable to the extent that such requirement violates Applicable Law;

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 (i) as is necessary to allow Lessee to perform its maintenance and repair obligations pursuant to this Lease, and (ii) for such boring or drilling as necessary to perform water testing or monitoring, or any dewatering program to relieve soil water pressure; and

3.2.2.7 Except for the Excluded Conditions and the Seawall, 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.

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 (except to the extent that Lessee is prevented from doing so due to Force Majeure or due to temporary interruption for maintenance and repair) in light of these objectives, consistent with the operation of luxury residential apartment 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 Promenade (as defined in Section 15.19) shall be open every day of the year. Any changes in the days and/or hours of operation of the Promenade 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. Director shall not unreasonably withhold its approval of the matters described in this Section 3.5. Any dispute as to whether Director has unreasonably withheld its approval of a matter described in this Section 3.5 shall be submitted to arbitration pursuant to Article 16 of this Lease.

3.6 Compliance with Regulations. Lessee shall comply with all Applicable Laws and shall pay for and maintain any and all licenses and permits related to or affecting the use, operation, maintenance, repair or improvement of the Premises. Without limitation of the foregoing, Lessee shall comply with (i) all conditions and requirements of Coastal Development Permit No(s). _____ **[PRIOR TO LEASE EXECUTION INSERT COASTAL DEVELOPMENT PERMIT NO(S). ISSUED FOR DEVELOPMENT WORK]**, which conditions and requirements are attached to this Lease as Exhibit E and incorporated herein by this reference, and (ii) all public access requirements of the Marina del Rey Local Coastal Program, as amended. **[PRIOR TO LEASE EXECUTION INSERT REFERENCE TO THE AFFORDABLE HOUSING REQUIREMENTS APPLICABLE TO THE PREMISES IN**

ACCORDANCE WITH SECTION 8 OF THE OPTION AGREEMENT AND FINAL ENTITLEMENTS.]

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 apartment facilities in Marina del Rey, and delivered in writing to Lessee. Any dispute as to whether County has acted unreasonably in connection with the matters described in this Section 3.7 shall be submitted to arbitration pursuant to Article 16 of this Lease.

3.8 Reservations. Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all encumbrances, reservations, licenses, easements and rights of way (a) existing as of the Effective Date, or (b) otherwise referenced in this Lease in, to, over or affecting the Premises for any purpose whatsoever, or (c) consented to by Lessee.

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. Notwithstanding the foregoing or anything herein to the contrary, County agrees to cooperate with Lessee, at Lessee's cost, in Lessee's efforts to address title matters, if any, which would prevent Lessee from proceeding with the redevelopment of the Premises in accordance with the Development Work, as long as such efforts do not materially adversely affect the County (e.g., cooperating with Lessee in the relocation at Lessee's cost of any easements which interfere with the Development Work, to the extent such relocation is reasonably acceptable to County).

4. PAYMENTS TO COUNTY.

4.1 Net Lease. The parties acknowledge that the rent to be paid by Lessee under this Lease is 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, or cause to be paid, 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 are derived from the Lessee's interest under this Lease and that Lessee's interest requires the payment of a possessory interest tax.

4.2 Rental Payments. Throughout the Term, for the possession and use of the Premises granted herein, Lessee shall pay County (a) the Annual Minimum Rent described in subsection 4.2.1 below, and (b) the Percentage Rent described in subsection 4.2.2 below. For purposes of this Lease "Annual Rent" shall mean the aggregate of the Annual Minimum Rent and Percentage Rent

4.2.1 Annual Minimum Rent and Monthly Minimum Rent. Lessee shall pay to County the minimum rent described in this subsection 4.2.1 (subject to adjustment pursuant to Sections 4.2.3 and 4.3 below) during each Lease 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"); provided, however, if any Lease Year is shorter or longer than a calendar year, then the Annual Minimum Rent shall be calculated on a pro rata basis based on the number of days in the applicable period as compared to 365, and Monthly Minimum Rent shall be payable in equal monthly installments of such pro rata Annual Minimum Rent. During each Lease Year (or portion thereof) during the period from the Effective Date through the day preceding the fifth (5th) anniversary of the Effective Date (the "First Adjustment Date"), the Annual Minimum Rent shall be equal to the annual square foot rental allocable to the land that was payable by Lessee under that certain Lease for the property commonly known as Parcel 10R (the "Parcel 10R Premises") by and between County and Lessee's predecessor in interest dated as of May 4, 1962 (as amended prior to the execution of the Parcel 10R Restated Lease described below) (the "Pre-Existing Parcel 10R Lease") for the last full year prior to the Effective Date of that certain Amended and Restated Lease Agreement – Parcel 10R – Marina del Rey by and between County and Lessee, dated _____ __, 200_ (the "Parcel 10R Restated Lease") divided by 400 and multiplied by 126 (or if the Parcel 10R Option has not been exercised as of the Effective Date of this Lease, the annual square foot rental allocable to the land under the Pre-Existing Parcel 10R Lease for the last full year prior to the Effective Date of this Lease shall be utilized).

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 4.2.2, less the Annual Minimum Rent for such month or year. 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 the installment of Monthly 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;

(b) TWENTY PERCENT (20%) 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;

(c) TEN AND ONE-HALF PERCENT (10.5%) of Gross Receipts or other fees charged for (1) the occupancy of apartments, (2) the rental or use of meeting rooms, or (3) the rental or use of land or facilities for activities not otherwise provided for in this section, such as but not limited to television, motion pictures or other media filming purposes;

(c1) TEN PERCENT (10%) 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 (other than Lessee's management office), 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 omitted;

(e) FIVE PERCENT (5%) 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) With respect to service enterprises, including, without limitation, cable television, internet, satellite, telecommunication or other antennae fees, telephone and other utility services, and valet parking services, FIVE PERCENT (5%) of the Gross Receipts received by Lessee or sublessee from such enterprise if Lessee or a sublessee is the operator of such enterprise, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee or a sublessee from such enterprise if a third (3rd) party provider is the operator of such enterprise

(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) With respect to the installation and/or operation of coin-operated vending or service machines, including pay telephones, FIVE PERCENT (5%) of the Gross Receipts received by Lessee or sublessee from such enterprise if Lessee or a sublessee is the operator of such enterprise, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee or a sublessee from such enterprise if a third (3rd) party provider is the operator of such enterprise;

(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) THREE AND ONE-HALF PERCENT (3½%) of Gross Receipts from the operation of 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 omitted;

(o) Intentionally omitted;

(p) Intentionally omitted;

(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 PERCENT (20%) 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 percent (20%) 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 subsection;

(s1) FIVE PERCENT (5%) of the Gross Receipts from the operation of all stores, shops or boutiques selling items at retail; and,

If with the prior approval of County or Director Lessee hereafter engages in a use that is not currently permitted under this Lease and as to which there is no specific percentage set forth above applicable to such additional or related use, then concurrent with the approval by County or Director of such specific additional use, Director 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.

4.2.2.1 Other Activities. If Director or Lessee reasonably 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.

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, 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, calculated in accordance with the accounting method described in the last sentence of Section 14.1.

(1) Except as otherwise set forth herein, there shall be no deduction from Gross Receipts for any overhead or cost or expense of operation, such as, without limitation, salaries, wages, costs of goods, interest, debt amortization, rent credit (but the value of any free rent period shall not be imputed as Gross Receipts), collection costs, discounts from credit card operations, insurance and taxes.

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

(3) Gross Receipts reported by Lessee and its Sublessees, assignees, licensees, Lessees and permittees must include the usual charges for any services, goods, rentals or facilities provided by Lessee or its Sublessees, assignees, licensees, concessionaires or permittees. Bona fide bad debts actually accrued 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.

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

a. goods returned to suppliers or which are delivered for resale (as opposed to delivery) to another retail location or to a warehouse or to any retailers without profit to Lessee, where such returns or

deliveries are made solely for the convenient operation of the business of Lessee or sublessee and not for the purpose of consummating a sale made in, about or from the Premises;

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

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

d. receipts from insurance claims other than rental interruption or business interruption insurance related to the replacement of Gross Receipts;

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

f. the Cost of Lessee's subtenants' submetered electricity, provided (1) each subtenant's obligation to reimburse Lessee for such subtenant's electrical charges is separate and apart from such tenant'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 subtenant's electricity; and, (3) the receipt is actually credited against the cost of the subtenant's electricity. For the purpose of the foregoing sentence, the "Cost" of the subtenant'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 subtenant based on such subtenant'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. The terms and provisions of this paragraph f shall also be applicable to other submetered utility charges to the extent that it is customary for subtenants to be responsible for such other utility charges.

g. amounts received for services rendered by a Sublessee of an individual apartment unit in connection with the operation by such Sublessee of an in-home business in such apartment unit, as long as the

primary purpose of Sublessee's use of the apartment unit is for residential occupancy and such in-home business is an incident to such residential use.

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.

4.2.3 Adjustments to Annual Minimum Rent. As of the First Adjustment Date (as defined in subsection 4.2.1 above) and continuing each third (3rd) consecutive anniversary thereafter until the first Renegotiation Date (as defined in Section 4.3 below), and thereafter each third (3rd), sixth (6th) and ninth (9th) anniversary of each Renegotiation Date (each an "Adjustment Date" and collectively the "Adjustment Dates"), the Annual Minimum Rent shall be adjusted as provided in this subsection 4.2.3. As of the First Adjustment Date, the Annual Minimum Rent shall be adjusted to the

amount that equals seventy-five percent (75%) of the total Annual Rent (including Annual Minimum Rent and Percentage Rent, but without offset of any Lessee Credit that Lessee may have taken as described in Section 4.4 below) that was payable by Lessee to County for the one (1) year period immediately prior to the First Adjustment Date. As of each Adjustment Date thereafter, the Annual Minimum Rent shall be adjusted to the amount which equals seventy five percent (75%) of the average of the total Annual Rent (but without offset of any Lessee Credit which Lessee may have taken as described in Section 4.4 below) that was payable by Lessee to County during the three (3) year period immediately preceding the Adjustment Date.

4.3 Renegotiation of Annual Minimum and Percentage Rents. Effective on the twentieth (20th) anniversary of the Effective Date, and each tenth (10th) anniversary thereafter (each a "Renegotiation Date" and collectively, the "Renegotiation Dates"), the Annual Minimum Rent and Percentage Rent shall be readjusted to the Fair Market Rental Value (as defined below) of the Premises.

4.3.1 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 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 of this Lease, in acknowledgment and consideration of the Lessee Credit granted to Lessee in Section 4.4 below, in no event shall the percentage of Gross Receipts applicable to the occupancy of apartments set forth in clause (1) of category (c) of subsection 4.2.2 ever be readjusted to less than TEN AND ONE-HALF PERCENT (10.5%), and if the Fair Market Rental Value percentage for the occupancy of apartments is less than TEN AND ONE-HALF PERCENT (10.5%), the requirement that the Gross Receipts percentage applicable to the occupancy of apartments not be readjusted to less than TEN AND ONE-HALF PERCENT (10.5%) shall have no effect on the determination of the Fair Market Rental Value percentages for the other categories of Gross Receipts set forth in subsection 4.2.2.

4.3.2 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 after the submittal by County to Lessee of County's determination of Fair Market Rental Value 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 within such fifteen (15) day period and County's notice to Lessee conspicuously stated in bold faced type that such determination of Fair Market Rental Value shall be binding on Lessee unless Lessee delivers notice of its disagreement within such fifteen (15) day period, then County's determination of Fair Market Rental Value shall be binding on Lessee as of the Renegotiation Date.

4.3.3 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 4.3.2, 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 continue to pay to County Annual Minimum Rent and Percentage Rent at the then-existing levels.

4.3.4 Arbitration. If County and Lessee fail to reach agreement during the sixty (60) day period set forth in subsection 4.3.3, 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.

4.3.5 Retroactivity. In the event that, pursuant to subsections 4.3.3 or 4.3.4 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 thirty (30) days after such execution, Lessee shall pay to County, or County shall at its election pay or credit to Lessee, the difference, if any, between (a) such Fair Market Rental Value for the Premises and (b) the actual Annual Minimum Rent and Percentage Rent paid by Lessee to County, for the period of time from the Renegotiation Date until the date of such payment. Lessee (with respect to overpayments) or County (with respect to underpayments) shall further be entitled to interest on each portion of such payment from each date on which the applicable rental payments were payable under this Lease to the date paid or credited, whichever is applicable, at the following rates:

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

(2) the interest rate applicable to any period of time in excess of six (6) months following the Renegotiation Date shall be the Prime Rate of interest in effect from time to time during the period from the date that is six (6) months after the Renegotiation Date until the date of payment.

4.4 Lessee Credit. In consideration of Lessee's compliance with the affordable housing requirements referenced in Section 8 of the Option Agreement and Section 3.6 of this Lease, Lessee shall be entitled to a credit (the "Lessee Credit") in the principal amount of Four Million Four Hundred Thousand Dollars ($4,400,000.00). Lessee may apply the Lessee Credit (plus accrued interest on the Lessee Credit as described below) against Annual Rent (including Annual Minimum Rent (or Monthly Minimum Rent) and Percentage Rent) that becomes due and payable under the Lease on and after the Stabilization Date. The "Stabilization Date" shall mean the first day of the month following the month in which the apartment units constructed in accordance with Section 5.1 below are ninety percent (90%) physically occupied by tenants for three (3) consecutive months. Lessee shall exercise its right to apply the Lessee Credit against a particular payment described above by delivering written notice to County of such election on or before the due date of such payment.

Commencing on the Stabilization Date and continuing until the earlier of the full application of the Lessee Credit or the tenth (10^{th}) anniversary of the Stabilization Date,

unapplied portions of the original principal amount of the Lessee Credit shall accrue interest at an annual rate of 3.125%. Such interest shall be added to and considered a part of the Lessee Credit; provided, however, that interest shall accrue only on the unapplied portions of the original principal amount of the Lessee Credit, and no interest shall accrue on or with respect to previously accrued interest; but provided, further, that applications of the Lessee Credit first shall be made from accrued interest and then to reduce the principal balance of the Lessee Credit. Lessee shall be under no obligation to apply the Lessee Credit against the first or any particular amount of Annual Rent. No interest shall accrue prior to the Stabilization Date nor after the tenth (10^{th}) anniversary of the Stabilization Date.

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 under this Lease is not received by County by the date due, Lessee acknowledges that County will experience additional management, administrative and other costs that are impracticable or extremely difficult to determine. Therefore, a fee ("Late Fee") of six percent (6%) of the unpaid amount shall be added to any amount unpaid when 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); provided, however, with respect to any obligation of an Encumbrance Holder in connection with the exercise of its cure rights under Article 12 below, interest accrual on any particular obligation for periods prior to the

Encumbrance Holder's acquisition of leasehold title to the Premises shall be limited to a maximum of three (3) years.

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 (that is not an Excluded Transfer) 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) subject to the remaining provisions of this paragraph, a Net Proceeds Share, in the event County approves such proposed Change of Ownership or Financing Event and such transaction is consummated. "Net Proceeds Share" shall mean the applicable amount determined pursuant to Section 4.8 of this Lease. Changes of Ownership and Financing Events are further subject to County approval as provided in Articles 12 and 13 of this Lease.

Notwithstanding any contrary provision of this Section 4.6, Lessee shall not be obligated to pay a Net Proceeds Share with respect to (i) the first two Changes of Ownership occurring after the Effective Date but prior to the twelfth (12th) anniversary of the Completion Date, and any Financing Event used to fund the purchase price of such first two Changes of Ownership, (ii) the original construction loan obtained to finance the cost of the Development Work and the Financing Event to take out such original construction loan if as of the date of the closing of such original construction loan Lessee has obtained a forward commitment for such take-out financing, and (iii) the first two Financing Events (other than any Financing Events described in clauses (i) or (ii) above) occurring after the Effective Date but prior to the twelfth (12th) anniversary of the Completion Date. Lessee shall, however, be obligated to pay a Net Proceeds Share with respect to the third (3rd) and any subsequent Change of Ownership, and with respect to the third (3rd) and any subsequent Financing Event (other than the Financing Events described in clauses (i) or (ii) above), occurring during the period between the Effective Date and the twelfth (12th) anniversary of the Completion Date. In addition, Lessee shall be obligated to pay a Net Proceeds Share with respect to any Change of Ownership or Financing Event occurring after the twelfth (12th) anniversary of the Completion Date.

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, (b) the execution by Lessee of a Major Sublease or the transfer by the Major Sublessee under a Major Sublease of a five percent (5%) or greater direct ownership interest in such Major Sublease, (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 residual interests in Lessee or a Major Sublessee, or (d) a Change of Control (as defined below) of Lessee or a Major Sublessee. Notwithstanding the foregoing, with respect to any Aggregate Transfer of beneficial residual interests in Lessee by AIG Global Real Estate Investment Corp. or any person or entity that directly or indirectly controls, is controlled by, or is under common control with, AIG Global Real Estate Investment Corp. (collectively, an "AIG Entity"), the phrase "fifty percent (50%) or more" in clause (c) above shall be changed to "more than fifty percent (50%)."

For the purposes of this Lease, "Change of Control" shall refer to a transaction whereby the transferee acquires a beneficial residual interest in Lessee or a Major Sublessee which brings its cumulative beneficial residual interest in Lessee or a Major Sublessee, as appropriate, to over fifty percent (50%).

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

4.6.2.1 a transfer by any direct or indirect partner, shareholder or member of Lessee (or of a limited partnership, corporation or limited liability company that is a direct or indirect owner in Lessee's ownership structure) as of the Effective Date or the date on which a Change of Ownership occurred as to the interest transferred, to any other direct or indirect partner, shareholder or member of Lessee (or of a limited partnership, corporation or limited liability company that is a direct or indirect owner in Lessee's ownership structure) as of the Effective Date, including in each case to or from a trust for the benefit of the immediate family (as defined in subsection 4.6.2.3 below) of any direct or indirect partner or member of Lessee who is an individual;

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

4.6.2.3 a transfer of ownership interests in Lessee or in constituent entities of Lessee (i) to a member of the immediate family of the transferor (which for purposes of this Lease shall be limited to the transferor's spouse, children, parents, siblings and grandchildren), (ii) to a trust for the benefit of a member of the immediate family of the transferor, (iii) from such a trust or any trust that is an owner in a constituent entity of Lessee as of the Effective Date, to the settlor or beneficiaries of such trust or to one or more other trusts created by or for the benefit of any of the foregoing persons, whether any such transfer described in this subsection 4.6.2.3 is the result of gift, devise, intestate succession or operation of law, or (iv) in connection with a pledge by any partners of a constituent entity of Lessee to an affiliate of such partner;

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 or other entity whose stock or securities is/are 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 (including, without limitation, the creation of single purpose entities) so long as the ultimate beneficial ownership remains the same as of the Effective Date, or as otherwise excluded in accordance with subsections 4.6.2.1 through 4.6.2.4 above;

4.6.2.6 any transfer consummated pursuant to Section 12.02(a) of the Limited Partnership Agreement of Lessee in the form of such partnership agreement existing as of the date of Lessee's acquisition of the leasehold under the Pre-Existing Parcel 10R Lease and delivered to County on or prior to such date [IF PRIOR TO THE EXECUTION OF THE RESTATED LEASE DIRECTOR IN ITS DISCRETION APPROVES THE FORM OF SECTION 12.02(A) OF THE LIMITED PARTNERSHIP AGREEMENT OF LESSEE AS OF THE EFFECTIVE DATE, THEN PRIOR TO THE EXECUTION OF THE LEASE THE ABOVE REFERENCE TO THE FORM OF THE LIMITED PARTNERSHIP AGREEMENT AS OF A CERTAIN DATE SHALL BE REVISED TO BE THE FORM IN EFFECT AS OF THE EFFECTIVE DATE];

4.6.2.7 any transfer resulting from a Condemnation by County; or

4.6.2.8 any assignment of the Lease by Lessee to a parent, subsidiary or affiliate of Lessee in which there is no change to the direct and indirect beneficial ownership of the leasehold interest.

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 residual interests in Lessee or a Major Sublessee, as appropriate) transferred or assigned in one transaction or a series of related 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; provided, however, that there shall be no double counting of successive transfers of the same interest in the case of a transaction or series of related transactions involving successive transfers of the same interest. Isolated and unrelated transfers shall not be treated as a series of related transactions for purposes of the definition of Aggregate Transfer.

4.6.4 Beneficial Residual Interest. As used in this Lease, "beneficial residual interest" shall refer to the ultimate direct or indirect ownership interests in Lessee (or a Major Sublessee, as applicable), regardless of the form of ownership and regardless of whether such interests are owned directly or through one or more layers of constituent partnerships, corporations, limited liability companies or trusts.

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 (that is not an Excluded Transfer) 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 (including documentation in support of the calculation of 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 (including documentation in support of the calculation of the Administrative Charge) and any additional 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 (or deliver to County a letter of credit or other security reasonably acceptable to County in the amount of the disputed portion), which disputed 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 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 (c) 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. 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; provided, however, in the case of a transfer of an interest in Lessee (as opposed to a transfer by Lessee of an interest in the Lease or the Premises) in which the transferor and transferee fail to pay the Administrative Charge and/or Net Proceeds Share due hereunder, as long as Lessee uses its best efforts to cause the payment of the required Administrative Charge and Net Proceeds Share to be made, County shall, for a period of up to three (3) years following the Change of Ownership, forebear from exercising any right to terminate the Lease as a result thereof; provided further that at the end of such three (3) year period County shall no longer have any obligation to forebear from terminating the Lease if the Administrative Charge and Net Proceeds Share, plus interest as described below, has not been paid in full. An Administrative Charge and Net Proceeds Share not paid when due hereunder shall bear interest at the Prime Rate plus three percent (3%). For purposes of determining whether County is required to forebear

from terminating the Lease as described above, Lessee's obligation to use its best efforts to cause the payment of the unpaid Administrative Charge and/or Net Proceeds Share shall include the obligation at Lessee's expense, to institute a legal action against the transferor and transferee within ninety (90) days following the date of the transfer and to diligently prosecute such legal action to completion.

4.8 Net Proceeds Share. If a Change of Ownership for which a Net Proceeds Share is payable hereunder occurs prior to the twenty-fifth (25th) anniversary of the Completion Date, the Net Proceeds Share shall be an amount equal to (a) one percent (1%) of the Gross Transfer Proceeds (as defined below) from the Change of Ownership, less (b) the Administrative Charge payable by Lessee in connection with the transaction. If a Change of Ownership for which a Net Proceeds Share is payable hereunder occurs after the twenty-fifth (25th) anniversary of the Completion Date, the Net Proceeds Share shall be the amount by which (a) the greater of (i) two percent (2%) of the Gross Transfer Proceeds from such transfer, or (ii) twenty percent (20%) of the Net Transfer Proceeds from such transfer, exceeds (b) the Administrative Charge paid by Lessee to County in connection with the transaction. With respect to a Financing Event for which a Net Proceeds Share might be payable hereunder, the Net Proceeds Share (if any) shall be the amount by which (I) twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event exceeds (II) the Administrative Charge paid by Lessee to County in connection with the transaction. For purposes hereof, "Gross Transfer Proceeds" shall mean an amount equal to the gross sale or transfer proceeds and 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 which constitutes a Change of Ownership that is not an Excluded Transfer, such consideration shall in no event be deemed to be less than the fair value of the interests transferred; if Lessee and County are unable to agree upon such fair value, then the matter shall be determined pursuant to Article 16).

4.8.1 Transaction by Original Lessee. In the case of a transfer by Lessee (but not a transfer by a successor or assignee of Lessee) constituting a Change of Ownership for which a Net Proceeds Share is payable, "Net Transfer Proceeds" shall mean the Gross Transfer Proceeds from the transfer, less the following costs with respect to Lessee (but not its successors or assignees):

4.8.1.1 The sum of (a) (a) the One Hundred Thousand Dollar ($100,000.00) Option Fee paid by Lessee pursuant to the Option Agreement, plus (b) actual out-of-pocket costs incurred by Lessee for its third party consultants and attorneys and Actual Costs reimbursed to County in connection with the negotiation and consummation of the Option Agreement and this Lease (the sum of the amounts in (a) and (b) are referred to as the "Base Value"), plus (c) (i) the final actual construction costs paid by Lessee in connection with the construction of the Development Work and other capital renovations to the Premises, or other physical capital Improvements or Alterations to the Premises (including future capital redevelopment and rehabilitation work, but not periodic maintenance and repair) constructed by Lessee in compliance with Article 5 of this Lease (including in each case all hard and soft costs, 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), which

costs have been submitted to County within ninety (90) days after the completion of such Improvements (or in the case of phased construction, within ninety (90) days after the completion of the applicable phase), together with a written certification from Lessee and Lessee's construction lender, if any, to the effect that such costs are accurate, (ii) all costs incurred by Lessee for the Wetland Park, whether pursuant to Section 5.2 below or as a contribution to the development costs incurred by the lessee of Parcel 9U which may be incurred pursuant to a separate agreement approved by County and (iii) the "Lessee Parking Facility Construction Cost Share" as defined in Section 5.15 below (the amounts described in this clause (c) are referred to as "Improvement Costs"). Notwithstanding the foregoing, with respect to Improvements or Alterations which are not part of the Development Work, Lessee shall submit the cost of such Improvements on an annual basis within ninety (90) days following the end of each fiscal year. If by the date that is ninety (90) days after the completion of the Development Work (or other Improvements) the final amount of the Improvement Costs is not established because of a dispute or disputes between Lessee and its contractor(s), then Lessee shall note such dispute(s) in its submission of the Improvement Costs (including a description of the costs and the amounts under dispute). Lessee shall thereafter notify County in writing within thirty (30) days after the resolution of any such dispute as to any final adjustment required to the amount of the Improvement Costs to reflect the resolution of such dispute.

4.8.1.2 Commissions, title and escrow costs, documentary transfer taxes, sales and use taxes, reasonable attorneys' fees, prepayment fees, penalties or other similar charges (such as yield maintenance premiums or defeasance costs), and other bona fide closing costs actually paid to third parties and documented to the reasonable 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").

4.8.1.3 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 (or, in the case of a Financing Event on which Lessee would have paid a Net Proceeds Share but for the exceptions set forth in Section 4.6).

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 Gross Transfer Proceeds received by that successor, minus the following costs with respect to such successor Lessee:

4.8.2.1 The greatest of (a) the sum of the Base Value, plus Improvement Costs incurred subsequent to the Effective Date but prior to the acquisition of the leasehold interest by such successor, (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired 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 (or, in the case of a Financing Event on which Lessee would have paid a Net Proceeds Share but for the exceptions set forth in Section 4.6), 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 (but not duplicative of the principal amount of any Financing Event described in clause 4.8.2.1(c) above, the proceeds of which were used to fund such Improvement Costs); provided that such costs have been submitted to County, with an appropriate lender and Lessee certification, as provided in subsection 4.8.1.1; 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 a percentage of which is passed through to County under any provision of this Lease (other than payment of Net Proceeds Share) shall be disregarded in the computation of Net Transfer Proceeds.

4.8.4 Other Transfers. With respect to any Change of Ownership that is not an Excluded Transfer and is not described in subsections 4.8.1 through 4.8.3 (e.g., 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 Base Value and Improvement Costs in determining Net Transfer Proceeds, the cost to the transferor of the interest being transferred or which was transferred in the past but constitutes a portion of an Aggregate Transfer (which cost shall in no event be deemed to be less than a pro rata share of the Base Value and Improvement Costs (or following a transfer by the original Lessee, such cost shall in no event be deemed to be less than a prorata share of the sum of subsections 4.8.2.1 plus 4.8.2.2 as of the respective date of the transfer of each interest in the aggregation pool)) shall be deducted. Furthermore, in the event that any such Change of Ownership produces a Net Proceeds Share, the then existing Improvement Costs shall be increased by an appropriate amount to reflect the basis on which the Net Proceeds Share was calculated, and the basis of the interest that was transferred and for which a Net Proceeds Share was paid shall also be increased for subsequent transfers of the same interest, as if realized by Lessee upon a transfer of a comparable interest in this Lease or in a Major Sublease, as appropriate.

4.8.5 Net Refinancing Proceeds. "Net Refinancing Proceeds" shall mean the gross principal amount of any Financing Event after the Effective Date (plus in the

case of secondary financing the original principal balance of any existing financing that is not repaid as a part of such secondary financing), minus (i) the greatest of (a) the Base Value plus the Improvement Costs, (b) the original principal amount of any subsequent refinancing by Lessee in connection with which County was paid a Net Proceeds Share (or, in the case of a Financing Event in connection with which Lessee would have paid a Net Proceeds Share but for the exceptions set forth in Section 4.6) plus if the financing described in this clause (b) was secondary financing, the original principal balance of any then existing financing that was not repaid as a part of such secondary financing, or (c) in the case of a successor Lessee, the purchase price such successor paid to Lessee or such successor's seller for the interest acquired, (ii) any portion of the proceeds of the Financing Event which shall be used for Improvement Costs, (iii) other Improvement Costs incurred by Lessee and not paid for or repaid with the proceeds of any Financing Event, and (iv) Documented Transaction Costs with respect to such Financing Event, and Documented Transaction Costs with respect to any previous refinancing to the extent such previous refinancing did not produce sufficient Net Refinancing Proceeds against which such Documented Transaction Costs could be offset. Notwithstanding the foregoing, there shall be no double counting of Improvement Costs in clauses (i), (ii) and (iii) above. In addition, notwithstanding any contrary provision of Section 4.6 above pursuant to which a Net Proceeds Share would be due upon a Financing Event, if the purpose of a Financing Event is to fund the acquisition cost (or a portion of the acquisition cost) of a Change of Ownership that is not an Excluded Transfer, then to the extent that the gross principal amount of the Financing does not exceed the gross sale or transfer price of such Change of Ownership, and if the Financing Event is consummated concurrently with the consummation of the Change of Ownership, there shall not be any separate Net Proceeds Share payable in connection with such Financing Event.

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

4.8.7 Payment. Net Proceeds Share shall be due and payable concurrently with the transfer giving rise to the obligation to pay such share 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; provided that in the case of a dispute as to the correct amount of the Net Proceeds Share there shall be no late fee payable as long as Lessee timely pays to County the undisputed portion of the Net Proceeds Share and deposits the disputed portion thereof in an interest bearing escrow account at the closing of the transaction (or delivers to County a letter of credit or other security reasonably acceptable to County in the amount of such disputed portion). In the event that the proceeds of the transaction giving rise to the

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

4.8.8 Shareholder, Partner, Member, Trustee and Beneficiary List. Prior to the Effective Date, 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 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 a Major Sublease.

5. CONSTRUCTION OF IMPROVEMENTS.

5.1 Development Work. It is expressly understood and agreed that following the Effective Date Lessee shall proceed to demolish the parking lot on the Premises and construct one hundred twenty six (126) new luxury apartment units on the Premises, consisting of eighty four (84) one bedroom and forty two (42) two bedroom units. The construction of such new apartments, along with all associated improvements, parking facilities, hardscape, landscape and other site work approved by County and to be performed in connection with the construction of such new apartments, are herein collectively referred to as the "Development Work."

The scope, 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 in accordance with the general development plan attached to this Lease as Exhibit B and shall be subject to County's approval as set forth in this

Article 5 and Section 6.3 of the Option Agreement. The design and quality standards for the Development Work shall be at least commensurate with those of luxury apartment projects recently constructed on the Westside of Los Angeles.

Lessee shall be responsible for the acquisition and compliance with all required governmental (including, without limitation, County, Coastal Commission and Design Control Board) planning and entitlement approvals for the Development Work. 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 comply with all time deadlines and schedules set forth in this Article 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 period set forth in subsection 13.1.2, constitute an Event of Default. Except to the extent Lessee is prevented from so doing by the events identified in Sections 5.6 or 5.7, Lessee shall cause the Substantial Commencement of Construction of the Development Work in accordance with the Final Development Work Plans and Specifications (as defined in subsection 5.1.1 below) to occur on or before that date (the "Required Construction Commencement Date") which is either (i) six (6) months following the Effective Date, if the option to amend the Pre-Existing Parcel 10R Lease set forth in the Option to Amend Lease Agreement between County and Lessee for the Parcel 10R Premises (the "Parcel 10R Option") has not been exercised as of the Effective Date, or (ii) twelve (12) months following the Effective Date if the Parcel 10R Option has been exercised as of the Effective Date (such twelve (12) month period to be reduced on a daily basis for each day beyond six (6) months following the Effective Date of the Parcel 10R Restated Lease that the Effective Date of this Lease occurs, but in no event shall such twelve (12) month period be reduced below six (6) months). If the Parcel 10R Option has been exercised, then prior to the Required Construction Commencement Date Lessee shall have the right to use the Premises as a staging area for the construction on the Parcel 10R Premises. Except to the extent Lessee is prevented from so doing by the events identified in Sections 5.6 or 5.7, Lessee shall cause the Substantial Completion of the Development Work to occur on or before that date (the "Required Construction Completion Date") that is no later than the later of (i) twelve (12) months following the Substantial Completion (as defined in the Parcel 10R Restated Lease) of the Parcel 10R Redevelopment Work (as defined in Section 5.1 of the Parcel 10R Restated Lease exclusive of the Public Docks described in the Parcel 10R Restated Lease), but not later than twelve (12) months following the "Required Construction Completion Date" under the Parcel 10R Restated Lease, or (ii) twenty two (22) months following the Effective Date; provided, however, that if Parcel 10R Option has not been exercised as of the Effective Date, then the Required Construction Completion Date shall be twenty two (22) months following the Effective Date.

For the purposes of this Lease, "Substantial Commencement" or "Substantial Commencement of Construction" shall mean the commencement of the demolition work required in connection with the Development Work, as long as following the commencement of demolition Lessee diligently proceeds to complete such demolition work and commences the actual construction of the Improvements immediately following the completion of demolition. For purposes of this Lease, the terms "Substantial Completion" or "Substantially Complete" shall mean the completion of the Development Work in accordance with the Final Development Work Plans and Specifications, subject to minor so-called punch list items that do not interfere

with the use and occupancy of the Development Work. Without limitation of any other requirements for Substantial Completion, the Development Work shall not be considered Substantially Completed until Lessee has received a temporary certificate of occupancy or equivalent approval required for the legal occupancy and use of the Development Work. The Required Construction Commencement Date and Required Construction Completion Date will be extended only under the specific circumstances set forth in Sections 5.6 or 5.7, and under no other circumstances.

5.1.1 Final Development Work Plans and Specifications. Pursuant to Sections 6.3.1 and 6.3.2 of the Option Agreement, County has heretofore approved the Schematics and the Preliminary Plans for the Development Work. On or before ninety (90) days prior to the Required Construction Commencement Date, Lessee shall submit for approval by Director six (6) complete sets of final plans and detailed specifications for the Development Work on the Premises (the "Final Plans"), 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. The Final Plans shall reflect a natural progression and logical evolution from the Preliminary Plans approved under the Option Agreement. Lessee shall file duplicate copies of the Final Plans required by this subsection with the County Director of Public Works, together with the necessary and appropriate applications for building permits for the Development Work on the Premises. Any material difference in the scope, size, configuration, arrangement or motif of the Improvements described in the Final Plans from those described in the Preliminary Plans for the Premises approved under Section 6.3.2 of the Option Agreement shall be separately identified and described. Director shall have twenty one (21) days within which to approve or disapprove the Final Plans, which approval shall not be unreasonably withheld. Director may disapprove the Final Plans only on the grounds that they do not reflect a natural evolution from or that they materially differ from the approved Preliminary Plans (exclusive of any Approved Governmental Changes, as defined in Section 6.3.1 of the Option Agreement). Failure of Director to disapprove said Final 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 contain substantial changes from the Preliminary Plans (other than any Approved Governmental Changes), then Director shall have sixty (60) days in which to approve the Final Plans, 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, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

"PURSUANT TO SUBSECTION 5.1.1 OF THE LEASE, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES (OTHER THAN ANY APPROVED GOVERNMENTAL 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."

Following any deemed disapproval by Director of such submission, Director shall, within thirty (30) days after receipt of a written request from Lessee, disclose to Lessee in writing Director's objections to the submission. 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 (exclusive of any Approved Governmental Changes). Upon approval, the Final Plans shall be referred to herein as the "Final Development Work Plans and Specifications." No material modifications shall be made to the Improvements described in the approved Final Development Work Plans and Specifications, without the prior written approval of Director, which shall not be unreasonably withheld.

5.2 Wetland Park. **[ALTERNATIVE 1:** Lessee and **[_____(insert name of lessee of Parcel 9U)]** have entered into that certain agreement for the development of a wetland park on Parcel __ (the "Wetland Park" and the "Wetland Park Agreement"). A default by Lessee under the Wetland Park Agreement shall constitute a default under this Lease subject to the cure periods provided in subsections 13.1.1 and 13.1.3 below.]

[ALTERNATIVE 2: If an option for the lease of Parcel 9U has not been exercised as of the Effective Date, then Lessee shall construct a wetland park on Parcel __ (the "Wetland Park") in accordance with the Wetland Park design approved by County pursuant to the Option Agreement. County hereby grants to Lessee access to the land on which the Wetland Park is to be constructed for the purpose of the construction thereof. In addition, to the extent necessary for staging or construction access purposes, County agrees to provide Lessee with access to Parcel 9U on terms and conditions reasonably satisfactory to County and Lessee, provided that such access for staging or construction access purposes does not interfere with the use or development of Parcel 9U.

Construction of the Wetland Park shall constitute a portion of the Development Work and Lessee shall be required to Substantially Complete construction of the Wetland Park by the Required Construction Completion Date. Without limitation of any other provisions of this Article 5 that are applicable to the construction of the Wetland Park as part of the Development Work, the Wetland Park shall be constructed in a good and workmanlike fashion and in compliance with all Applicable Laws, and the terms of Sections 5.4, 5.8, 5.9, 5.11, 5.12, 9.1.5 and 9.3 shall be applicable to the Wetland Park as if the Wetland Park was part of the Premises.

If, within 10 years of the Effective Date, either (i) County grants an option to lease all or a portion of Parcel 9U for private development to any third party and such optionee at any time thereafter exercises such option or (ii) County or any other public entity commences to use all or a portion of Parcel 9U for other than a park, parking lot or open space area, then County shall require that such third party, County or other public entity, immediately upon either the exercise of the option by such third party or commencement of use by County or any other public entity (but in no event earlier than sixty (60) days following delivery by Lessee to County

of the final Wetland Park Development Costs Report described in the next paragraph that sets the proper amount of Wetland Park Development Costs required to be reimbursed hereunder) reimburse Lessee for one-half of the development costs (the "Wetland Park Development Costs") incurred by Lessee for the development of the Wetland Park, adjusted for any increase (but not decrease) in the Consumer Price Index from the month in which the date of completion of the Wetland Park occurs through the month prior to the month in which payment occurs, as a requirement for leasing or utilizing all or a portion of Parcel 9U.

Not later than thirty (30) days following completion of the Wetland Park and delivery of the Wetland Park to County, Lessee shall provide to County a final "Wetland Park Development Costs Report" reasonably satisfactory to County, which shall include, without limitation, detail of all hard and soft costs for the construction of the Wetland Park (along with copies of all contracts, invoices, evidences of payment and all other background material reasonably requested by County). The Wetland Park Development Costs shall include only out-of-pocket costs paid by Lessee to third parties and that are approved in advance by the Director; provided, however, there may be included in the Wetland Park Development Costs a developer fee or a construction management fee not exceed four percent (4%) of hard construction costs and construction period interest on all hard and soft costs incurred by Lessee in the development of the Wetland Park. Except for the foregoing developer or construction management fee, there shall be no other administrative, supervision, development, management or overhead fees or charges. No penalty charges or any charges incurred by Lessee as a result of its mismanagement or negligence in the construction of the Wetland Park shall be included.

Following completion of the Wetland Park, County shall assume full control and responsibility for the operation and maintenance of the Wetland Park and Lessee shall assign all construction warranties to County.]

5.3 Plans and Specifics for Alterations. For purposes of this Lease, "Alterations" means any and all alterations or modifications to the Improvements located on the Premises or the construction of any new Improvements on the Premises, other than the Development Work. Lessee shall make no Alterations to the Improvements located on the Premises without the prior written approval by Director of such Alterations (including the Director's approval of the plans, specifications and other materials pertaining to such Alterations required under this Section 5.3). Prior and as a condition precedent to the construction of any Alterations, Lessee shall submit to Director, for Director's approval, the plans, specifications and other materials described in this Section 5.3 pertaining to such Alterations. All Alterations must be consistent with the Permitted Uses set forth in Article 3 of this Lease. The plan submittal and approval procedures set forth in subsections 5.3.1 through 5.3.3 below shall not be applicable to the Development Work. The Development Work shall be subject to the plan submittal and approval procedures set forth in the Option Agreement and subsection 5.1.1 of this Lease.

5.3.1 Schematics and Narrative. Lessee shall submit to the Director six (6) sets of schematic plans together with a narrative description and construction cost estimate summary clearly delineating the nature, size, configuration and layout of the Alterations. Such plans shall, among other things, clearly delineate the architectural theme or motif of the Alterations and shall identify and illustrate all affected boundaries of the Premises and all affected rights-of-way or other areas reserved to County or third

parties which are located thereon. Director shall have sixty (60) days within which to approve or disapprove such submission. Failure of Director to approve such submission in writing within said sixty (60) day period shall be deemed disapproval of said submission. Following any deemed disapproval of such submission by Director, Director shall, within thirty (30) days after receipt of a written request from Lessee, disclose to Lessee in writing Director's objections to the submission. After approval of schematic plans (or subsequent approval of preliminary or final plans) by Director, if changes in such plans are required by conditions of approval of the Alterations imposed by the California Coastal Commission or other governmental agency having jurisdiction thereover, Lessee shall promptly advise Director in writing of such changes and Director shall not disapprove those changes which constitute Approved Governmental Changes.

5.3.2 Preliminary Plans and Specifications. After Director's approval of the materials submitted pursuant to subsection 5.3.1, Lessee shall submit to Director six (6) sets of preliminary plans, outline specifications and construction cost estimates for the Alterations. The preliminary plans, outline specifications and construction cost estimate shall conform to, expand upon and reflect a natural evolution from the descriptions and estimates set forth in the approved schematic plans and narrative. Any difference in the scope, size, configuration, arrangement or motif of the Improvements from those described in the approved schematics and narrative shall be separately identified and described. Director shall have twenty-one (21) days within which to approve or reasonably disapprove such submission, and Director may disapprove said preliminary plans only on the grounds that (i) they do not reflect a natural evolution from the approved schematic plans or that they materially differ from the approved schematic plans and narrative (exclusive of any Approved Governmental Changes), or (ii) that any new, different or additional specifications for the Improvements not expressly set forth in, and approved by Director as a part of, the schematic plans do not meet the requirements for the Improvements set forth in this Article 5. 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 (other than Approved Governmental Changes), then Director shall have sixty (60) days in which to approve said submission, which approval shall be deemed withheld if not granted in writing within such sixty (60) day period; and provided further, that together with the submission of the preliminary plans, outline specifications and construction cost estimates, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

> "PURSUANT TO SUBSECTION 5.3.2 OF THE LEASE, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES (OTHER THAN APPROVED GOVERNMENTAL 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."

Following any deemed disapproval of such submission by Director, Director shall, within thirty (30) days after receipt of a written request from Lessee, disclose to Lessee in writing Director's objections to the submission.

5.3.3 Final Plans and Specifications. After approval of the preliminary plans, Lessee shall submit for approval by Director six (6) complete sets of final plans, detailed specifications and a construction cost statement for the Alterations, together with one (1) set of appropriate structural computations, identical to those requested or required by the County Director of Public Works incident to the issuance of building permits under the relevant provisions of the Los Angeles County Building Code. Lessee shall file duplicate copies of the final plans, detailed specifications and construction cost statement required by this Section with the County Director of Public Works, together with the necessary and appropriate applications for building permits. Any difference in the scope, size, configuration, arrangement or motif of the Alterations from those described in the approved preliminary plans and specifications shall be separately identified and described. Director shall have twenty one (21) days within which to approve or disapprove such submission, and Director may disapprove such submission only on the grounds that (i) they do not reflect a natural evolution from or that they materially differ from the approved preliminary plans, outline specifications and construction cost estimates (exclusive of any Approved Governmental Changes), or (ii) that any new, different or additional specifications for the Improvements not expressly set forth in, and approved by Director as a part of, the preliminary plans do not meet the requirements for the Improvements set forth in this Article 5. Failure of Director to disapprove said materials within twenty one (21) days after Director's receipt shall be deemed Director's approval thereof; provided, however, that in the event that the final plans, detailed construction specifications and construction cost statement contain substantial changes from the preliminary plans, outline specifications and construction cost estimates (other than Approved Governmental Changes), then Director shall have sixty (60) days in which to approve said submission, which approval shall be deemed withheld if not granted in writing within such sixty (60) day period; and provided further, that together with the submission of the final plans, detailed construction specifications and construction cost statement, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

"PURSUANT TO SUBSECTION 5.3.3 OF THE LEASE, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES (OTHER THAN APPROVED GOVERNMENTAL 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."

Following any deemed disapproval of such submission by Director, Director shall, within thirty (30) days after receipt of a written request from Lessee, disclose to Lessee in writing Director's objections to the submission. 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 (exclusive of any Approved Governmental Changes), or which contains new, different or additional specifications for the Improvements which were not expressly set forth in, and approved by Director as a part of, the preliminary plans and which do not meet the requirements for the Improvements set forth in this Article 5. No material modification shall be made to the Alterations described in the approved final plans, specifications and costs (the "Final Alteration Plans and Specifications") without the prior written approval of Director, which shall not be unreasonably withheld.

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

5.4.1 Permits and Other Approvals. Lessee shall have received and furnished the Department with copies of all permits, licenses and other governmental approvals necessary for commencement of the Development Work or Alterations, as the case may be. All permits, licenses and other governmental approvals necessary for subsequent stages of the Development Work or Alterations shall be furnished to the County prior to commencement of such stages.

5.4.2 Copies of Construction Contracts. Lessee shall have furnished County with copies of any contract(s) entered into between Lessee and any general contractor(s) employed for the purpose of constructing the Development Work or Alterations, as the case may be.

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

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

5.4.3.2 A corporate surety payment bond, issued by a surety company licensed to transact business as such in the State of California, with Lessee as

principal, said company as surety and County as obligee, in a sum equal to one hundred percent (100%) of the total construction cost anticipated to be incurred in connection with the approved work, guaranteeing payment for all materials, provisions, supplies and equipment used in, upon, for or about the performance of said construction work or for labor done thereon of any kind whatsoever and protecting County from any and all liability, loss or damages arising out of or in connection with any failure to make such payment (the "Payment Bond"). The Payment Bond shall be in form and content reasonably satisfactory to County.

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

5.4.4 Alternative Security. In lieu of providing the Payment and Performance Bonds, Lessee may, in its discretion, provide any one or any combination of the following alternative security: (i) a completion guaranty, in form and substance reasonably acceptable to County, made by an individual or entity with a sufficient net worth and liquidity, in the sole discretion of Director, to comply with the terms of such guaranty in view of the potential financial responsibility involved, (ii) a Certificate of Deposit, cash or United States governmental security, (iii) an additional Letter of Credit, or (iv) a Set Aside Letter from Lessee's construction lender. The security described in clauses (ii), (iii) and (iv) above shall be in an amount equal to one hundred percent (100%) of the construction contract price for hard costs, and shall permit County to draw thereon to complete the construction of the Development Work or Alterations if same have not been completed by Lessee or if a material Event of Default has occurred under this Lease. In addition, Director also shall have the authority to accept in lieu of the Payment and Performance Bonds, so-called "Subguard" insurance in such amount, on such terms and issued by such carrier as approved by Director, in combination with such other security, such as a completion guaranty, as acceptable to Director. Any alternative security provided by Lessee pursuant to this subsection may name County and Lessee's construction lender as co-beneficiaries. A condition precedent to Lessee's right to provide the alternate security described in this subsection 5.4.4 shall be delivery by Lessee to County of an opinion of counsel from a firm and in a form acceptable to County to the effect that the construction work does not constitute a public work of improvement requiring the delivery of the bonds described in subsection 5.4.3 above. Director shall have the authority, in his reasonable discretion, to modify, waive or reduce the amount of any bonds or alternate security required hereunder.

5.4.5 Evidence of Financing. Lessee shall have provided evidence satisfactory to County of its having sufficient financial resources, as determined by Director, to complete the Development Work or Alterations, as applicable. 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.

5.4.6 Work Schedule. With respect to the Development Work, Lessee shall have provided County with a construction schedule which will result in the completion of the Development Work on or before the Required Construction Completion Date, as such dates may be extended as provided in this Article 5.

5.5 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 described in Section 5.1 above and the Subsequent Renovations described in Section 5.13 below, as applicable. 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 25536 or 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.

5.6 Delays in Completion of Development Work. Once construction of the Development Work has been Substantially Commenced, Lessee shall thereafter diligently pursue the completion of such construction by the Required Construction Completion Date. During this period, delays due to fire, earthquake, flood, tornado or other act of God, civil disturbance, war, organized labor dispute, freight embargo or other unforeseeable event reasonably beyond the control of Lessee, or a hidden condition, including without limitation environmental contamination, relating to the foundation, substructure or subsurface of the Premises which was not known to Lessee as of the commencement of such construction activity ("Force Majeure") shall extend the Required Construction Completion Date by the length of time of such delay, although Lessee shall to the extent possible commence and complete the portions, if any, of the Improvements not impacted by such delay within the timeframe set forth in this Lease. For purposes of this Section 5.6, "Force Majeure" shall also include delays in the completion of construction caused (i) by a third party restraining order or injunction (filed by a plaintiff other than County or the California Coastal Commission) obtained after the commencement of construction, subject to Lessee's obligation to diligently pursue the removal or appeal of any such restraining order or injunction, or (ii) by Unreasonable County Activity after the commencement of construction, subject to the procedures set forth in subsection 5.7.2 below for

establishing Unreasonable County Activity. Lessee and Director shall discuss and attempt to agree on the length of time of any entitled delay due to Force Majeure pursuant to this Section 5.6. If they are unable to agree within thirty (30) days after the event or occurrence giving rise to Lessee's claim to an entitlement to a delay under this Section 5.6, the matter shall be arbitrated as set forth in Article 16.

5.7 Extension of Dates. Other than as set forth in Section 5.6 above, the Required Construction Commencement Date and Required Construction Completion Date shall be extended only for the reasons set forth in this Section.

5.7.1 Injunction by Third Party, Nonregulatory Body. The Required Construction Commencement Date shall be extended if the commencement of construction of the Development Work has been enjoined or restrained by a court action commenced by a plaintiff other than County or the California Coastal Commission acting in their governmental capacity. In such case, the Required Construction Commencement Date shall be extended until forty-five (45) days after the restraining order and/or injunction is removed; provided that in no event shall the Required Construction Commencement Date be extended beyond the second (2nd) anniversary of the Effective Date. Whether or not a named party in such action, Lessee shall diligently pursue the removal of any restraining order or injunction so issued and shall exhaust all commercially reasonable efforts to appeal such restraining order or injunction. If the Required Construction Commencement Date is extended pursuant to this subsection 5.7.1, then each of the Required Construction Completion Date shall be extended by the same period of the extension of the Required Construction Commencement Date.

5.7.2 Delay Caused by Unreasonable County Acts. The Required Construction Commencement Date shall be extended if Lessee has been delayed in the obtaining of any permits or other approvals necessary for the commencement of construction due to Unreasonable County Activity. For the purposes of this Lease, the following shall be deemed to be "Unreasonable County Activity": (i) County's failure to provide required joinder, if any, in Lessee's proposals for the Improvements described in the Final Development Work Plans and Specifications before any governmental agency; or (ii) 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; or (iii) County's failure to comply with the time periods imposed upon County under this Article 5, except in the case where a failure of County to notify Lessee of its approval or disapproval of a matter constitutes County's deemed approval of such matter, or constitutes County's deemed disapproval of such matter and County's disapproval of such matter is authorized under the circumstances. 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:

(a) Within a reasonable time under the circumstances, 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. If Lessee fails to notify Director in writing as specified in the immediately preceding sentence within five (5) days following Lessee's discovery of the alleged Unreasonable County Activity, then notwithstanding any contrary provision of this subsection 5.7.2, in no event shall Lessee be entitled to an extension for any period of the delay occurring prior to the date of Lessee's notice described in this paragraph (a).

(b) 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.

(c) 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. If the Required Construction Commencement Date is extended pursuant to this subsection 5.7.2, then the Required Construction Completion Date shall be extended by the same period of the extension of the Required Construction Commencement Date.

5.7.3 Delay in Obtaining Permits or Approvals. Except as otherwise provided in subsection 5.7.4, if as of the Required Construction Commencement Date (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 Construction Commencement Date shall be extended to

forty-five (45) 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 Construction Commencement Date shall not be later than the second (2nd) anniversary of the Effective Date. If the Required Construction Commencement Date is so extended, then the Required Construction Completion Date shall be extended by the same period of the extension of the Required Construction Commencement Date. 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.

5.7.4 Limitation of Extensions. Notwithstanding the foregoing, Lessee shall not be entitled to any extension 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 Final Development Work Plans and Specifications, and (ii) the land use laws and regulations and the Local Coastal Plan (except for any required density transfer between Development Zones) existing as of the date of execution of this Lease by Lessee.

5.7.5 Obligation to Pay Rent. Notwithstanding anything to the contrary contained in this Lease, no extension, relaxation or modification of the requirement to Substantially Commence construction of the Development Work by the Required Construction Commencement Date and complete such Improvements by the applicable Required Construction 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.

5.8 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 caused by such work, and shall restore the area upon which such work is performed to a condition which is at least equal to or better than the condition which existed before such work was commenced. Additionally, Lessee shall pay or cause to be paid all costs and expenses associated therewith and shall indemnify, defend and hold County harmless from and against all damages, costs, expenses, losses or claims arising out of or in connection with the performance of such work, except to the extent that such damages, costs, expenses, losses or claims are caused by County. Dust, noise and other effects of such work shall be controlled using accepted measures customarily utilized in order to control 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 Development Work or Alterations 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, upon at least one (1) Business Day advance notice, 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 as a result of construction activity by Lessee or its contractors, Lessee agrees to repair such damage immediately at no cost or expense to County. Lessee shall add the work necessary to repair such damage to the construction schedule for the Development Work (or other Alteration work, as applicable), and shall complete such repair work in accordance with such schedule; provided that if such damage to County-owned improvements creates a threat to public health and safety or materially adversely affects the condition, appearance or operation of any County-owned improvement or of any other property, then Lessee shall promptly commence the completion of such repair work and complete such repair work as soon as reasonably possible thereafter. In the event that Lessee fails to effectuate such repair in accordance with the foregoing requirements, County may upon written notice to Lessee enter upon the Premises to make such repairs, the Actual Cost of which shall be paid by Lessee within five (5) business days after demand by County. This subsection 5.8.5 shall not be deemed to impose upon Lessee any obligation to repair damage to County-owned improvements existing on or around the Premises if such damage was not incurred as a result of Lessee's construction activities.

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 during normal business hours, 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, and County shall comply with industry safety standards in connection with any such access. 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 Development Work or any Alterations (including the Subsequent Renovation described in Section 5.13), Lessee shall file or cause to be filed in the Official Records of the County of Los Angeles a Notice of Completion (the "Notice of Completion") with respect to the Improvements and Lessee shall deliver to County, at no cost to County, two (2) sets of reproducible final as-built plans and specifications of the relevant Improvements.

5.8.8 Final Completion Certificate. Promptly after completion of the Development Work or the Subsequent Renovations described in Section 5.13, upon Lessee's request, County shall execute and deliver to Lessee a final completion certificate (the "Final Completion Certificate") as to the work which is the subject thereof, which shall conclusively evidence the completion of such work by Lessee in accordance with the terms of this Lease.

5.9 Use of Plans. Contracts between Lessee and any architect, design professional or licensed contractor in connection with Development Work or Alterations shall provide, in form and content reasonably satisfactory to County, for the assignment thereof to County (and Lessee's Encumbrance Holder(s) if required by Lessee's Encumbrance Holder(s)) 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 (or if County enters into a new lease with Lessee's Encumbrance Holder pursuant to Article 12, then Lessee's Encumbrance Holder) 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. The assignment to County and Lessee's Encumbrance Holder(s) described in this Section 5.9 shall be effective until the Final Completion Certificate for the subject work is issued, and shall be subordinate to the security interest, if any, of Lessee's construction lender in the assigned contract, which subordination shall be in a form reasonably acceptable to Lessee's construction lender.

5.10 Where Director Approval Not Required. Notwithstanding the foregoing, and notwithstanding anything to the contrary in this Article 5, Lessee shall not be required to seek or obtain the approvals of Director described in this Article 5 (including those set forth in Section 5.3) for Alterations where all of the following conditions are satisfied: (i) the total cost of the project is less than One Hundred Thousand Dollars ($100,000), adjusted annually to reflect the increase or decrease in the ENR Index from and after the Effective Date (provided, however, that in no event shall such adjustment result in a reduction of the threshold for Director approval to

less than One Hundred Thousand Dollars ($100,000); (ii) none of the proposed construction activity is structural in nature; and, (iii) none of the proposed construction, additions, modifications or changes affect or are visible from the exterior of the Premises; provided, however, that whenever Lessee makes or constructs or permits any improvements in or to the Premises, Lessee shall (a) give written notice thereof (including a description of the work to be done and the permits obtained for such work), and (b) furnish a copy of "as-built" plans upon completion of such work to County.

5.11 County's Inducement. Lessee acknowledges that the principal inducement to County to enter into this Lease is the timely improvement of the Premises by Lessee with the Development Work described in Section 5.1 above. Accordingly, Lessee expressly acknowledges that any failure by Lessee to perform its obligations under such Section 5.1 in all material respects by the dates set forth herein (as such dates may be extended pursuant to Section 5.6 or 5.7) shall constitute a material breach of and default under the Lease by Lessee which entitles County to exercise any and all rights and remedies which County may have as a result thereof, under this Lease, at law and/or in equity.

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 County's interest in 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's interest in the Premises 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 under this Article 5, 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 Development Work or any Alterations or other Improvements on the Premises. 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 any one of the following, as determined by Lessee: (i) the bond described in California Civil Code Section 3143, or successor statute, which results in the removal of such lien from the Premises, (ii) a Set Aside Letter from Lessee's construction lender, in form and substance reasonably satisfactory to County, setting aside sufficient funds from Lessee's construction loan for the satisfaction of such lien, or (iii) a title insurance policy or endorsement insuring County against any loss or liability arising out of such lien, 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 Renovation Fund/Subsequent Renovations. During the period from the eleventh (11th) Lease Year following the Effective Date through the fortieth (40th) Lease Year following the Effective Date, Lessee shall establish and maintain a reserve fund (the "Renovation Fund") in accordance with the provisions of this Section 5.13 for the cost of capital renovations to the Improvements as described in this Section 5.13. Lessee and County agree and acknowledge that the purpose of the Renovation Fund shall be to provide funds for a renovation of the common areas and exterior of the Improvements on two separate occasions, once during the period from the nineteenth (19th) through twenty-second (22nd) Lease Years following the Effective Date and again during the period from the thirty-ninth (39th) through forty-second (42nd) Lease Years following the Effective Date (each, a "Subsequent Renovation"). Each of the Subsequent Renovations shall proceed in accordance with (i) a schedule that provides for the completion of the Subsequent Renovation prior to the completion of the twenty-second (22nd) or forty-second (42nd) Lease Year following the Effective Date, as applicable, and (ii) a renovation plan approved by the Director that provides for the revitalization and upgrade of the common areas and exterior of the Improvements to a condition and appearance at least equal to that of other first class residential apartment projects then recently constructed or being constructed in Marina del Rey.

Prior to the commencement of the construction work for a Subsequent Renovation, Lessee shall submit to Director a renovation plan for such Subsequent Renovation, which renovation plan ("Subsequent Renovation Plan") shall (a) describe the proposed renovation work in detail reasonably acceptable to Director, (b) include a design, governmental approvals and construction schedule for the work, (c) include a budget for all work costs, and (d) address such other matters as Director reasonably requests. The Subsequent Renovation Plan shall be submitted by Lessee to County not later than such date (taking into consideration the approval periods described in this Section 5.13 and Section 5.3 above, the estimated time required to obtain all necessary governmental approval and permits, and the estimated time required to complete the work) as will permit the completion of the work by the required completion date under this Section 5.13. Director shall have sixty (60) days within which to reasonably approve or disapprove the Subsequent Renovation Plan, or to approve the Subsequent Renovation Plan subject to conditions imposed by Director in its reasonable judgment. Failure of Director to notify Lessee in writing of its approval or disapproval of the Subsequent Renovation Plan shall be deemed Director's disapproval of the Subsequent Renovation Plan. Upon Director's approval of the Subsequent Renovation Plan, Lessee shall proceed to satisfy all conditions in this Article 5

to the commencement of the Subsequent Renovation and to commence and complete the Subsequent Renovation in accordance with the Subsequent Renovation Plan and the terms and conditions of this Article 5. Director's approval of the actual plans and specifications for the Subsequent Renovations shall proceed in accordance with the protocol for plan submission and approval set forth in Section 5.3 of this Lease, except that the schematic plan submittal requirements set forth in subsection 5.3.1 shall not be applicable to the extent that the Subsequent Renovation Plan approved by Director satisfies the requirements of such subsection 5.3.1. Lessee's failure to comply with the schedule approved by Director as part of a Subsequent Renovation Plan and/or to meet the completion deadline pertaining to the Subsequent Renovation set forth in this Section 5.13 shall, if not cured within the cure period set forth in subsection 13.1.2, constitute an Event of Default. Any dispute as to whether Director has failed to exercise reasonable judgment in the approval or disapproval of the Subsequent Renovation Plan shall be submitted to arbitration pursuant to Article 16 of this Lease. If the arbitrator determines that Director failed to exercise reasonable judgment in the approval or disapproval of the Subsequent Renovation Plan and as a result thereof Lessee is delayed in the completion of the Subsequent Renovation by the required completion date set forth in the first paragraph of this Section 5.13, then the required date for the completion of such Subsequent Renovation shall be extended by the duration of the delay caused by Director's failure to reasonably approve the Subsequent Renovation Plan, provided that the required date for the completion of the Subsequent Renovation shall not be extended beyond the date reasonably required Lessee for the completion by Lessee of the Subsequent Renovation.

The Renovation 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 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 5.13. On or before the fifteenth (15th) day of each calendar month commencing with the month of February during the eleventh (11th) Lease Year following the Effective Date and continuing through the month of January of the forty-first (41st) Lease Year following the Effective Date, Lessee shall make a deposit to the Renovation Fund on a monthly basis in the amount of one percent (1%) of Gross Receipts received during the preceding month. All interest and earnings on the Renovation Fund shall be added to the Renovation Fund, but shall not be treated as a credit against, or otherwise reduce, the deposits required to be made by Lessee to the Renovation Fund. 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 5.13. 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 Subsequent Renovation Plan for such Subsequent Renovation and Lessee has furnished to Director evidence reasonably satisfactory to Director that Lessee has sufficient financial resources to pay for all costs of such Subsequent Renovation. All remaining amounts in the Renovation Fund shall be used for the costs of the Subsequent Renovation Plan to be implemented by Lessee by the end of the forty-second (42nd) Lease Year following the Effective

Date, and Lessee shall not be required to make further contributions to the Renovation Fund after the month of January of the forty-first (41st) Lease Year following the Effective Date.

In lieu of the periodic Renovation Fund contributions described in this Section 5.13, Lessee agrees that Director shall have the authority, in the exercise of the Director's discretion, to consider the delivery by Lessee of substitute security acceptable to Director (e.g., a letter of credit or bonding mechanism) to secure the performance by Lessee of the Subsequent Renovations described above in this Section 5.13. Such substitute security shall be in not less than the same amounts and delivered not later than the same times, as amounts that would have otherwise been required to be delivered into the Renovation Fund.

5.14 Capital Reserve Fund. In addition to the Renovation Fund described in Section 5.13 above, during the period commencing with the eleventh (11th) Lease Year after the Effective Date and continuing through the end of the Term, Lessee shall establish and maintain a reserve fund (the "Capital Reserve Fund") in accordance with the provisions of this Section 5.14 for the cost of Permitted Capital Expenditures (as defined below) for the Premises. Lessee and County agree and acknowledge that the purpose of the Capital Reserve Fund shall be to provide funds for the costs of additions, replacements, renovations or significant upgrades of or to the Improvements on the Premises, including building exteriors and major building systems (such as HVAC, mechanical, electrical, plumbing, vertical transportation, security, communications, structural or roof) that significantly increase the capacity, efficiency, useful life or economy of operation of the Improvements or their major systems, after the completion of the Development Work ("Permitted Capital Expenditures"). Notwithstanding any contrary provision hereof, the Capital Reserve Fund shall not be used to fund any portion of the cost of the Subsequent Renovations described in Section 5.13 above. In addition, Permitted Capital Expenditures shall not include the cost of periodic, recurring or ordinary expenditures, repairs or replacements that keep the Improvements in a good, operating condition, all of which costs shall be separately funded by Lessee. By way of example, set forth on Exhibit F attached to this Lease are categories of Permitted Capital Expenditures that qualify as proper costs to be funded from the Capital Reserve Fund. All purposes and costs for which Lessee desires to utilize amounts from the Capital Reserve Fund shall be subject to Director's approval, which approval shall not be unreasonably withheld.

The Capital Reserve 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 5.14. The amounts to be added to the Capital Reserve 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.

On or before the fifteenth (15th) day of each calendar month during the Term commencing with the month of February in the eleventh (11th) Lease Year following the Effective Date and continuing during the remainder of the Term, Lessee shall make a deposit to the Capital Reserve Fund on a monthly basis in the amount of one percent (1%) of Gross Receipts received during the preceding month. All interest and earnings on the Capital Reserve Fund shall be added to the Capital Reserve Fund, but shall not be treated as a credit against the

Capital Reserve Fund deposits required to be made by Lessee pursuant to this Section 5.14. Disbursements shall be made from the Capital Reserve 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 Capital Reserve Fund disbursements, Lessee shall submit to Director on an annual basis on or before the commencement of the eleventh (11th) Lease Year after the Effective Date and each anniversary thereafter a capital expenditure plan for the upcoming year which details the amount and purpose of anticipated Capital Reserve Fund expenditures for which Lessee requests Director's approval, which approval shall not be unreasonably withheld. Any anticipated expenditure set forth in such capital expenditure plan which is approved by Director as an acceptable Capital Reserve Fund disbursement shall be considered pre-approved by Director (but only up to the amount of such expenditure set forth in the annual capital expenditure plan) for the duration of the upcoming year. Lessee shall have the right during the course of each year to submit to Director for Director's approval revisions to the then current capital expenditure plan in effect for such year or individual expenditures not noted on the previously submitted capital expenditure plan. Prior to the disbursement of any amounts from the Capital Reserve 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 Reserve Fund. As long as Lessee is not then in default under the Lease, including without limitation, its obligations under this Section 5.14, if, and at such time during the last ten (10) years of the Term as, County notifies Lessee that County shall require the removal of Improvements at the end of the Term pursuant to subsection 2.5.2, Lessee shall have the right to use all remaining amounts in the Capital Reserve Fund for Improvement removal fund purposes under such subsection 2.5.2.

5.15 Parking Contribution Reconciliation. Pursuant to the Option Agreement Lessee has deposited with County the "Parking Facility Construction Cost Deposit" as Lessee's portion of the estimated "Parking Facility Construction Costs", to construct the "Parking Facility" upon or in which the "Replacement Parking Obligation" (all as defined in the Option), shall be satisfied. Not later than ninety (90) days following completion of the Parking Facility and receipt by County of a Certificate of Occupancy for the Parking Facility (or, if no Certificate of Occupancy is required, then upon the opening of the Parking Facility to the general public), County shall provide to Lessee a final "Parking Facility Construction Cost Report" reasonably satisfactory to Lessee, which shall include, without limitation, detail of all hard and soft costs for the construction of the Parking Facility (along with copies of all contracts, invoices, evidences of payment and all other background material reasonably requested by Lessee) compared with the "Parking Facility Construction Budget", as defined in the Option, approved by Lessee. Any developer fees and construction management fees shall not exceed prevailing market rates for such services. No construction financing interest shall be included in the Parking Facility Construction Costs except to the extent of interest actually incurred if the construction of the Parking Facility is financed, provided that the interest rate shall not exceed the prevailing interest rate charged by institutional lenders on similar construction loans to financially creditworthy borrowers at the time of the acquisition of construction financing for the Parking Facility. No penalty charges or any charges incurred by County as a result of its mismanagement or negligence in the construction of the Parking Facility shall be included. The Parking Facility Construction Cost Report shall also include the calculation of the proportionate share of the Parking Facility Construction Costs to be paid by Lessee (the "Lessee Parking Facility Construction Cost Share").

If the Lessee Parking Facility Construction Cost Share is less than the Parking Facility Construction Cost Deposit, County shall immediately remit to Lessee the difference together with the Parking Facility Construction Cost Report. If the Lessee Parking Facility Construction Cost Share is greater than the Parking Facility Construction Cost Deposit, Lessee shall remit to County the difference within sixty (60) days following receipt of the Parking Facility Construction Cost Report.

Lessee shall have the right to conduct an audit following delivery of the Parking Facility Construction Cost Report; provided, however, that the conduct of such audit shall not delay any payment required to be made by Lessee to County in the immediately preceding paragraph. County shall cooperate with the audit and provide the auditor all information reasonably requested.

If there is any dispute concerning the Parking Facility Construction Costs either before or following the audit, County and Lessee shall meet at their mutual convenience in order to resolve the dispute. If such meeting fails to resolve the dispute it shall be submitted to arbitration pursuant to Article 16 of this Lease. If following completion of the audit (or any arbitration) it is determined that an overpayment was made by Lessee, then County shall return the overpayment to Lessee within thirty (30) days following the determination of the amount of the overpayment.

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 4.2.3 above, if any, for the purposes of adjusting the Annual Minimum Rent, all Annual Minimum Rent and Percentage Rent paid by Lessee to County prior to the date of the Partial Taking shall be adjusted, for the purposes of this calculation only, to the proportion that the fair market value of the portion of the Premises which remains after the taking bears to the fair market value of the entire Premises immediately prior to the taking. If the parties cannot agree upon the appropriate Annual Minimum Rent, the matter shall be settled through arbitration in the manner set forth in Article 16 hereof. Any determinations of fair market value made pursuant to this Section 6.5 in connection with any arbitration proceeding shall be predicated upon the "income approach" or "income capitalization approach" to property valuation, as defined in The Dictionary of Real Estate Appraisal and/or The Appraisal of Real Estate, published by the Appraisal Institute or any successor organization (the "Income Approach"). All other obligations of Lessee under this Lease, including but not limited to the obligation to pay Percentage Rent, shall remain in full force and effect.

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

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

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

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

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

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

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

Second: There shall be paid to any Encumbrance Holder an amount equal to the sum of any unpaid principal amount of any Encumbrance secured by the Premises

plus costs, expenses, and other sums due pursuant the loan documents, if any, and any interest accrued thereon, all as of the date on which such payment is made; and then

Third: There shall be paid to Lessee an amount equal to the value of Lessee's interest in the remainder of the Term of this Lease, including the value of the ownership interest in and use of the Improvements constructed on the Premises, determined as of the date of such taking, less payments made under paragraph Second above. For such purposes, the Term of this Lease shall not be deemed to have terminated even if Lessee so elects under Section 6.4.

Fourth: The balance shall be paid to County.

If County is the condemning authority in connection with a total taking or a partial taking that results in the termination of the Lease, and the taking pertains to only Lessee's interest, then Lessee shall be entitled to the entire amount of any Net Awards and Payments.

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. On or prior to the Effective Date, Lessee shall deliver to County a security deposit (the "Security Deposit") in the amount of one-fourth (1/4) of the Annual Minimum Rent. Effective as of the fifth (5th) anniversary of the Effective Date and each and every subsequent fifth (5th) anniversary thereafter during the remainder of the Term, the Security Deposit maintained by Lessee with County shall be adjusted to a sum equal to one-fourth (1/4) of the total Annual Rent which was payable by Lessee for the immediately preceding calendar year; provided, however, in no event shall the Security Deposit ever be reduced below the amount of the Security Deposit required to be in effect prior to such adjustment. The Security Deposit shall secure Lessee's obligations pursuant to this Lease, and may be drawn on by County, in whole or in part, to cover (a) delinquent rent not paid by Lessee within any applicable notice and cure period, and (b) any other Events of Default of Lessee under this Lease. The Security Deposit shall be applied at the discretion of County. Lessee shall have the right to maintain the Security Deposit in form of cash or in lieu or replacement of the cash Security Deposit requirement described above, in the form of a certificate of deposit, letter of credit or other approved investment instrument acceptable to County with respect to form, content and issuer. As long as no Event of Default by Lessee exists under the Lease, Lessee shall be entitled to any interest or other earnings which are actually earned on any unapplied portions of the Security Deposit delivered to County in the form of a certificate of deposit or other approved investment instrument (as opposed to cash, on which Lessee shall not be entitled to interest). Provided that no Event of Default then exists under the Lease, at the end of each

Lease Year Lessee shall be entitled to a credit for all unexpended interest accruing to Lessee's benefit with respect to the Security Deposit during such Lease Year pursuant to the immediately preceding sentence. Notwithstanding any contrary provision hereof, County shall have the right at any time to apply any accrued but uncredited interest (which accrued during non-Event of Default periods) against delinquent rents and other amounts owed by Lessee under the Lease.

7.2 Replacement. In the event that some or all of the Security Deposit is drawn against by County and applied against any delinquent rent not paid by Lessee within any applicable notice or cure period, or against other Events of Default of Lessee hereunder, Lessee shall, within ten (10) 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 ten (10) 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 (other than the Promenade and the Seawall) 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, (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 [IF ALTERNATIVE 1 IN SECTION 5.2: , or (d) the construction work performed by or on behalf of Lessee with respect to the Wetland Park]. The obligation of Lessee to so relieve, indemnify, protect, and save harmless County and each of its respective Boards, officers, agents,

consultants, counsel, employees and volunteers, shall continue during any periods of occupancy or of holding over by Lessee, its agents, officers, employees, licensees, concessionaires, permittees or Sublessees, beyond the expiration of the Term or other termination of this Lease. Notwithstanding anything in this Lease to the contrary, Lessee and County acknowledge that their respective liability, if any, arising out of the operation, maintenance, use and/or occupation of the Promenade shall be governed by Applicable Law.

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:	$20,000,000
Products/Completed Operations Aggregate:	$20,000,000
Personal and Advertising Injury:	$10,000,000
Each Occurrence:	$10,000,000

Lessee may satisfy the above coverage limits with a combination of primary coverage ("Primary Coverage") and excess liability coverage ("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, and (b) the combination of such Primary Coverage and Umbrella Coverage provides County with the same protection as if Lessee had carried primary coverage for the entire limits and coverages required under this Section 9.1.1.

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 One Million Dollars ($1,000,000) of Primary Coverage and One Million Dollars ($1,000,000) of Umbrella Coverage, for each accident and providing coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto." During any period of operation of valet parking facilities, 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 Three Million Dollars ($3,000,000) 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:	$1,000,000
Disease - policy limit:	$1,000,000
Disease - each employee:	$1,000,000

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 Improvements, 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 eighteen (18) months of rent, with proceeds payable to Lessee and County as their interests may appear and utilized for repair and restoration of the Premises and Improvements. Notwithstanding the foregoing, during any period during which no Improvements exist on the Premises or all of the existing Improvements are being demolished in connection with the construction of Development Work, the obligation to provide insurance under this subsection 9.1.4 shall not be applicable so long as the insurance coverage described in subsection 9.1.5 below is carried.

9.1.5 For construction projects, including the Development Work, or any Alterations or restoration on the Premises, Lessee or Lessee's contractor or subcontractors 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 reasonably required by the County for the Development Work or Alterations. The products/completed operations coverage shall continue to be maintained for the following periods: (a) in the case of the Development Work, three (3) years after the date the Development Work is completed and accepted by the Lessee, or (b) in the case of Alterations after the completion of the Development Work, such period after the date such Alterations are completed and accepted by Lessee as reasonably

determined by County, but not to exceed three (3) years after such completion and acceptance.

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 reasonably required by the County for the Development Work or 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.). This coverage shall also provide an extended two-year reporting period commencing upon termination or cancellation of the construction project. The limits of the coverage required under this subsection 9.1.5.4 shall be (a) Three Million Dollars ($3,000,000) with respect to the prime architect for the Development Work (or such lesser amount as required by Director for the prime architect in connection with any subsequent Alterations), and (b) One Million Dollars ($1,000,000) with respect to each other contractor, subcontractor, architect, engineer, surveyor or other licensed professional rendering services in connection with the design or construction of the Development Work or subsequent Alterations, provided that Director shall have the discretion to reduce the coverage limits under this clause (b) if appropriate in the judgment of Director based on the nature and scope of the services being provided.

9.1.5.5 Asbestos Liability or Contractors Pollution Liability insurance, if construction requires remediation of asbestos or pollutants, and if such insurance is available. 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 order. 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 reasonably required by the County for the Development Work or 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), which limits may be covered by a combination of Primary Coverage and Umbrella Coverage. 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 Development Work or 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 or such other commercially reasonable amount as approved by the Director; 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 days 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) to the extent of the indemnification obligations of Lessee in favor of any additional insureds, the property and commercial general liability insurance policies shall provide coverage on a primary and non-contributory basis with respect to such 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 notify County of any accident or incident on or about the Premises which involves injury or property damage over Fifty Thousand Dollars ($50,000.00) in the aggregate and pursuant to which a claim against Lessee and/or County is made or threatened. Such notification shall be made in writing within 72 hours after Lessee first becomes aware of the claim or threatened claim.

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 (including the Promenade, but excluding the Excluded Conditions and excluding the Seawall), in conformance with the Minimum Standards regarding the use and occupancy of residential apartment buildings in Marina del Rey (such as the Premises) as revised from time to time by County in a manner consistent with commercially reasonable maintenance standards applicable to other comparable residential apartment buildings in Marina del Rey (the "Maintenance Standard"). Any dispute as to whether revisions to the Maintenance Standard adopted by the County from time to time pursuant to the immediately preceding sentence are commercially reasonable shall be submitted to arbitration pursuant to Article 16 of this Lease. 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 (including the Promenade) 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, the Maintenance Standard and the terms and provisions of this Article 10. Lessee shall maintain all Improvements on the Premises (other than the Excluded Conditions and the Seawall) in a safe, clean, wholesome and sanitary condition, in the commercially reasonable judgment 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 necessary in the commercially reasonable judgment of the Director to maintain the appearance of the Premises in a manner consistent with the Maintenance Standard. 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. The exclusion of the Excluded Conditions and the Seawall from Lessee's maintenance obligations under this Section 10.1 shall not relieve Lessee from the obligation to repair and restore any damage to the Excluded Conditions and/or the Seawall caused by Lessee, its agents, employees, subtenants or contractors, or by Improvements

constructed by or on behalf of Lessee, and Lessee hereby agrees to perform such repair or restoration work at Lessee's sole cost and expense.

10.2 Intentionally Omitted.

10.3 Intentionally Omitted.

10.4 Deficiency Notices. 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 this Article 10, then Lessee shall promptly commence the cure thereof and shall complete such cure within the time period for such cure set forth in the County's deficiency notice, which cure period shall not be less than thirty (30) days except if the deficiency pertains to a condition that is a threat to health or safety or otherwise constitutes an emergency situation, in which case County shall have the right to immediately require Lessee to take all appropriate steps to avoid damage or injury. If Lessee fails to cure any such deficiency within the cure period set forth in County's deficiency notice (which cure period shall comply with the requirements of the immediately preceding sentence of this Section 10.4), then in addition to, and not in lieu of, any rights or remedies that County may have under Article 13 of this Lease for defaults not cured within the applicable notice and cure periods set forth therein, Lessee shall pay to County an amount equal to One Hundred Dollars ($100) per day per item of deficiency for each day after such cure period that the deficiency item remains uncured; provided, however, if the nature of the deficiency is such that it is not capable of cure within the cure period specified in County's notice (for example, as a result of permitting requirements or construction material procurement delays beyond the control of Lessee), then as long as during the specified cure period Lessee commences the cure of the deficiency and thereafter continues the prosecution of the completion of such cure in a manner and with such diligence that will effectuate the cure in as short a period as reasonably possible, then the cure period specified in County's deficiency notice shall be extended for such additional time as necessary to complete the cure in as short a period as reasonably possible.

For purposes of determining the number of items of deficiency set forth in a deficiency notice received from the County, County shall reasonably identify the separate deficiencies so as not to unfairly increase the daily amount payable under this Section 10.4 by separating the work into unreasonably particularized items (e.g., the requirement to paint the exterior of a building shall not be split into individual deficiency items for the painting of each individual door, window or other component of such building). If a cited deficiency is not health or safety related and does not otherwise constitute an emergency, and if in the reasonable and good faith business judgment of Lessee the deficiency notice was erroneously issued by County, then Lessee shall have the right to contest such deficiency notice by written notice to Director within five (5) business days after the date the deficiency notice is received by Lessee. If Lessee files any such contest with Director, then Director shall have the right, in the exercise of Director's discretion, to consider such contest. If Lessee's contest is made on a reasonable and good faith basis, then the cure period for the deficiency notice shall be tolled during the period between the date Director receives written notice of such contest and continuing until Director notifies Lessee in writing that either Director denies Lessee's contest or that Director has determined not to consider such contest, and the daily penalty set forth above in this Section 10.4 shall not be applicable during the period that the cure period is tolled. The One Hundred Dollars

($100) per diem amount set forth in this Section 10.4 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 10.4 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.

10.5 Option to Terminate for Uninsured Casualty. In the event of any damage to or destruction of the Premises, or any Improvements located thereon (other than the Excluded Conditions and the Seawall, except to the extent damage thereto is caused by the Lessee, its agents, employees, subtenants or contractors, or by Improvements constructed by or on behalf of Lessee), Lessee shall, except as otherwise expressly provided in this Section 10.5, promptly (taking into consideration the necessity of obtaining approvals and permits for such reconstruction) repair and/or restore such Improvements to their condition existing prior to the damage or destruction. Except as otherwise expressly provided in this Section 10.5, such obligation to repair and restore is absolute, and is in no way dependent upon the existence or availability of insurance proceeds. Repair and restoration of any damage or destruction shall take place in accordance with the provisions of Article 5. Notwithstanding the foregoing, 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 the Premises (other than the Excluded Conditions and the Seawall) 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:

10.5.1 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 10.5.1. 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.

10.5.2 No more than sixty (60) days following the giving of the notice required by subsection 10.5.1 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.

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

10.5.4 Within ten (10) days following the County's receipt of the notice referred to in subsection 10.5.1, 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.

10.6 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.

10.7 No County Obligation to Make Repairs. County shall have no obligation whatsoever to make any repairs or perform any maintenance on the Premises; provided, however, that Director shall in its good faith discretion consider the application of funds toward the maintenance, repair and replacement of the existing seawall protecting the Premises (the "Seawall") if and to the extent such funds are made available to Director for such uses by County and its Board of Supervisors. Director shall undertake such maintenance, repair and replacement, if any, with due diligence consistent with the funding provided. In the event the Seawall is in imminent danger of collapse or has collapsed, Director shall promptly seek funding from the Board of Supervisors for repair or replacement as may be necessary to avoid or repair such collapse. If County is obligated to maintain or repair the Seawall under the terms of a lease between the County and any other lessee in Marina del Rey, or if County in fact maintains or repairs the Seawall for the benefit of any other lessee in Marina del Rey, County shall have the same obligation(s) with respect to the Seawall protecting the Premises. Except as expressly provided in this Section 10.7, County shall have no obligation to maintain or repair the Seawall.

10.8 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.

10.9 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. Any entry by County onto the Premises pursuant to this Section 10.9 and any entry onto the Premises to perform work on the Seawall pursuant to Section 10.7 above, shall be made in accordance with the following requirements: (i) prior to entry onto the Premises County shall cause each of its contractors to provide to Lessee evidence that such contractor has procured commercial general liability insurance coverage pertaining to such contractor's activities on the Premises, which insurance coverage shall be consistent with County's insurance requirements generally applicable to County contractors, and shall name Lessee as an additional insured; (ii) County's contractors shall comply with industry standard safety requirements; (iii) County shall repair, or cause its contractors to repair, any damage to the Premises caused by the activities of County and/or it contractors on the Premises pursuant to this Section 10.9 or Section

10.7 above; and (iv) any entry onto the Premises by County or its contractors for the purpose of performing work pertaining to the Seawall shall be confined to the Promenade and the fire access lane over the Premises, except in extraordinary circumstances to the extent that due to the scope or nature of the work and/or due to safety concerns, the work cannot reasonably be confined to such area. In any such extraordinary situation County and Lessee agree to cooperate to define a work and/or access area that is reasonably acceptable to both parties.

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

10.11 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 Apartment Lease (as defined below), or of any assignment or material amendment of such Sublease, Lessee shall submit a copy of such Sublease (or assignment or amendment thereof), to Director for approval, which approval shall not be unreasonably withheld. 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 apartment 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 apartment lease hereafter submitted to and approved by County and the term of such Sublease does not exceed twelve (12) months (each, an

"Approved Apartment Lease"). The terms and provisions of Sections 11.2 and 11.3 of this Lease shall not be applicable to Approved Apartment Leases. Upon request by County, Lessee shall furnish County with a current rent roll respecting the Approved Apartment Leases and a copy of all of such Approved Apartment Leases.

11.1.3 Major Sublease. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable residential apartment 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 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"), and which shall be applied in a commercially reasonable manner, 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. Notwithstanding the foregoing, Lessee shall have the right, without the prior approval of County, to retain an affiliate of Lessee as the property manager for the Premises. Any Change of Ownership that is not an Excluded Transfer shall constitute an assignment of Lessee's interest under this Lease. In addition, for purposes of this provision, the following acts of Lessee (except for Excluded Transfers) shall require the prior written consent of County to be effective: (1) the addition, removal or replacement of one or more general partners or managing members in a Lessee which is a limited partnership or limited liability entity, except (a) by death, insolvency, incapacity, resignation (except for a sole general partner, if any) or removal of a general partner or managing member and his replacement by a vote of the limited partners, the remaining general partners or remaining members, or (b) if any general partner or managing member owning more than fifty percent (50%) of the interests of the partnership or limited liability entity acquires the interest of another general partner or managing member owning fifteen percent (15%) or less of the interests in the partnership or limited liability entity; or (2) the sale, assignment, or transfer of fifty-percent (50%) or more of the stock, partnership interests or limited liability company interests in an entity which owns, or is a general partner or managing member of an entity which owns, an interest in this Lease; provided, however, that with respect to any sale, assignment or transfer of an AIG Entity or ownership interests therein, the phrase "fifty percent (50%) or more" in clause (2) above shall be changed to "more than fifty percent (50%)." Lessee shall provide County with any information reasonably requested by County in order to determine whether or not to grant approval of the matters provided herein requiring County's consent. These same limitations and approval requirements as to Lessee's interest under the Lease shall also 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 withhold or unreasonably 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 of the Lessee's interest in this Lease (as opposed to ownership interests in Lessee itself) 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 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 its Actual Costs incurred in connection with the proposed assignment, whether or not County ultimately grants its approval to the proposed assignment (without duplication with any Administrative Charge payable under Section 4.6).

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

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

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

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

(c) Financial Analysis. County shall be provided with the proposed assignee's financing plan for the operation of the Premises (unless the assignment is pursuant to a Change of Ownership that is an Excluded Transfer or is pursuant to a Change of Ownership that involves the transfer of only beneficial ownership interests in the constituent owners of Lessee, and following such transfer there is no intended change in the financing plan for the operation and improvement of the Premises) and for any contemplated improvement thereof, demonstrating such proposed assignee's financial capability to so operate the Premises and construct such improvements. Such financing plan shall include, but not be limited to, information detailing (1) equity capital; (2) sources and uses of funds; (3) terms of financing; (4) debt service coverage and ratio; and (5) loan to value ratio. The proposed assignee shall also provide County with documentation demonstrating such proposed assignee's financial viability, such as letters of commitment from financial institutions which demonstrate the availability of sufficient funds to complete any proposed construction or improvements on the Premises. Further, such proposed assignee shall authorize the release of financial information to County from financial institutions relating to the proposed assignee or other information supplied in support of the proposed assignment.

(d) Business Plan. County shall be provided with the proposed assignee's business plan for the Premises (unless the assignment is pursuant to a Change of Ownership that constitutes an Excluded Transfer or is pursuant to a Change of Ownership that involves the transfer of only beneficial ownership interests in the constituent owners of Lessee, and following such transfer there is no intended change in the business plan for the Premises), including pro forma financial projections for the Premises for the five (5) year period beginning upon the commencement of the proposed assignment. Such pro forma projections will include capital costs, income and expenses, as well as debt service and all other payments to providers of debt and equity, and will be accompanied by a

statement of basic assumptions and an identification of the sources of the data used in the production of such projections.

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

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

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

(h) Other Information. County shall be provided with a clear description of the terms and conditions of the proposed assignment, including a description of the proposed use of the Premises and any proposed alterations or improvements to the Premises. Additionally, County shall be provided with any and all other information which it reasonably requests of Lessee to assist in 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 and a ground lessor's estoppel certificate 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. The terms and provisions of this subsection 11.2.4 shall be applicable only on and after March 1, 2021 and continuing during the remaining Term of the Lease. 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"), on or after March 1, 2021, 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 during the nine (9) month period following the later of (a) or (b), Lessee shall be entitled to enter into an agreement to consummate the Proposed Transfer with a third party (subject to County's approval rights as otherwise set forth in this Lease) so long as (1) the actual price for the Proposed Transfer is equal to or greater than the Lessee Sale Price last offered to County and upon no more favorable material terms to the assignee, and (2) the transfer is consummated not later than twelve (12) months after the later of (a) or (b). In the event of a proposed Major Sublease or other permitted assignment of less than all of the Premises, County's election shall pertain to such portion of the Premises subject to the proposed Major Sublease or assignment and, in the event that County elects to acquire such portion of Lessee's interest in the Premises, Lessee's Annual Minimum Rent shall be proportionally reduced and Lessee's obligation to pay Percentage Rent shall pertain only to the amounts derived from the portion of the Premises retained by Lessee. In the event that County elects to recapture all or any portion of the Premises as provided herein, Lessee agrees to execute promptly a termination agreement and such other documentation as may be reasonably necessary to evidence the termination of this Lease, to set a termination date and to prorate rent and other charges with respect to the termination. 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 (including a provisional credit in an amount reasonably acceptable to County for any amounts that may arise from an audit by County, but that have not yet been determined as of that date), 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 the case of any unpaid rental amounts that may be found to be owing to County in connection with any uncompleted audit by County, in lieu of a provisional credit for such amounts, 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.

11.4 Family Transfers. Notwithstanding any contrary provision of this Article 11, the County's approval shall not be required, nor shall the County's rights of recapture under subsection 11.2.4 be applicable, with respect to any transfer of ownership interests in Lessee or in constituent entities of Lessee, if such transfer is to a member of the immediate family of the transferor (or to a trust for the benefit of a member of the immediate family of the transferor) for estate planning purposes, whether such transfer is the result of gift, devise, intestate succession or operation of law.

11.5 Property Management. Notwithstanding any contrary provision of this Article 11, Lessee shall be permitted to hire one or more management companies of its choosing for property management of the Premises and/or may conduct such property management activities

using its own staff. Any management company hired by Lessee to perform property management of the Premises shall at the time of such engagement (a) have at least five (5) years' of experience in the operation and management of at least 2,000 rental apartments, without material violations of law or discrimination, and (b) have a valid license to manage residential dwelling units issued by the California Department of Real Estate (or its successor). To the extent Lessee uses Lessee's own staff for property management of the Premises, Lessee's own staff at the time of such engagement shall have at least (i) five (5) years' of experience in the operation and management of at least 2,000 rental apartments, without material violations of law or discrimination, and (ii) have a valid license to manage residential dwelling units issued by the California Department of Real Estate (or its successor).

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 Section 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 and all affiliates 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 which have 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 affiliates shall enjoy all of the rights and protections given 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 Event(s). 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 (thirty (30) days for the initial construction loan for the Development Work) to grant or withhold approval of the preliminary loan package. Director shall have sixty (60) days (thirty (30) days for the initial construction loan for the Development Work) 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 (1) copy of any and all security devices or instruments as finally executed or recorded by the parties in connection with any approved Encumbrance shall be filed with Director not later than seven (7) days after the effective date thereof. 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.

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 Section 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 above.

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 Section 12.3.7 below, following any Foreclosure Transfer which is a transfer of Ownership Interests, the foregoing rights under this Section 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 Fee 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 definition 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 Section 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 and renovation work described in Sections 5.1, 5.2 or 5.13 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 Section 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 10.4 in the case of emergency situations), 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 10.4.

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 on County's fee interest in the Premises, 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 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.

12.12 Intentionally Omitted

12.13 Intentionally Omitted

[12.14 Supplemental Agreement With Initial Encumbrance Holders. County, Lessee, and the initial Encumbrance Holder(s) of this Lease [i.e., (i) _____ (holder of an Encumbrance which encumbers Lessee's leasehold interests under this Lease) and (ii) _____ (holder of an Encumbrance which encumbers all of the Ownership Interests in Lessee)], have entered into a Ground Lessor's Consent and Agreement of substantially even date with this Lease which will be recorded in the Official Records of Los Angeles County, containing (among other things)

provisions that alter and supplement certain provisions of this Article 12 and other provisions of the Lease (the "Ground Lessor's Consent and Agreement"). For so long as such initial Encumbrances are outstanding, this Article 12 (and any other provisions of this Lease, to the extent applicable) shall be subject to the provisions of the Ground Lessor's Consent and Agreement, and the provisions of the Ground Lessor's Consent and Agreement shall govern in the event of any conflicts with this Lease.]

13. DEFAULT.

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

13.1.1 Monetary Defaults. The failure of Lessee to pay the rentals due, or make any other monetary payments required under this Lease (including, without limitation, Extension Payments or deposits to the Renovation Fund or Capital Reserve Fund), within ten (10) 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, if any, within such ten (10) day period.

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

13.1.3 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. Notwithstanding any contrary provision of this Section 13.1.3, the proviso set forth in the immediately preceding sentence providing for an extension of the cure period beyond thirty five (35) days shall not be applicable to any failure of Lessee to comply with the Required Construction Commencement Date and/or the Required Construction Completion Date set forth in Section 5.1 above (as such dates may extended pursuant to Sections 5.6 or 5.7).

13.1.4 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 after written notice by Lessor, 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 13.1.3 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, and shall permit such access to the Premises as is reasonably necessary to permit Lessee to comply with its removal obligations.

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. With respect to the calculation of Gross Receipts and the preparation of the reports and maintenance of records required herein, Lessee shall utilize either: (i) the accrual method of accounting, or (ii) a modified accrual method of accounting, modified in that (A) delinquent rents due from individual tenants (but not corporate tenants) is not accrued, (B) expenses are accrued on an approximate basis (i.e., materiality) each month during the fiscal year with full accrual treatment for the full fiscal year financial statements, and (C) depreciation is calculated on a tax basis rather than a GAAP basis.

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 or delayed.

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 for the then current and five (5) prior Accounting Years as 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 and on reasonable prior notice 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. Upon at least one (1) business day advance notice, 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. Upon written notice from County, County may require the installation of any additional accounting methods or machines which are typically used by major residential management 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, Lessee shall deliver to County the following financial statements: (i) a balance sheet of Lessee as of the end of such Accounting Year, certified by Lessee's chief financial officer as accurately reflecting Lessee's assets and liabilities, which balance sheet shall not be required to be audited, provided that at County's request not more often than every two years, such balance sheet shall be audited by a Certified Public Accountant who is a member of the American Institute of Certified Public Accountants and is satisfactory to County (a "Qualified CPA"); (ii) a profit and loss statement of Lessee for such Accounting Year, audited and certified by a Qualified CPA; and (iii) a Gross Receipts and Percentage Rent statement for such Accounting Year, audited and certified by a Qualified CPA, which statement shall include a certification and unqualified opinion of such Qualified CPA (1) concerning Lessee's Gross Receipts (including a breakdown by category), and (2) that the correct amount of Percentage Rent has been paid to the County in connection with such Gross Receipts. 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. County shall provide written notice to Lessee of the failure of any sublessee, concessionaire or other person to comply with this subsection after County's discovery of such failure, and provide Lessee with the right to cure any failure to so comply by payment to County of amounts which may be owing to County, as shown on an audit conducted by County, or on an audit supplied by Lessee or such sublessee, concessionaire or other person and accepted by County, or as otherwise determined pursuant to Section 14.10. In such event County shall permit Lessee to subrogate to any right of County to enforce this provision against such sublessee, concessionaire or other person, to the extent Lessee does not have a direct right of enforcement against sublessee, concessionaire or other person.

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 reasonably 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 paid all Actual Costs incurred by County through _____, and has on deposit with County the sum of $_____ toward costs incurred after _____. County shall deliver to Lessee a report detailing such expenditures (along with invoice summaries or other supporting documentation) within ninety (90) days after the Effective Date.

15.4 County Disclosure and Lessee's Waiver.

15.4.1 Disclosures and Waiver.

15.4.1.1 "AS IS". Lessee 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. The waiver and release set forth in this subsection 15.4.1.3 shall not apply to the Excluded Conditions.

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, provided that County notifies Lessee that Lessee's failure to timely surrender the Premises will cause County to incur such lost profits.

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 in the case of an Event of Default, 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.

Except to the extent arising out of or caused by the gross negligence or willful misconduct of County, 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 in the case of an Event of Default, including 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 (or other similar evidence of delivery by overnight delivery

service) 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:	Legacy Partners Neptune Marina L.P. 30 Executive Park, Suite 100 Irvine, California 92614 Attention: Dennis Cavallari Phone: 949/930-6600 Fax: 949/833-3062
With a Copy to:	Cox, Castle & Nicholson LLP 2049 Century Park East 28th Floor Los Angeles, California 90067 Attention: Ira J. Waldman, Esq.

Phone: 310/277-4222
Fax: 310/277-7889

Either party shall have the right to change its notice address by written notice to the other party of such change in accordance with the provisions of this Section 15.10.

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 within five (5) days after Lessee's receipt of written 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 reasonable 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 one implemented through 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 a 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 reasonably necessary in order to secure such approval or vote, and County shall not be deemed to be in default hereunder in the event that it fails to perform such action within the time periods otherwise set forth herein.

15.17 Estoppel Certificates. Each party agrees to execute, within ten (10) business days after the receipt of a written request therefor from the other party, a certificate stating: (i) that this Lease is in full force and effect and is unmodified (or stating otherwise, if true); (ii) 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); and (iii) if requested, the amount of the Security Deposit, Annual Minimum Rent, Percentage Rent and other material economic terms and conditions of this Lease. Prospective purchasers, Major Sublessees 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. Lessee shall develop a continuous pedestrian walkway with landscaping, lighting, seating, fencing and other improvements (the "Promenade") as described in Exhibit D. Lessee shall complete the foregoing work by the Required Construction Completion Date (as such date may be extended as provided in Article 5 above), subject to extension for delays in such completion of the Promenade caused by Force Majeure. No Force Majeure delay shall commence until after Lessee has notified County of the existence of such Force Majeure event. Lessee and Director shall discuss and attempt to agree on the length of any such delay. If they are unable to agree within thirty (30) days after the event or occurrence giving rise to Lessee's claim to such delay, the matter shall be arbitrated as set forth in Article 16. The facilities to be constructed under this Section 15.19 shall be constructed in accordance with the provisions of Article 5. County hereby reserves a public easement for access over and use of the Promenade for fire lane uses, 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. Such public easement shall also include the right to use at least one set of the restrooms marked on Exhibit D for public use. Lessee shall be responsible for the maintenance and repair of the Promenade in accordance with commercially reasonable maintenance and repair standards for the Promenade established by the County from time to time on a nondiscriminatory basis. 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 Controlled Prices. Lessee shall at all times maintain a complete list or schedule of the prices charged for all goods or services, or combinations thereof, supplied to the public on or from the Premises, whether the same are supplied by Lessee or by its Sublessees, assignees,

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

16. ARBITRATION.

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

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

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

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

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

16.3 Scope of Arbitration. County and Lessee affirm that the mutual objective of such arbitration is to resolve the dispute as expeditiously as possible. The arbitration process shall not apply or be used to determine issues other than (i) those presented to the arbitrator by the Initiating Party provided those disputes are arbitrable disputes pursuant to this Lease, (ii) Additional Disputes presented to the arbitrator by the Responding Party, provided that any such Additional Disputes constitute arbitrable disputes pursuant to this Lease and (iii) such related preliminary or procedural issues as are necessary to resolve (i) and/or (ii) above. The arbitrator shall render an award. Either party may, at its sole cost and expense, request a statement of decision explaining the arbitrator's reasoning which shall be in such detail as the arbitrator may determine. Unless otherwise expressly agreed by the parties in writing, the award shall be made by the arbitrator no later than the sooner of six (6) months after the date on which the arbitrator is selected by mutual agreement or court order, whichever is applicable, or five (5) months after the date of a denial of a petition to disqualify a potential arbitrator for cause. County and Lessee hereby instruct the arbitrator to take any and all actions deemed reasonably necessary, appropriate or prudent to ensure the issuance of an award within such period. Notwithstanding the foregoing, failure to complete the arbitration process within such period shall not render such arbitration or any determination made therein void or voidable; however, at any time after the expiration of the foregoing five (5) or six (6) month periods, as applicable, either party may deliver written notice to the arbitrator and the other party either terminating the arbitration or declaring such party's intent to terminate the arbitration if the award is not issued within a specified number of days after delivery of such notice. If the arbitrator's award is not issued prior to the expiration of said specified period, the arbitration shall be terminated and the parties shall recommence arbitration proceedings pursuant to this Article 16.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16.7 Written Appraisal Evidence. Neither party may, at any time during the proceedings, introduce any written report which expresses an opinion regarding Fair Market Rental Value or the fair market value of the Premises, or any portion thereof, ("Written Appraisal Evidence") unless such Written Appraisal Evidence substantially complies with the following standards: it shall describe the Premises; identify the uses permitted thereon; describe or take into consideration the terms, conditions and restrictions of this Lease; correlate the appraisal method(s) applied; discuss the relevant factors and data considered; review rentals paid by lessees in Marina del Rey and other marina locations within Southern California who are authorized to conduct similar activities on comparable leaseholds; and, describe the technique of analysis, limiting conditions and computations that were used in the formulation of the valuation opinion expressed. With respect to disputes regarding Fair Market Rental Value, such Written Appraisal Evidence shall express an opinion regarding the fair market rental value of the Premises as prescribed by Section 4.3.1. Written Appraisal Evidence in connection with disputes arising out of Article 6 of this Lease shall predicate any valuation conclusions contained therein on the Income Approach. Written Appraisal Evidence shall in all other respects be in material conformity and subject to the requirements of the Code of Professional Ethics and the Standards of Professional Practice of The Appraisal Institute or any successor entity.

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

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

exists to justify a longer period, of any person identified by the other party as an expert witness pursuant to Sections 16.5 (2)(b) or 16.5 (3)(b).

16.10 Awards of Arbitrators.

16.10.1 Monetary Issues. With respect to monetary disputes (including without limitation disputes regarding Percentage Rent, Fair Market Rental Value and the amount of coverage under the policies of insurance required pursuant to Article 9 of this Lease), the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position. The arbitrator shall instead select whichever of the two Statements of Position is the closest to the monetary or numerical amount that the arbitrator determines to be the appropriate determination of the rent, expense, claim, cost, delay, coverage or other matter in dispute and shall render an award consistent with such Statement of Position. For purposes of this Section 16.10, each dispute regarding Annual Minimum Rent, each category of Percentage Rent and the amount of required insurance coverage shall be considered separate disputes (a "Separate Dispute"). While the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position concerning a Separate Dispute, the arbitrator shall have the right, if the arbitrator so chooses, to choose one party's Statement of Position on one or more of the Separate Disputes, while selecting the other party's Statement of Position on the remaining Separate Disputes. For example, if the parties are unable to agree on the Annual Minimum Rent and three Percentage Rent categories to be renegotiated pursuant to Section 4.3 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 (with any revisions to the proposed amendment necessary to accurately reflect the arbitration award) and return the executed copy to the County, which shall thereafter be executed by County as soon as reasonably practicable.

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

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

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

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

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, and shall include "Optional Bank Holidays" as defined in Section 7.1 of the California Civil Code.

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

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

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

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

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

17.9 Counterparts. This Lease may be executed in counterparts, each of which shall constitute an original and all of which shall collectively constitute one fully-executed document.

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

LEGACY PARTNERS NEPTUNE MARINA L.P.,
a Delaware limited partnership

By: Legacy Partners 2598 L.P., a California limited partnership, its general partner

By: _____
Name: _____
Its: _____

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

[To be added]

Subject to the public easement reserved by Lessor in Section 15.19 of this Lease.

EXHIBIT B

DEVELOPMENT PLAN

[To be added]

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 under the Lease (equal to at least six (6) times the total Annual Minimum Rent and Percentage Rent due to County for the most recent fiscal). A letter of credit, cash deposit, guarantee from a parent entity or participating individual(s) having sufficient net worth or similar security satisfactory to the County may be substituted for the net worth requirement. 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 the 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 Lease as required under the 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

DESCRIPTION OF PROMENADE

EXHIBIT E

CONDITIONS TO COASTAL DEVELOPMENT PERMIT

EXHIBIT F

PERMITTED CAPITAL EXPENDITURES

The purpose of the Capital Reserve Fund is be to provide funds for the cost of additions, replacements, renovations or upgrades of or to the Improvements on the Premises, including building exteriors and major building systems (such as HVAC, mechanical, electrical, plumbing, vertical transportation, security, communications, structural or roof) that significantly increase the capacity, efficiency, useful life or economy of operation of the Improvements or their major systems, after the completion of the Development Work. Permitted Capital Expenditures shall not include the cost of periodic, recurring or ordinary expenditures, repairs or replacements that keep the buildings or their major systems in an ordinarily efficient operating condition, but that do not significantly add to their value or appreciably prolong their useful life. The Capital Reserve Fund shall not be used to fund any portion of the cost of the Development Work or the Subsequent Renovation (as defined in Section 5.13 of the Lease). Permitted Capital Expenditures must constitute capital replacements, improvements or equipment under generally accepted accounting principles consistently applied. Permitted Capital Expenditures shall not include costs for any necessary repairs to remedy any broken or damaged Improvements, all of which costs shall be separately funded by Lessee.

Subject to the foregoing, set forth below is a list of examples of elements, systems or categories of Improvements for which Permitted Capital Expenditures may be made. The Capital Reserve Fund shall not be used for the repair or replacement of an individual or a selected group of individual items, unless such repair or replacement is part of a larger plan (which may be a phased plan) of repair or replacement of all, or substantially all, similar items.

1. Painting of the building exterior*

2. Walkways and driveway replacement* (if asphalt, a minimum of resurfacing, not slurry seal)

3. Windows replacement*

4. Roof replacement* (may be on a building by building basis)

5. Elevators (replacement or addition)

6. HVAC replacement

7. Light fixtures replacement* (interior and exterior)

8. Irrigation system* (replacement or major addition)

* To qualify, these expenditures need to incorporate replacement or renovation of at least 70% of the items or facilities in question

To enrich lives through effective and caring service

Los Angeles County
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

January 17, 2008

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director

SUBJECT: **AGENDA ITEM 5b – ELECTION OF COMMISSION OFFICERS**

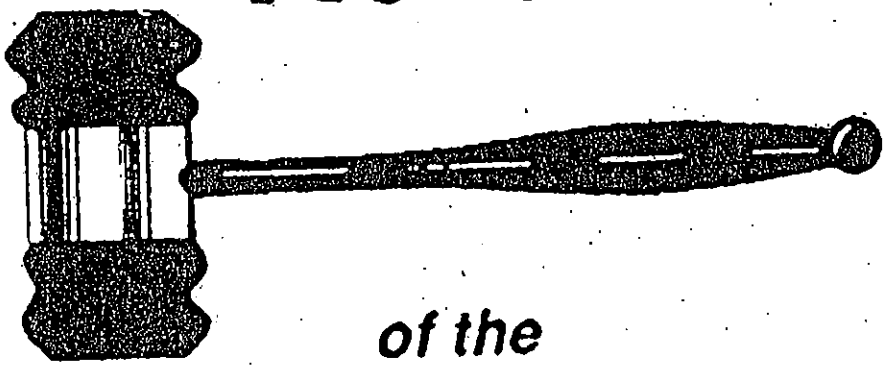
The Election of Commission Officers is included as Item 5b on your agenda, pursuant to Chapter III, Section 8, of the Small Craft Harbor Commission Rules, which states, "At its January meeting, the Commission shall elect both a Chairman and a Vice-Chairman to serve until the next January regular meeting."

I have attached the Commission Rules for your information. Please contact me at (310) 305-9522 if you have any questions or need additional information.

SW:rf
Attachment

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

Rules



of the
Los Angeles County
Small Craft Harbor
Commission

RULES OF THE SMALL CRAFT HARBOR COMMISSION

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RULES OF THE
SMALL CRAFT HARBOR COMMISSION

CHAPTER I
GENERAL PROVISIONS

Section 1. APPLICATION. These rules shall apply to the Small Craft Harbor Commission of the County of Los Angeles (the "COMMISSION").

Section 2. RULES OF ORDER. The proceedings of the Commission shall be governed by the Ralph M. Brown Act (the "Brown Act"), and such other laws of the State of California as may apply, and to the extent the Brown Act and other statutory laws of the State of California do not apply, by Robert's Rules of Order, newly revised, except as herein otherwise provided (collectively, the "Rules"). The foregoing notwithstanding, compliance with the Rules shall not be mandatory except to extent required by law. The County Counsel shall act as parliamentarian and, on request of the Chairman, shall give parliamentary advice.

CHAPTER II
COMMISSION MEETINGS

Section 3. REGULAR MEETINGS. The regular meetings of the Commission shall be held on the second Wednesday of each month, commencing at the hour of 9:30 a.m., in the Community Room of Los Angeles County's Department of Beaches and Harbors' Chace Park, at 13650 Mindanao Way, Marina del Rey, California or such other day, time, or place, as the Commission may decide for its next scheduled regular meeting. If any regular meeting day falls upon a holiday, the regular meeting of the Commission shall be held at the same place upon the first succeeding day which is not a holiday commencing at the same hour.

Section 4. SPECIAL MEETINGS. The Commission may elect to hold a special meeting on a day, at a time, or in a location other than that prescribed in Section 3 for regular meetings. All Rules pertaining to regular meetings of the Commission shall apply to special meetings to the extent they may be applicable to the special meeting to be conducted.

Section 5. PUBLIC HEARINGS. The Commission may hold public hearings and may appoint one of its members to be the hearing officer, with responsibility for reporting his findings and recommendations to the Commission. Guidelines for public participation at a public hearing are included in Exhibit 1.

Section 6. QUORUM. A majority of the Commission shall constitute a quorum, and a quorum must be present for the Commission to conduct its business.

Section 7. MAJORITY VOTE. No act of the Commission shall be valid or binding unless a majority of the Commission concurs. However, if there is less than a majority vote of the Commission on an item, the Commission may refer the item to the Board of Supervisors with a notation of the Commission's vote.

CHAPTER III
ELECTION, POWERS, AND DUTIES OF CHAIRMAN AND VICE-CHAIRMAN

Section 8. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN. At its January meeting, the Commission shall elect both a Chairman and a Vice-Chairman to serve until the next January regular meeting. No member of the Commission shall be elected to the same office for more than two consecutive terms of one year each.

Section 9. CHAIRMAN DUTIES AND POWERS. The Chairman shall possess the powers, and perform the duties prescribed, as follows:

a. Have general direction over the Commission Meeting Room;

b. Preserve order and decorum;

c. Assure that attendance of the public at meetings in the Meeting Room shall be limited to the number which can be accommodated by the seating facilities regularly maintained therein;

d. Allocate the length of time for public discussion of any matter in advance of such discussion, with the concurrence of the Commission;

e. Allocate equal time to opposing sides insofar as possible taking into account the number of persons requesting to be heard on any side;

f. Limit the amount of time that a person may address the Commission during a public discussion period in order to accommodate those persons desiring to speak and to facilitate the business of the Commission; and

g. Appoint hearing officers and set dates for public hearings.

In the event of the resignation, removal, or death of the Chairman, the Vice-Chairman shall serve as Chairman for the remainder of the term.

Section 10. VICE-CHAIRMAN DUTIES AND POWERS. The Vice-Chairman shall have all of the powers and duties of the Chairman during the absence of, or inability to act of, the Chairman.

In the event of the resignation, removal, or death of the Vice-Chairman, or the assumption of duties and powers of the Chairman by the Vice-Chairman as provided in Section 9, the Commission shall elect another member to serve as Vice-Chairman until the end of the term.

CHAPTER IV
CONDUCT OF MEETINGS

Section 11. PUBLIC MEETINGS. Meetings of the Small Craft Harbor Commission are open to the public.

1. The general public is invited to comment upon agenda items after introduction of the item by a member of the Commission or Department.

2. Individual speakers may be limited to specific time periods of not less than three minutes, and are requested to present information not already provided. Speakers will be recognized only once on a given item.

3. At the conclusion of the public comments the Commission will consider the item without any further comment or debate from the floor.

4. The "Communications From the Public" item on the agenda provides time for any party to address the Commission on any matters that are within the subject matter jurisdiction of the Commission. A person may make one presentation under this agenda item per Commission meeting. Individual speakers may be limited to specific time periods of not less than three minutes in length; the number of speakers under this item may be limited to five.

5. The Chairman, at his discretion, may alter or change the order in which agenda items are considered, depending upon his determination of the importance or urgency of an item.

6. The Chairman shall order removed from the Commission Meeting Room any person who commits the following acts with respect to a regular or special meeting of the Commission:

   a. Disorderly, contemptuous or insolent behavior toward the Commission or any member thereof, tending to interrupt the due and orderly course of said meeting;

   b. A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting;

   c. Disobedience of any lawful order of the Chairman, which shall include an order to be seated or to refrain from addressing the Commission;

   d. Any other unlawful interference with the due and orderly course of said meeting.

Any such removal shall be effected by a peace officer upon being directed by the Chairman.

Section 12. ORDER OF BUSINESS. The business of each regular meeting of the Commission shall be transacted as far as practicable in the following order:

1. Call to order and action on absences.

2. Action on minutes of prior meeting.

3. Posted agenda items, e.g., regular reports, old business, new business, staff reports.

4. Items not on the posted agenda to be discussed and (if requested) placed on the agenda for action at a future meeting of the Commission, or items requiring immediate action because of an emergency situation involving severe impairment to the public health or safety or where the need to take action arose subsequent to the posting of the agenda.

5. Presentation of scrolls.

6. Comments by members of the public on matters that are within the subject matter jurisdiction of the Commission.

Section 13. AGENDAS AND POSTING REQUIREMENT. The Commission may set items for each agenda and Agendas will be posted at least 72 hours in advance of each meeting at the Administration building of the Department of Beaches and Harbors located at 13837 Fiji Way, Marina del Rey. The agenda will describe each agenda item to be considered, the proposed action, and the location and time of the meeting.

Section 14. MATTERS FOR CLOSED SESSIONS. The Brown Act allows the Commission to go into closed session to discuss the following matters:

1. The purchase, sale, or lease of real property with the agency's negotiator, or to instruct the negotiator.

2. Pending litigation.

3. National security, or the security of public buildings and/or threats to public access to public services and facilities.

4. The issuance of a license to a person with a criminal record.

5. The appointment, employment, performance, or dismissal of an employee, or to hear complaints or charges against an employee, unless the employee requests a public hearing.

6. Salaries, compensation, or fringe benefits for employees.

Section 15. CLOSED SESSIONS - PROCEDURES. In order to maintain compliance with the Brown Act, the intent of which is to insure that the public's business is conducted in open meetings, the following procedures will be followed whenever the Commission holds a closed session:

1. Prior to or after any closed session, the Commission must publicly state the general reason or reasons for the closed session. Specific statutory authority may be cited.

2. If the closed session is to discuss pending litigation which has been formally initiated before a court, an administrative body, a hearing officer, or an arbitrator, the title of the litigation must be cited in the public statement, unless it would jeopardize the County's ability to serve process on an unserved party or to conclude settlement negotiations, and a memorandum of reasons and authority for the closed

session shall be prepared by the County Counsel and filed with the minutes and records of the Commission.

3. In the closed session, the Commission may only discuss the matters covered in the public statement.

4. A minute book shall be kept of the topics discussed in the closed sessions and the decisions made. This book shall not be a public record and may only be viewed by members of the Commission, or court of general jurisdiction in the event of an alleged violation of the Brown Act.

CHAPTER V
MISCELLANEOUS PROVISIONS

Section 16. SECONDED MOTION. Each motion made by any member of the Commission shall require a second. Motions and seconds may be made by any member of the Commission, including the Chairman.

Section 17. ROLL CALL. The roll need not be called in voting upon a motion except where specifically required by law or requested by a member. If the roll is not called, in the absence of objection the Chairman may order the item unanimously approved. When the roll is called on any motion, any commissioner present who does not vote in an audible voice shall be recorded as "Aye."

Section 18. SIGNS. Except with prior authorization of the Chairman, no placards, signs or posters or packages, bundles, suitcases or other large objects shall be brought into the Meeting Room.

Section 19. DISRUPTIONS. All demonstrations, including cheering, yelling, whistling, hand clapping and foot stamping are prohibited.

Section 20. DISTRIBUTION OF LITERATURE. Except with prior authorization of the Chairman, the distribution of literature, of whatever nature or kind, is prohibited.

Section 21. SMOKING. Smoking is prohibited in the Commission Meeting Room.

Section 22. ADDRESSING THE COMMISSION. No person shall address the Commission until he or she has first been recognized by the Chairman. The decision of the Chairman to recognize or not recognize a person may be changed by order of the Commission. All persons addressing the Commission shall give their names for the purpose of the record and state whether they are addressing

the Commission on their own behalf or the behalf of someone else. The Chairman may, in the interest of facilitating the business of the Commission, limit the amount of time which a person may use in addressing the Commission.

Section 23. COUNTY LOBBYISTS. The Chairman may refuse permission to any person not registered as a "county lobbyist" in accordance with provisions of Chapter 2.160 of Los Angeles County code who is seeking to address the Commission in his/her capacity as a "county lobbyist" as that term is defined in Chapter 2.160 of the Los Angeles County code.

revised 10/02/92

To enrich lives through effective and caring service

January 17, 2008

Los Angeles County Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director

SUBJECT: **ITEM 6a - ONGOING ACTIVITIES REPORT**

BOARD ACTIONS ON ITEMS RELATING TO MARINA DEL REY

At its January 8, 2008, the Board approved a contract with Culbertson, Adams and Associates, Inc. for consultant services relating to projects before the California Coastal Commission. The Board also instructed the Director of Beaches and Harbors to resolicit more bids for additional Coastal Commission consultants.

Also at its January 8, 2008 meeting, the Board approved a six-month extension of the Parcel 27 (Jamaica Bay Inn) option to May 31, 2008, with up to an additional six months to November 30, 2008 at the approval of the Director, to allow the lessee additional time to obtain the necessary entitlements to exercise its option for a lease extension.

LOCAL COASTAL PLAN PERIODIC REVIEW—UPDATE

The California Coastal Commission held its January Commission meeting at which the Marina del Rey Local Coastal Program (LCP) periodic review was heard here in Marina del Rey. After hearing the Coastal staff report and taking several hours of testimony, the Commission adopted the Coastal staff's recommendations but made additions and/or revisions thereto, the most significant of which include the following:

(a) Revise the Biological Resources and Environmentally Sensitive Habitat Areas (ESHA) recommendations to adopt the ESHA findings of the Coastal staff biologist and to look for additional ESHA, opposing "sensitive biological resources" as an alternative to the ESHA designation and opposing alternative heron mitigation sites and man-made structures to support heronries;

(b) Add a recommendation that the County do a comprehensive amendment of the LCP;

(c) Add a Water Quality recommendation that all water quality measures be monitored for compliance with Best Management Practices (BMPs);

(d) Revise a Resource Protection recommendation to include protection of not just the Blue Heron and Egret rookeries, but the protection of all species of concern with tailored specification as to how that will be accomplished;

(e) Add a Recreational Boating recommendation opposing any reduction in the number of slips sized less than 34 feet.

Coastal staff also voluntarily agreed to remove from the findings language indicating views to the mountains from the Marina jetties were not contemplated for protection.

Coastal staff will now need to develop revised findings and recommendations for consideration by the Coastal Commission at a future meeting. Once adopted, the findings and recommendations will be provided to the County, which will have up to one year to respond.

REPORT ON FOUNDATION ALLEGATION REGARDING PARCEL 12 (ESPRIT I)

Staff contacted the senior inspector for the Department of Public Works - Building and Safety Division to request that he investigate an allegation made by a member of the public that the Esprit I buildings are sinking and water is flooding the subterranean garages during high tide. Based on his visual inspection and intimate knowledge of the project, the senior inspector reported that the allegations are untrue and no evidence of the water intrusion within the garage is evident.

REGIONAL PLANNING COMMISSION'S CALENDAR

Currently, there is no Marina del Rey matter scheduled for consideration by the Regional Planning Commission.

DESIGN CONTROL BOARD MINUTES

The minutes from the Design Control Board meeting for December 2007 have not been finalized.

SW:KS:SK:PW:ms

To enrich lives through effective and caring service

Los Angeles County
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

January 17, 2008

To: Small Craft Harbor Commission

From: Stan Wisniewski, Director

Subject: **ITEM 6b – CHILDREN'S W.A.T.E.R. PROGRAM**

The Department offers various youth programs throughout the year for young people, ages 7-17. The main provider of youth activities in the Department is the Water Awareness, Training, Education and Recreation (W.A.T.E.R.) Program. The main goal and focus of the W.A.T.E.R. Program is to expose youngsters to various ocean, beach, and water activities. Special efforts are made to expose underprivileged youth to existing activities by offering financial aid for tuition fees and free transportation from non-beach communities. Los Angeles County Ocean Lifeguards serve as instructors for all W.A.T.E.R. Program activities. All program statistics are tracked by fiscal year. The following are the various youth camps and activities offered by the Department throughout the year.

Ocean-Sports Camp

Ocean-Sports Camp is a week long camp for children, ages 7-14, held in the winter, spring and summer. This camp teaches children a variety of ocean activities, including body boarding, kayaking, sailing and surfing. Ocean skills are taught in the morning and boating skills are taught in the afternoon. Last fiscal year 2006-07, this particular camp had 119 children participate. This year, we have already surpassed that number by 82% with a total participation of 217 children, and there are still more Ocean-Sports Camps scheduled for the spring and summer months. This past December and the current month of January, the Department invited the Los Angeles County Probation Department to participate in the scheduled Ocean-Sports Camps. The Probation Department had 88 enthusiastic children from various Los Angeles areas participate in the camps.

Dolphin Camp

Dolphin Camp is also a week long camp geared towards younger and more inexperienced children, ages 7-10. This camp is offered in the summer months of June, July and August. The camp is designed to introduce youngsters to the ocean environment while emphasizing water safety. The curriculum includes ocean skills (swimming, body surfing and body boarding); marine life education (animal identification and tide pools) and environment preservation; and ocean sports (kayaking, canoeing, sailing and surfing). This camp has also surpassed last year's numbers, with 258 children so far compared to 192 total children for 2006-07.

Surf Camp

Surf Camp offers activities to children, ages 11-17. Children receive basic surf instruction, surfing etiquette, board types, board selection and surf history. Camps are held in the summer, winter and spring. Last year's camps had 130 participants, and this year we have had a total of 93 participants. More camps are scheduled for the spring and summer, so the Department is expected to surpass last year's numbers.

Ocean-Safety Days

Ocean-Safety Days are offered September through November and March through June. This is a one day activity offered to schools for children, grades 2-12. Curriculum includes C.P.R. demonstration, first aid instruction, kayaking, surfing, snorkeling, body surfing, and beach games. Last year, we had 3,935 children participate in the various scheduled Ocean-Safety Days. This year, the Department is well on its way to matching last year's numbers with 1,580 children participating so far.

Sailing Classes

Sailing classes are offered at the Marina del Rey Boathouse in Burton Chace Park for children, ages 11-17. One-week sessions are offered various times throughout the year. Curriculum includes knot tying, basic sailing knowledge and terms, boat maintenance and rigging, tacking, docking and ocean sailing. So far, the Department has had 80 children participate this fiscal year compared to last year's total of 66. The Department is currently working on increasing the amount of sailing classes offered.

Outdoor Adventures

The Department's Outdoor Adventures are held throughout the year and are offered at the Boathouse in Burton Chace Park. Activities include harbor and surf kayaking and birdwatching. Kayaking is offered to children ages 10 and up and adults. Harbor kayaking entails instruction and water safety, with the actual outings taking place in the Marina del Rey harbor. Surf kayaking gives participants the opportunity to kayak through the Marina del Rey harbor and head out to the North Jetty, where they will surf the waves aboard sit-on-top kayaks. In 2006, there were 13 kayaking classes offered with approximately 134 participants of all ages. In 2007, the kayaking activities had 27 participants with only 2 outings. The birdwatching class takes participants of all ages to various sites in the Ballona Wetlands to observe various bird species in their shoreline and vegetation habitat. In 2006, the Department had 5 birdwatching outings with 37 participants. In 2007, 4 outings took place with 40 participants ranging in age from 10 to 71.

Day in the Marina

Day in the Marina is a fun summertime program geared towards children 5 to 12 years of age. The program is a joint effort between the Departments of Parks and Recreation

and Beaches and Harbors. Children participating in summer programs at various County parks are transported to Burton Chace Park for a fun filled day of activities, which include a boat tour of the Marina, games, arts and crafts, and swim time at Mother's Beach. In 2006, approximately 980 children came to experience a Day in the Marina and, in 2007, about 1,000 children participated.

Discover Marina del Rey

Discover Marina del Rey is a yearly, one day event that takes place on the second Sunday of October. This is a community and family oriented event where exhibitor booths are provided to showcase vital information on health, safety, and the environment. Burton Chace Park is transformed into a children's playground filled with various rides, games, inflatables, snack vendors, and a pumpkin patch. A marionette show and children's storytime with the Lloyd Taber-Marina del Rey Library are also a part of the day's activities. Arts and crafts workshops offered by the Department of Parks and Recreation and kayaking in the main channel for visitors ages 6 and up are among some of the more popular activities of the day. The U.S. Coast Guard also participates in the event by demonstrating a live helicopter rescue in the main channel. The Marina del Rey Anglers offer a tour of the White Bass Grow Out Pen and also sponsor youth fishing off the fishing pier for children, ages 7-15. Last year's event had about 1,500 children and their parents enjoying the park and the many events and activities offered throughout the day.

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