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Caring for Your Coast

Gary Jones
Acting Director

Kerry Silverstrom
Chief Deputy

John Kelly
Deputy Director

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

24 February 4, 2014

SACHI A. HAMAI
EXECUTIVE OFFICER

February 4, 2014

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

Dear Supervisors:

APPROVAL OF OPTION TO AMEND LEASE AGREEMENT TO FACILITATE REDEVELOPMENT –VILLA DEL MAR APARTMENTS AND MARINA
(Parcel 13R at 13999 Marquesas Way)
MARINA DEL REY
(4th DISTRICT-- 4 VOTES)

SUBJECT

Request for adoption of the Mitigated Negative Declaration and approval of an option agreement to extend the term of the existing Villa del Mar Apartments and Docks lease (Parcel13R) for the renovation of the existing 198 apartment units and complete redevelopment of the 186-slip and 23-end (and side)-tie marina. Exercise of the option is contingent upon Lessee's receipt of entitlements and fulfillment of other conditions required therein.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Consider the Mitigated Negative Declaration for the Villa del Mar Apartments and Dock lease extension and renovation project together with any comments received during the public review process; find that the Mitigated Negative Declaration reflects the independent judgment and analysis of the Board, adopt the Mitigation Monitoring Program, finding that the Mitigation Monitoring Program is adequately designed to ensure compliance with the mitigation measures during project implementation; find on the basis of the whole record before the Board that there is no substantial evidence the project will have a significant effect on the environment; and adopt the Mitigated Negative Declaration.

2. Approve and authorize the Chairman of the Board to sign the Option to Amend Lease Agreement ("Option Agreement") in substantially the form attached as Attachment A, granting to the current lessee, Villa del Mar Properties, Ltd., a California limited partnership, upon fulfillment of stated conditions, an option to extend the term of its existing ground lease on Parcel 13R by 39 years (the "Option").

3. Approve and authorize the Chairman of the Board to sign the Amended and Restated Lease Agreement in substantially similar form to Exhibit A attached to the Option Agreement, upon confirmation by the Director of the Department of Beaches and Harbors that the Villa del Mar Properties, Ltd., has fulfilled the Option conditions.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Background:

Your Board approved assignment of the Villa del Mar Apartments and Docks leasehold ("Parcel 13R") to its current lessee, Villa del Mar Properties, Ltd., a California limited partnership ("Lessee"), on July 18, 1972. More recently, Lessee entered into negotiations with the Chief Executive Office and the Department of Beaches and Harbors for an option to extend the lease for 39 years, from its current June 7, 2021 expiration date to June 7, 2060. In return for the extension, upon exercise by Lessee of the extension option, Lessee proposes to renovate all landside improvements, including apartment interiors, building façades, interior and exterior common areas, landscaping, hardscape, parking areas and promenade, and the two restroom buildings and other landside facilities serving the marina improvements. The current renovation plan does not include redevelopment or replacement of the existing 186-slip and 23-end (and side)-tie marina on Parcel 13R; however, Lessee will be required to commence replacement of the entire marina no later than January 1, 2029 and complete the construction within 36 months after the commencement of demolition thereof.

Lessee will pay an option fee of $100,000 upon grant of the Option and has agreed upon exercise of the Option to spend no less than $26,642,500 (in 2012 dollars) for renovations to both the land- and waterside (marina) improvements. Lessee must obtain all regulatory approvals and exercise its option within 18 months following the grant of the Option, subject to discretion of the Director of the Department of Beaches and Harbors ("Director") to grant three additional 6-month extensions if Lessee is delayed in the receipt of approvals despite its diligent efforts and Lessee pays an option extension fee of $25,000 for the first extension, $35,000 for the second extension and $50,000 for the third extension. Upon exercise of the Option, Lessee is required to pay County an extension fee of $2,518,000 (less the $100,000 option fee).

As part of the agreement to extend the lease for 39 years, Lessee has agreed to pay the County percentage rent for apartment units at 14.5% for the entire term of the extended lease. If Lessee had not agreed to pay the $2,518,000 extension fee set forth above, County would have required the percentage rent for the apartment units to be increased to 18.4%. Since the project is a renovation of the existing buildings and facilities rather than a redevelopment of the property, the affordable housing policy does not apply. Upon stabilization of the rent following renovation, rental payments to the County under the ground lease are projected to be $1.83 million per year, an increase of approximately $790,000 per year over current rents received ($1.04 million) from the parcel (for 2012-13).

The Amended and Restated Lease also provides for substantial maintenance of current income during renovation and for County participation in proceeds from sale or refinance where the current lease does not.

The Department of Regional Planning has prepared an Initial Study for the proposed project in compliance with the California Environmental Quality Act ("CEQA") and, along with the Department of Beaches and Harbors ("Department"), recommends your Board's adoption of the Mitigated Negative Declaration and Mitigation Monitoring Program (Attachment B). If adopted, Lessee will thereafter pursue all remaining regulatory approvals required for the exercise of the Option.

The Department has obtained an appraisal that confirms the returns to the County from the lease extension for Parcel 13R are equivalent to, or greater than, fair market value.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended actions will continue implementation of the County policies that facilitated proactive redevelopment of the parcel, which assists the County to achieve fiscal sustainability (Strategic Plan Goal No. 1, Strategy No.1).

FISCAL IMPACT/FINANCING

The draft Amended and Restated Lease Agreement for the renovation of Parcel 13R reflects the County's current market rate percentage rents for all relevant categories. They will produce the following fiscal benefits to the County: 1) an option fee; 2) an extension fee; and 3) revenue increases due to percentage rent and renovation of the apartment buildings. Each component is discussed in detail below.

Option Fee

Lessee shall pay a non-refundable (except in the case of a default by County) fee of $100,000 for the Option, due upon execution of the Option Agreement.

Extension Fee

Lessee is required to pay an extension fee of $2,518,000 upon exercise of the Option. The option fee of $100,000 shall be credited against the extension fee.

Revenue Increase Due to Project Redevelopment

The total revenue derived from Parcel 13R during Fiscal Year 2012-13 was approximately $1.04 million. Upon stabilization (projected in 2017), the renovated project will increase annual County rent by $790,000 to approximately $1.83 million.

OPERATING BUDGET IMPACT

Upon your Board's approval of the Option Agreement, the Department's operating budget will receive a one-time $100,000 option fee as stated above. This revenue will be accounted for as Fiscal Year 2013-14 one-time over-realized revenues.

Costs of consultants and for the Department's Deputy Director and Asset Management Division Chief involved in the negotiation and development of the Option Agreement and the Amended and Restated Lease Agreement are being reimbursed by Lessee.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The existing 60-year lease for Parcel 13R commenced on June 8, 1961 and expires on June 7, 2021. The current improvements on Parcel 13R consist of 198 apartments and a 186-slip and 23-end (and side)-tie marina. Parcel 13R has frontage on Marquesas Way and is located east of Parcel 14 (formerly known as Parcel FF) and west of Parcel 12.

Approval of the Option Agreement 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.

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 8, 2014, the Small Craft Harbor Commission unanimously approved the recommendations to approve the Option and the Amended and Restated Lease for Parcel 13R in the form attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

In compliance with CEQA, an Initial Study was prepared for the proposed project. The Initial Study identified potentially significant effects of the project on noise, biological resources, and traffic. Prior to the release of the proposed Mitigated Negative Declaration ("MND") and Initial Study for public review, revisions in the project were made or agreed to which would avoid the significant effects or mitigate the effects to a point where clearly no significant effects would occur.

The Initial Study showed that there is no substantial evidence, in light of the whole record before the County, that the project, with mitigation measures, may have a significant effect on the environment. Based on the Initial Study, an MND was prepared for this project (Attachment B). The proposed Mitigation Monitoring Program, included with the MND, was prepared to ensure compliance with the environmental mitigation measures included as part of the final MND relative to these areas during project implementation. There have been no substantial changes to the proposed project since circulation of the environmental document.

The MND was circulated to the appropriate government agencies. Public Notice was then published in The Argonaut on December 19, 2013, pursuant to Public Resources Code section 21092, and posted, pursuant to section 21092.3. Three written responses were received, two (2) from the public and one from public agencies. All comments received, as well as necessary responses to the comments, are contained in the administrative record.

The location of the documents and other materials constituting the record of the proceedings upon which your Board's decision will be based in this matter is the County of Los Angeles Department of Regional Planning, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials is Anthony Curzi, County of Los Angeles Department of Regional Planning.

The project is not exempt from payment of a fee to the California Department of Fish and Wildlife ("CDFW") pursuant to section 711.4 of the Fish and Game Code to defray the costs of fish and wildlife protection and management incurred by the California Department of Fish and Wildlife. Upon your Board's adoption of the MND, the Department will file a Notice of Determination with the Registrar-Recorder/County Clerk in accordance with section 21152(a) of the California Public Resources Code, along with the Lessee's payment of the CDFW required filing and processing fees in the amount of $2,181.25.

CONTRACTING PROCESS

Lessee acquired the leasehold interest to Parcel 13R as a result of its assumption of the assigned lease as of July 18, 1972. Lessee more recently entered into negotiations with the Department to extend the lease term for Parcel 13R. The Amended and

Restated Lease Agreement for Parcel 13R will be available to Lessee upon the proper exercise of the Option. Upon Lessee's demonstration that it has satisfied the conditions for exercise of the Option, including the receipt of all discretionary planning and zoning land use entitlements and approvals required to be obtained from governmental authorities for construction of the development project associated with that Option, we will present to the Executive Officer the final confirmation that the conditions and approvals for exercise contained in the Option have been satisfied and will request at that time execution of the Amended and Restated Lease Agreement for Parcel 13R in substantially similar form to Exhibit A attached to the Option.

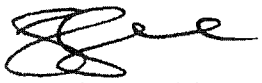
IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on other current services or projects.

CONCLUSION

It is requested that the Executive Officer, Board of Supervisors send two copies of the executed Option Agreement and an adopted Board letter to the Department of Beaches and Harbors. Should you have any questions please contact Don Geisinger at (310) 305-9506 or dgeisinger@bh.lacounty.gov.

Respectfully submitted,



Gary Jones, Acting Director

GJ:dlg

Attachments (2)

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

OPTION TO AMEND LEASE AGREEMENT
(Parcel 13R)

THIS OPTION TO AMEND LEASE AGREEMENT ("**Agreement**") is made and entered into as of February 4, 2014, ~~2013~~, by and between the COUNTY OF LOS ANGELES ("**County**") and VILLA DEL MAR PROPERTIES, LTD., a California limited partnership ("**Lessee**").

RECITALS

A. County, as lessor, and Lessee's predecessors, as lessee, entered into Lease No. 5352 dated September 7, 1961 (as amended, the "**Existing Lease**"), concerning the lease of certain real property in the Marina del Rey Small Craft Harbor, which as modified prior to the date hereof, is now commonly known as Parcel No. 13R, as more particularly described in the Existing Lease (the "**Premises**").

B. The term of the Existing Lease is currently scheduled to expire on June 7, 2021 (the "**Existing Expiration Date**").

D. Lessee has requested County, and County is willing, to grant Lessee an option to amend and restate the Existing Lease in its entirety upon the terms and conditions more specifically set forth in this Agreement, including, without limitation, (i) an extension of the term of the Existing Lease through June 7, 2060, and (ii) the renovation of the Premises and the improvements located thereon in accordance with the terms and provisions hereof.

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AGREEMENT

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

1. Grant of Option. County hereby grants to Lessee an option (the "**Option**") to amend and restate the Existing Lease in its entirety upon the terms and conditions more specifically provided in this Agreement, including, without limitation (i) an extension of the term of the Existing Lease through June 7, 2060, and (ii) the renovation of the Premises and the Improvements (as defined in the form of Restated Lease) located thereon. Such amended and restated lease shall be in the form of the Amended and Restated Lease Agreement for Parcel 13R attached to this Agreement as Exhibit A (the "**Restated Lease**").

2. Option Term. The term of the Option (the "**Option Term**") shall commence on the date of this Agreement and expire on that date (the "**Option Expiration Date**") that is the earlier of (i) sixty (60) days following the Conditions Satisfaction Date (as defined below), or (ii) the date that is eighteen (18) months following the date of this Agreement (the "**Outside Expiration Date**"). For purposes hereof, the "**Conditions Satisfaction Date**" shall mean the first date upon which both of the Option Conditions set forth in Section 3 below have been satisfied.

If by the Outside Expiration Date set forth above in this Section 2 (as such Outside Expiration Date may have been previously extended as set forth herein) the Conditions

Satisfaction Date has not occurred and in the reasonable judgment of the Director of the Department of Beaches and Harbors of the County (the "**Director**") Lessee has been unable, despite Lessee's best efforts, to satisfy the Option Conditions due to causes beyond the reasonable control of Lessee (including, without limitation, Unreasonable County Activity), then upon Lessee's request Director shall extend the Outside Expiration Date for up to three (3) extension periods of six (6) months each to permit Lessee additional time to satisfy the Option Conditions. Director shall have no obligation to extend the Outside Expiration Date in the case of a Lessee Default (as defined in Section 10.12 below) or if Lessee is in material breach or default of the Existing Lease after notice and the expiration of any applicable cure period applicable under the Existing Lease. If Lessee desires to have the Outside Expiration Date extended pursuant to this paragraph, then not later than thirty (30) days prior to the then-existing Outside Expiration Date, Lessee shall deliver to Director the following: (a) Lessee's written request for the extension (the "**Extension Request**"), and (b) a fee for extension of the Outside Expiration Date (an "**Option Term Extension Fee**"). The Option Term Extension Fee shall be (i) Twenty-Five Thousand Dollars ($25,000.00) for the first 6-month extension; (ii) Thirty-Five Thousand Dollars ($35,000.00) for the second 6-month extension; and (iii) Fifty Thousand Dollars ($50,000.00) for the third 6-month extension. Each Option Term Extension Fee shall be non-refundable, shall be in addition to the Option Fee and shall not be applicable against the Extension Fee. Each Extension Request shall include a description of Lessee's efforts to satisfy the Option Conditions and the status and Lessee's good faith estimate of the projected date for satisfaction of the Option Conditions. Notwithstanding the foregoing, if Lessee reasonably expects to satisfy the Option Conditions prior to the then-existing Outside Expiration Date but during the thirty (30) day period immediately preceding the then-existing Outside Expiration Date a condition first arises or an event first occurs that prevents Lessee from satisfying the Option Conditions by the then-existing Outside Expiration Date, then the required date by which Lessee must deliver an Extension Request and the associated Option Term Extension Fee shall be extended to promptly following Lessee's discovery of the condition or event that will delay its satisfaction of the Option Conditions beyond the then-existing Outside Expiration Date (but not later than the then-existing Outside Expiration Date). If Director determines not to grant the extension of the Outside Expiration Date requested by Lessee pursuant to the terms and provisions of this paragraph, then Lessee shall have the right, within thirty (30) days following Director's denial of such extension, to submit a written request to the Board of Supervisors of County to reconsider such denial by the Director.

Notwithstanding the limitation of the extension of the Outside Expiration Date to the three (3) 6-month periods set forth in the immediately preceding paragraph, in the case of the non-satisfaction of the Entitlements Condition (as defined in Section 3 below), if Lessee's inability to satisfy the Entitlements Condition is caused by (I) a moratorium, temporary restraining order, injunction or other court order which prohibits the issuance of the Entitlements for the Renovation Work and all other similar projects in Marina del Rey on land leased from the County, or (II) after the issuance of the Entitlements, the continued pendency of an appeal, proceeding or litigation (including all appeals of such litigation) brought by a third party unaffiliated with Lessee that contests the issuance of the Entitlements, then as long as there is not a Lessee Default under this Agreement and Lessee is not in material breach or default of the Existing Lease (after notice and the expiration of any applicable cure period under the Existing Lease), the Outside Expiration Date shall be extended until sixty (60) days following the cessation of such moratorium, temporary restraining order, injunction or other court order, or the

denial, dismissal or other resolution in favor of the issuance of the Entitlements, of such appeal, proceeding or litigation that contested the issuance of the Entitlements, as applicable; provided, however, that the Outside Expiration Date shall in no event be extended beyond the fourth (4th) anniversary of the date of this Agreement.

3. Option Conditions. In addition to any other requirements for exercise of the Option set forth in this Agreement, the exercise by Lessee of the Option shall be subject to the satisfaction of the following two conditions (the "**Option Conditions**"):

3.1 Lessee shall have received all discretionary planning and zoning land use entitlements and approvals required to be obtained from governmental authorities (including, without limitation, the Marina del Rey Design Control Board, County Department of Regional Planning, County Board of Supervisors and California Coastal Commission, as applicable) for the construction of the Renovation Work (as defined in Section 5.1 of the form of Restated Lease) on the Premises (collectively, the "**Entitlements**"), and both (a) the Entitlements shall not be subject to further appeal, and (b) there shall be no proceeding or litigation pending to appeal the issuance of the Entitlements, or to enjoin or restrain the performance of the Renovation Work (not including any proceeding or litigation brought by or on behalf of Lessee or any direct or indirect partner, shareholder or member of, or any other person or entity affiliated with, or otherwise directly or indirectly having an ownership interest in, Lessee), or if such a proceeding or litigation has been pending, then a dismissal, decision or judgment shall have been issued in favor of the validity of the Entitlements, which dismissal, decision or judgment shall not be subject to further appeal (collectively, the "**Entitlements Condition**"); and

3.2 Lessee shall have obtained Project Financing (as defined below) for the Renovation Work (the "**Project Financing Condition**"). For purposes of this Agreement, "**Project Financing**" means a construction loan from an institutional lender or lenders, at an interest rate or rates and on other terms that are commercially reasonable, in amounts that when combined with Lessee's equity is reasonably expected to provide sufficient funds to complete the Renovation Work, all as approved by Director in accordance with the terms and provisions of Section 12.1 of the form of Restated Lease. If Lessee desires to fund the cost of the Renovation Work entirely from Lessee equity, then upon demonstration by Lessee to the reasonable satisfaction of Director of the availability of adequate equity funds, Lessee shall be considered to have satisfied the condition of obtaining Project Financing set forth in this Section 3.2.

4. Exercise of Option. The Option shall be exercisable by Lessee only by Lessee's strict satisfaction on or before the Option Expiration Date of the following terms and conditions (the "**Exercise Requirements**"): (a) Lessee shall notify County in writing of its exercise of the Option ("**Exercise Notice**"); (b) Lessee shall accompany the Exercise Notice with (i) Lessee's execution and delivery to County of the Restated Lease with any additional terms provided in this Agreement and any blank or bracketed terms set forth in Exhibit A hereto completed in accordance with the terms and provisions of this Agreement; and (ii) payment of the amount, if any, by which the Security Deposit required under Article 7 of the form of Restated Lease exceeds the amount of the security deposit then maintained by Lessee with County pursuant to Section 7 of the Existing Lease; (c) as of the date of Lessee's delivery of the Exercise Notice there shall not be a Lessee Default under this Agreement nor shall Lessee be in material breach or default under the Existing Lease after notice from County and the expiration

of any applicable cure period set forth in the Existing Lease; (d) the Conditions Satisfaction Date shall have occurred and there shall be no change in circumstances after the Conditions Satisfaction Date that causes the Option Conditions to no longer continue to be satisfied; (e) Director shall have approved all plans, specifications and other materials for the Renovation Work required to be submitted to Director pursuant to Section 6.3 of this Agreement; and (f) Lessee shall have submitted working drawings for the Renovation Work to the County Building Department. Upon Lessee's proper and timely exercise of the Option, County shall execute and deliver the Restated Lease as soon as reasonably possible thereafter, but, in any event not later than forty-five (45) days following the date of Lessee's exercise of the Option. The Effective Date of the Restated Lease (as defined in the form of Restated Lease) shall be the date the Restated Lease is executed and delivered by County, which date shall be inserted into page 1 of the Restated Lease concurrent with County's execution and delivery thereof. If Lessee's Project Financing is in a position to close within the above forty-five (45) day period County agrees to cooperate with Lessee to effectuate a concurrent closing of the Project Financing and County's delivery of the Restated Lease such that the Effective Date of the Restated Lease is the same as the date of the close of Lessee's Project Financing; provided, however, in no event shall such agreement to cooperate be interpreted to require County to delay the execution and delivery of the Restated Lease beyond such forty-five (45) day period; and provided, further, that County shall not be required to execute and deliver the Restated Lease unless within such forty-five (45) day period Lessee continues to satisfy the Option Conditions and Lessee's Project Financing is in a position to close on or before the execution and delivery by County of the Restated Lease. Notwithstanding the foregoing, Director shall have the authority in the exercise of Director's good faith judgment, but not the obligation, to extend the forty-five (45) day period in which Lessee is required to close Lessee's Project Financing for up to an additional thirty (30) days.

The failure of Lessee's Project Financing to close or Lessee's continuing satisfaction of the conditions to County's required execution and delivery of the Lease during the above forty-five (45) day period (as such period may be extended by Director pursuant to the last sentence of the immediately preceding paragraph) shall not in and of itself cause a termination of the Option, and, as long as the Option Term has not expired, Lessee shall have the continuing right to subsequently re-exercise the Option during the remainder of the Option Term if Lessee once again satisfies all conditions to such exercise, subject to Lessee causing the closing of the Project Financing and the continued satisfaction of the conditions to County's execution and delivery of the Restated Lease during the forty-five (45) day period (as such period may be extended by Director pursuant to the last sentence of the immediately preceding paragraph) following such subsequent re-exercise of the Option, in accordance with the terms and provisions of this Section 4.

5. Option Fee/Extension Fee.

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

5.2 Extension Fee. If Lessee exercises the Option, Lessee shall pay County an extension fee in the amount of Two Million Five Hundred Eighteen Thousand Dollars

($2,518,000.00) (the "**Extension Fee**") to compensate County for the value of the lease extension set forth in the Restated Lease. The Option Fee shall be applied against the Extension Fee. The remaining amount of the Extension Fee shall be paid by Lessee to County concurrent with, and as a condition precedent to, the execution and delivery by County of the Restated Lease.

6. Entitlements and Plan Preparation During Option Term.

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

6.2 County Cooperation. In its proprietary capacity, the Department of Beaches and Harbors of the County of Los Angeles (the "**Department**") shall cooperate with and assist Lessee, to the extent reasonably requested by Lessee, in Lessee's efforts to obtain the Entitlements. Such cooperative efforts may include the Department's joinder in any application for the Entitlements, where joinder therein by the Department is required or helpful; provided, however, that Lessee shall reimburse County for the Actual Costs (as defined in the form of Restated Lease) incurred by the Department in connection with such joinder or cooperative efforts. Notwithstanding any contrary provision of this Agreement, Lessee and County acknowledge that the approvals given by County under this Agreement and/or the Restated Lease shall be approvals pursuant to its authority under Section 25536 or 25907 of the California Government Code and given in its proprietary capacity; that approvals given under this Agreement and/or the Restated Lease in no way release Lessee from obtaining, at Lessee's expense, all permits, licenses and other approvals required by law for the construction of the Renovation Work and operation and other use of the Premises and Improvements; and that the Department's duty to cooperate and County's approvals under this Agreement and/or the Restated Lease do not in any way modify or limit the exercise of County's governmental functions or decisions as distinct from its proprietary functions pursuant to this Agreement and/or the Restated Lease.

For the purposes of this Agreement, "**Unreasonable County Activity**" means any of the following actions (or inactions) that occur after the date of this Agreement and prior to the expiration of the Option Term: (i) the Department's failure to provide required County joinder, if any, as fee title owner of the Premises, in Lessee's submittal to the applicable governmental agency of the Final Plans and Specifications (as defined in Section 5.3 of the form of Restated Lease) for the Renovation Work that are approved by the Department; or (ii) the Department's failure to take such other actions, at no cost or expense to County, in its proprietary capacity, that are reasonably requested by Lessee and which are necessary for Lessee to proceed with the permitting and approval process, or the taking by the Department of actions in its proprietary capacity, without Lessee's consent, which are in conflict with Lessee's rights and obligations under this Agreement and actually delay the receipt of the Entitlements; or (iii) the Department's failure to comply with the time periods imposed upon the Department under Section 6.3 below, except in the case (if any) where a failure of the Department 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 6.2 or the other provisions of this Agreement shall be construed as obliging the Department or the 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 or approval process. No action or inaction shall constitute Unreasonable County Activity unless and until all of the following procedures and requirements have been satisfied:

(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 Section 6.2, in no event shall Lessee be entitled to any extension of the Option Term for any period of the delay under this Section 6.2 that occurred 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 duration of the delay caused by such Unreasonable County Activity. If Director determines that Unreasonable County Activity has occurred and that County can and will take rectifying action, then the amount of delay under this Section 6.2 for the Unreasonable County Activity shall equal the actual amount of delay in the receipt of the Entitlements 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 the delay in the receipt of the Entitlements likely to be caused by the Unreasonable County Activity.

(c) If, within fourteen (14) days following receipt of Lessee's notice alleging Unreasonable County Activity, Director and Lessee have not agreed in writing as to whether delay in the receipt of the Entitlements due to Unreasonable County Activity has occurred or the length of such delay, then the matter shall be referred to the Board of Supervisors of the County for such determination.

6.3 Plans and Specifications for Renovation Work. The Renovation Work shall be constructed by Lessee in accordance with and subject to the terms and provisions of Article 5 of the form of Restated Lease. The requirements of Article 5 of the form of Restated Lease include, without limitation, the obligation of Lessee to prepare and submit to the Director for the Director's approval certain plans, specifications, construction cost estimates and other materials pertaining to the Renovation Work, as set forth in more detail in Section 5.3 of the form of Restated Lease. The procedure for the preparation, submittal and approval of the plans, specifications, construction cost estimates and other materials shall generally proceed in accordance with the terms and provisions of the form of the Restated Lease, except that during the period commencing on the date of this Agreement and expiring on the earlier of Lessee's

exercise of the Option or the Option Expiration Date, Lessee shall prepare and submit to Director for Director's approval, any portions of the plans, specifications and other materials described in Section 5.3 of the form of Restated Lease that are required to be submitted to governmental authorities (including the County, the Marina del Rey Design Control Board, the County Department of Regional Planning and the California Coastal Commission, as applicable) in connection with Lessee's applications for or receipt of the Entitlements for the Renovation Work. Lessee shall accompany such plans, specifications and other materials with the construction cost estimates described in Section 5.3 of the form of Restated Lease, as applicable. The standards and time periods for Director's review and approval of the materials submitted by Lessee pursuant to this Section 6.3 shall be in accordance with the terms and provisions of Section 5.3 of the form of Restated Lease, which terms and provisions are hereby incorporated into this Agreement by reference. Such plans, specifications and other materials shall be prepared and submitted to Director by Lessee in accordance with a schedule which shall facilitate Lessee's satisfaction of all conditions precedent to the exercise of the Option on or before the Option Expiration Date. In addition to the plans, specifications and materials required to be submitted by Lessee to Director pursuant to this Section 6.3, Lessee shall have the right, at its election, but not the obligation, to deliver to Director, for Director's approval, additional plans, specifications and materials pertaining to the Renovation Work. Director shall notify Lessee of its approval or disapproval of such additional plans, specifications and materials within the time frames and in accordance with the requirements of Section 5.3 of the form of Restated Lease. Notwithstanding the foregoing, County acknowledges that prior to the date of this Agreement Director has reviewed and approved the schematic plans and narrative description of the Renovation Work required under Subsection 5.3.1 of the form of Restated Lease. Such approved schematic plans and narrative description of the Renovation Work are set forth or referenced in the Renovation Plan attached as Exhibit B to the Restated Lease.

7. Non-Exercise Lease Amendment. If Lessee does not exercise the Option on or before the Option Expiration Date (or the Option is not exercisable by the Option Expiration Date), then (a) the Option shall automatically terminate, and (b) at County's election by written notice from Director to Lessee, the Existing Lease shall be considered to be (or to have been) automatically amended effective as of the Option Expiration Date (the "**Effective Amendment Date**") as follows (the "**Non-Exercise Amendment**"):

(i) add Article 16 of the form of Restated Lease to the Existing Lease, and amend Section 15 of the Existing Lease to provide for the determination and resolution of square foot and percentage rental adjustments under Section 15 of the Existing Lease in accordance with the terms, provisions and procedures set forth in Subsections 4.4.2 through 4.4.5 and Article 16 of the form of Restated Lease (for purposes hereof, all references in such Subsections 4.4.2 through 4.4.5 to (I) "Renegotiation Date" shall mean and refer to the effective date for any remaining 10-year adjustments of square foot and percentage rental under Section 15 of the Existing Lease; (II) "Fair Market Rental Value" shall mean and refer to the fair market value referenced in Section 15 of the Existing Lease; and (III) "Annual Minimum Rent" and "Percentage Rent" shall mean and refer to the square foot and percentage rentals referenced in the Existing Lease);

(ii) amend and restate Section 18 of the Existing Lease in full in accordance with Sections 2.2 and 2.3 of the form of Restated Lease;

(iii) amend and restate Section 22 of the Existing Lease in full in accordance with Article 11 (excepting Subsections 11.2.4 and 11.2.5) and Article 12 (excepting Sections 12.3.6 and 12.12) of the form of Restated Lease, provided that all references in such Articles 11 and 12 to Net Proceeds Share, Net Refinancing Proceeds and Sections 4.6 through 4.8 shall be deleted;

(iv) add the last four (4) sentences of Section 4.5 of the form of Restated Lease to the Existing Lease;

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

(vi) amend Sections 26 and 27 of the Existing Lease to adjust the amount and scope of commercial general liability, automobile liability, garagekeeper's legal liability, workers compensation and employer's liability insurance coverage required to be carried by Lessee to equal the amounts and coverages set forth in Subsections 9.1.1, 9.1.2 and 9.1.3 of the form of Restated Lease, to add to Section 26 of the Existing Lease the provisions of Subsection 9.1.7 of the form of Restated Lease, and to add to Section 26 of the Existing Lease the provisions of Section 9.6 of the form of Restated Lease;

(vii) amend and restate Sections 8 and 10 of the Existing Lease in accordance with Sections 5.3, 5.4, 5.7, 5.8, 5.9 and 5.10 of the Restated Lease, except that all references to the "Renovation Work" shall be deleted and the terms and conditions of such Sections shall be applicable only to "Alterations;"

(viii) amend and restate Sections 30, 31 and 32 of the Existing Lease in full in accordance with Article 14 of the form of Restated Lease, except that all references in Article 14 of the form of Restated Lease to "Net Proceeds Share," "Net Refinancing Proceeds" and "Permitted Capital Expenditures" shall be deleted;

(ix) add the last sentence of Section 10.3 and all of Section 10.4 of the form of Restated Lease to the Existing Lease (for purposes hereof, the reference in Section 10.4 of the form of Restated Lease to "Sections 10.1 through 10.3 above" shall mean and refer to Section 35 of the Existing Lease, as amended); and

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

For purposes of the Non-Exercise Amendment, all references in the form of Restated Lease to the "Effective Date" shall mean and refer to the Effective Amendment Date set forth above. Within thirty (30) days after request by County, County and Lessee shall execute and deliver a written document confirming the modifications to the Existing Lease set forth in this Section 7, but Lessee's failure to execute such written document upon request by County

shall not affect the effectiveness of the Non-Exercise Amendment, which, at County's election by written notice from Director to Lessee, shall become automatically effective as of (or retroactive to) the Option Expiration Date if Lessee does not exercise the Option on or before the Option Expiration Date (or the Option is not exercisable by the Option Expiration Date).

8. Changes of Ownership and Financing Events During the Option Term. As additional consideration for the grant of the Option, Lessee agrees that terms and provisions similar to those set forth in Sections 4.6 through 4.8 of the form of Restated Lease (as modified and set forth in Sections 8.1 through 8.4 below) pertaining to Changes of Ownership and Financing Events (as such terms are defined in the form of Restated Lease) shall be applicable to the Existing Lease during the Option Term. Upon the expiration of the Option Term without exercise of the Option, this Section 8 shall remain in effect until the execution of the Non-Exercise Amendment, and upon execution of the Non-Exercise Amendment this Section 8 shall terminate. If the Option is exercised, then commencing after the Effective Date of the Restated Lease this Section 8 shall terminate and the terms and provisions of the Restated Lease shall control with respect to any Changes of Ownership or Financing Events that occur after the Effective Date of the Restated Lease. If a Change in Ownership or Financing Event occurs concurrent with the execution and delivery of the Restated Lease, then the terms and provisions of this Section 8 shall control with respect to such Change of Ownership or Financing Event and for purposes of the application of this Section 8, such Change of Ownership or Financing Event shall be considered to have occurred under the Existing Lease (as opposed to under the Restated Lease). Any capitalized terms set forth in Sections 8.1 through 8.4 below that are not defined in this Agreement shall have the same meanings given to such terms in the form of Restated Lease.

8.1 Changes of Ownership and Financing Events. Except as otherwise provided in this Section 8.1, each time during the period during which this Section 8 is in effect 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) a Net Proceeds Share, in the event such Change of Ownership or Financing Event is consummated. "**Net Proceeds Share**" shall mean the applicable amount determined pursuant to Section 8.3 below. Changes of Ownership and Financing Events are further subject to County approval as and to the extent required under the Existing Lease.

8.1.1 Change of Ownership. "**Change of Ownership**" shall mean (a) any transfer by Lessee of a five percent (5%) or greater direct ownership interest in the Existing 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 8.1.1(a) or (b) which constitute an Aggregate Transfer of fifty percent (50%) or more of the beneficial interests in Lessee or a Major Sublessee, or (d) a Change of Control (as defined below) of Lessee or a Major Sublessee. "**Change of Control**" shall refer to a transaction whereby the transferee acquires a beneficial interest in Lessee or a Major Sublessee which brings its cumulative beneficial interest in Lessee or a Major Sublessee, as applicable, to greater than fifty percent (50%).

8.1.2 Excluded Transfers. Notwithstanding anything to the contrary contained in this Section 8, 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:

8.1.2.1 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 date of this Agreement, 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 date of this Agreement, including in each case to or from a trust for the benefit of the immediate family (as defined in Subsection 8.1.2.3 below) of any direct or indirect partner, shareholder or member of Lessee who is an individual;

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

8.1.2.3 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 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, or (iii) from such a trust or any trust that is an owner in a constituent entity of Lessee as of the date of this Agreement, 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 8.1.2.3 is the result of gift, devise, intestate succession or operation of law;

8.1.2.4 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 traded in the over-the-counter market and whose price is regularly quoted in recognized national quotation services;

8.1.2.5 a mere change in the form, method or status of ownership, as long as there is no change in the actual beneficial ownership of the Existing Lease, Lessee or a Major Sublease, and such transfer does not involve an intent to avoid Lessee's obligations under this Section 8 with respect to a Change of Ownership; or

8.1.2.6 any transfer resulting from a Condemnation by County.

8.1.3 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 or a Major

Sublessee, as applicable) transferred or assigned in one transaction or a series of related transactions (other than those enumerated in Subsection 8.1.2) occurring since the later of (a) the date of this Agreement, (b) the execution by Lessee of a Major Sublease, 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.

8.1.4 Beneficial Interest. As used in this Lease, "**beneficial 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.

8.1.4.1 Interests Held By Entities. Except as otherwise provided herein, an interest in Lessee, the Existing 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 applicable, 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, the Existing Lease or a Major Sublease, as appropriate, and any transfers thereof. Notwithstanding any contrary provision hereof, no limited partner, member or shareholder having a direct or indirect ownership interest in Lessee or a Major Sublease shall have any liability to County under this Lease.

8.1.4.2 Ownership of Multiple Assets. The proceeds of any event constituting or giving rise to a Change of Ownership shall be apportioned to the Existing Lease or a Major Sublease, whichever is applicable, 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 the Existing Lease, a Major Sublease or the beneficial interests therein, as applicable.

8.1.5 Financing Events Regarding Multiple Assets. For purposes of determining the Net Proceeds Share and Net Refinancing Proceeds from a financing transaction that involves both a Financing Event under this Agreement and a financing in which other assets or interests unrelated to the Existing Lease, a Major Sublease or beneficial interests in Lessee or a Major Sublessee secure the financing, the principal amount of such financing transaction shall be apportioned to the Existing Lease, a Major Sublease and/or beneficial interests in Lessee or a Major Sublessee (as applicable), on the one hand, and to the other unrelated assets or interests that also secure

the financing, on the other hand, in proportion to the relative fair market values of the respective assets that secure the financing.

8.2 Calculation and Payment. A deposit of Fifteen Thousand Dollars ($15,000) toward the Administrative Charge shall be due and payable upon Lessee's notification to County of the proposed Change of Ownership (other than 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 (other than an Excluded Transfer) 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 8.1. 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 8.1 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 the Existing Lease or a Major Sublease, as applicable, shall present to County its calculation of the Net Proceeds Share (if any) anticipated to be derived therefrom, which shall include the adjustment to Improvement Costs, if any, which may result from the payment of such Net Proceeds Share ("**Calculation Notice**"). Each Calculation Notice shall contain such detail as may be reasonably requested by County to verify the calculation of the Net Proceeds Share. Within thirty (30) days after the receipt of the Calculation Notice and all information or data reasonably necessary for County to verify the calculations within the Calculation Notice, County shall notify the party giving the Calculation Notice as to County's agreement or disagreement with the amount of the Net Proceeds Share set forth therein or the related adjustment of Improvement Costs, if any. If County disagrees with the amounts set forth in the Calculation Notice, County shall provide Lessee with the reason or reasons for such disagreement. Failing mutual agreement within thirty (30) days after the expiration of County's thirty (30) day review period, the dispute shall be resolved by arbitration in accordance with the terms and provisions set forth in Article 16 of the form of Restated Lease in the manner prescribed therein 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 the terms and provisions set forth in Article 16 of the form of Restated Lease, in the manner prescribed therein for the resolution of disputes concerning Fair Market Rental Value.

8.2.1 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 or a Major Sublessee, 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 date of this Agreement, or (b) the date of 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 the Existing Lease, a Major Sublease or a Change of Ownership that included a transfer of the beneficial interest that is the subject of the current transfer.

8.2.2 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 the terms and provisions set forth in Article 16 of the form of Restated Lease.

8.2.3 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 obligation of Lessee, and in the case in which the identity of the Lessee changes with the transfer, shall be the joint and several obligation of both the Lessee entity prior to the transfer and the Lessee entity after the transfer. In the event that the Administrative Charge or Net Proceeds Share is not paid when due with respect to the beneficial interest in the Existing Lease, then such failure shall constitute a default by Lessee under the Existing Lease and County shall have the remedies applicable under the Existing Lease for a default by Lessee under the Existing Lease.

8.3 Net Proceeds Share. In the event of a Change of Ownership, the "**Net Proceeds Share**" shall be the amount by which the greater of the following exceeds the Administrative Charge paid by Lessee to County in connection with such Change of Ownership: (a) the lesser of (i) the Net Transfer Proceeds from such Change of Ownership, or (ii) five percent (5%) of the Gross Transfer Proceeds from such Change of Ownership; or (b) twenty percent (20%) of the Net Transfer Proceeds from such Change of Ownership.

"**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).

With respect to a Financing Event, the "**Net Proceeds Share**" shall be the amount (if any) 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. Notwithstanding the foregoing, in connection with any Financing Event used to fund the cost of the acquisition of an Ownership Interest in Lessee that constitutes an Excluded Transfer, if such Financing Event is secured by the Ownership Interest that is transferred, then the Net Refinancing Proceeds from such Financing Event shall not include the portion of the proceeds of such Financing Event used to fund the acquisition cost of such Ownership Interest.

Notwithstanding any contrary provision of this Section 8.3, in the calculation of Net Transfer Proceeds and Net Refinancing Proceeds derived from a Change of Ownership or Financing Event, as applicable, pursuant to the remaining provisions of Section 8.3 below, there shall be no duplication of any amounts to be subtracted from Gross Transfer Proceeds or the gross principal amount of any Financing Event (as applicable), even if a particular amount qualifies for subtraction under more than one category.

8.3.1 Transaction by Existing Lessee. In the case of a transfer by or with respect to the existing Lessee that executed this Agreement (as opposed to a transfer by a successor or assignee of Lessee, which is addressed in Subsection 8.3.2 below) 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):

8.3.1.1 The sum of (a) Twenty-Three Million Dollars ($23,000,000.00), plus (b) the amount of the Option Fee and any Option Term Extension Fee paid by Lessee under this Agreement, plus (c) actual out-of-pocket costs incurred by Lessee for its third party consultants and attorneys in connection with the negotiation and consummation of this Agreement and the Restated Lease, plus (d) the Actual Costs reimbursed by Lessee to County in connection with the negotiation and consummation of this Agreement and the Restated Lease (the sum of the amounts in (a), (b), (c) and (d) are referred to as the "Base Value"), plus (e) the final actual out-of-pocket design, permitting, entitlement and construction costs paid by Lessee in connection with physical capital Improvements or Alterations to the Premises constructed by Lessee after the date of this Agreement and prior to the date of the transfer, in compliance with the Existing Lease, 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 of such Improvements), together with a written certification from Lessee and Lessee's construction lender that such costs are accurate, and which costs shall have been approved in writing by Director (the amounts described in this clause (e) are referred to as "**Improvement Costs**"). Without limitation of the immediately preceding sentence, Improvement Costs shall include all actual out-of-pocket hard and soft construction costs paid to unaffiliated third parties (except that Lessee shall be entitled to include, to the extent actually incurred, construction management and/or development fees paid to an affiliate as long as the total amount of all construction management, development and similar fees paid to unaffiliated and affiliated parties does not exceed an aggregate of four percent (4%) of the hard construction costs), and actual construction period interest on Lessee's construction loan from an unaffiliated third party lender.

8.3.1.2 Commissions, title and escrow costs, legal fees and expenses, and other bona fide closing costs actually paid to third parties and documented to the satisfaction of Director, 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**").

8.3.1.3 That portion of the principal amount of any Financing Event after the date of this Agreement that constituted Net Refinancing Proceeds on which Lessee paid County a Net Proceeds Share.

8.3.2 Transfer by Lessee's Successor. In the case of a transfer by or with respect to a successor or assignee of the existing Lessee that executed this Agreement, "**Net Transfer Proceeds**" shall mean the Gross Transfer Proceeds received by that successor or assignee, minus the following costs with respect to such successor Lessee:

8.3.2.1 The greatest of (a) the sum of the Base Value, plus Improvement Costs incurred subsequent to the date of this Agreement 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, 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;

8.3.2.2 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 8.3.2.1(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 8.3.1.1; and

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

8.3.3 Transfers of Major Sublessee's Interest. With respect to any Change of Ownership described in Subsection 8.1.1(b), Subsections 8.3.1 and 8.3.2 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 the Existing Lease (other than payment of Net Proceeds Share) shall be disregarded in the computation of Net Transfer Proceeds.

8.3.4 Other Transfers. With respect to any Change of Ownership that is not an Excluded Transfer and is not described in Subsections 8.3.1 through 8.3.3 (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 8.3.1 and 8.3.2 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 existing Lessee that executed this Agreement, such cost shall in no event be deemed to be less than a prorata share of the sum of Subsections 8.3.2.1 plus 8.3.2.2 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 the Existing Lease or in a Major Sublease, as applicable.

8.3.5 Net Refinancing Proceeds. "**Net Refinancing Proceeds**" shall mean the gross principal amount of any Financing Event after the date of this Agreement, 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 (a) the greatest of (i) the Base Value, (ii) the original principal amount of any subsequent refinancing by Lessee in connection with which County was paid a share of Net Refinancing Proceeds (plus if the financing described in this clause (ii) was secondary financing, the original principal balance of any then existing financing that was not repaid as a part of such secondary financing), or (iii) in the case of a successor Lessee the purchase price such successor paid to Lessee or such successor's seller for the interest acquired, (b) any portion of the proceeds of the Financing Event which shall be used for Improvement Costs incurred after the date of this Renewal Agreement, (c) other Improvement Costs incurred by Lessee after the date of this Agreement and not paid for or repaid with the proceeds of any Financing Event, and (d) Documented Transaction Costs with respect to such Financing Event.

8.3.6 Transfers to which Sections 8.1 through 8.3 Apply. The provisions of Sections 8.1 through 8.3 hereof shall apply to all transfers of beneficial interests in the Existing 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 8.1 through 8.3 hereof, and the principles set forth therein, shall apply to any transfer or series of transfers primarily structured for the purpose of avoiding the obligation to pay Net Proceeds Share set forth in Sections 8.1 through 8.3 of this Agreement and which, viewed together, would otherwise constitute a Change of Ownership.

8.3.7 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 at the Applicable Rate from the date due until paid; provided, however, 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) to secure payment thereof. 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 8.1.1(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).

8.3.8 Shareholder, Partner, Member, Trustee and Beneficiary List. As part of the submission for approval of a Change of Ownership or Financing Event, and upon the request of County (which requests shall be no more frequent than once per year), Lessee shall provide County with an updated schedule listing the names and mailing addresses of (i) all shareholders, partners, members and other holders of equity or beneficial interests in Lessee, the Existing 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 commercially reasonable 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 Sublessee.

8.4 Effect Upon Sections 4.6 through 4.8 of the Restated Lease of Changes of Ownership That Occur During the Option Term. If a Change of Ownership occurs during the Option Term upon which a Net Proceeds Share is payable under this Section 8 and the Gross Transfer Proceeds from such Change of Ownership exceed Twenty-Three Million Dollars ($23,000,000.00), then for purposes of the Restated Lease, the amount set forth in clause (a) of Section 4.8.1.1 of the Restated Lease shall be modified to equal the Gross Transfer Proceeds from such Change of Ownership that occurred during the Option Term.

9. County Costs. Regardless of whether Lessee exercises the Option, Lessee shall promptly reimburse County for the Actual Costs (as defined in the form of Restated Lease)

incurred by County in the review, negotiation, preparation, documentation and administration of this Agreement, the Restated Lease and the term sheets and memoranda that precede or preceded any of the foregoing. Lessee shall pay all of such Actual Costs that were incurred prior to or as of the date of this Agreement concurrent with Lessee's execution and delivery of this Agreement. Lessee shall pay any such Actual Costs incurred by County subsequent to the date of this Agreement within thirty (30) days following receipt by Lessee of an invoice from the County for such Actual Costs.

10. Miscellaneous.

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

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

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

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

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

10.6 No Assignment. Lessee shall have no right to assign or transfer its rights or obligations under this Agreement to any other person or entity, without the express written consent of County, which consent may be withheld by County in its sole and absolute discretion; provided, however, Lessee shall have the right to assign its rights and obligations under this Agreement (including a collateral assignment) to the same entity to whom Lessee assigns (or collaterally assigns or has collaterally assigned, as applicable) its leasehold interest under the Existing Lease in an assignment (or collateral assignment) of the Existing Lease that is (or has been) approved by County; provided, further, that Lessee shall have the right to assign its rights and obligations under this Agreement to a limited liability company controlled by or under common control with Lessee if Lessee's leasehold interest under the Existing Lease is also

assigned to the same entity pursuant to an assignment that is either permitted or approved under the terms of the Existing Lease.

10.7 Entire Agreement. This Agreement sets forth the full and complete understanding of the parties relating to the subject matter hereof, and supersedes any and all agreements, understandings and representations made prior hereto with respect to such matters.

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

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

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

10.11 Successors and Assigns. Subject to Section 10.6 above, the rights and obligations of the parties under this Agreement shall be binding upon the parties' respective successors and assigns.

10.12 Lessee Default. For purposes of this Agreement, a "**Lessee Breach**" under this Agreement means a failure of Lessee to perform or comply with any material obligation or covenant of Lessee under this Agreement. For purposes of this Agreement, a "**Lessee Default**" under this Agreement means Lessee's failure to cure a Lessee Breach under this Agreement within (a) ten (10) days after Lessee's receipt of written notice from County in the case of the payment of money, or (b) thirty (30) days after Lessee's receipt of written notice from County in the case of any other obligation or covenant of Lessee under this Agreement; provided, however, that if the nature of the Lessee Breach under this clause (b) is such that it cannot with reasonable diligence be cured within thirty (30) days, then the cure period set forth in this clause (b) shall be extended for such additional period as reasonably required for the cure of the Lessee Breach as long as Lessee commences cure of the Lessee Breach within thirty (30) days after Lessee's receipt of written notice from County and diligently prosecutes such cure to completion.

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

10.14 Indemnification. Lessee agrees to indemnify, defend and hold County, its agents, officers and employees, harmless from and against any claim, cause of action or proceeding brought against County, its agents, officers or employees, and all liabilities and costs (including, without limitation, attorneys' fees) incurred in connection therewith, regarding any contest, opposition or challenge relating to the Entitlements for the Renovation Work, including without limitation, any contest, opposition or challenge to the issuance of any particular permit(s) or approval(s) for the Renovation Work or as to whether the Renovation Work requires the issuance of any particular permit(s) or approval(s). Lessee shall have the right

to assume the defense of any such action or proceeding with counsel reasonably satisfactory to County.

In the event that any claim, action, or proceeding as described above is filed against the County, Lessee shall within ten (10) days of the filing, deliver to County an initial deposit of $5,000 from which costs shall be billed and deducted for the purpose of funding the costs incurred by County in connection with the defense, or participation or cooperation in the defense, of such claim, action or proceeding. Such deposit shall be replenished up to the amount of the initial deposit, each time unreimbursed costs incurred by County reach eighty percent (80%) of the amount on deposit, without limitation as to the number of supplemental deposits that may be required prior to completion or resolution of the matter.

10.15 Representation Regarding Existing Encumbrances. Lessee represents and warrants to County that as of the date of this Agreement there are no deeds of trust, mortgages or other security interests that encumber Lessee's interest in the Existing Lease or the Premises. The grant of the Option set forth herein is contingent upon the accuracy of the foregoing representation and warranty.

SIGNATURES ON FOLLOWING PAGE

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

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

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

By _____
Deputy

THE COUNTY OF LOS ANGELES

By: _____
Chairman, Board of Supervisors

VILLA DEL MAR PROPERTIES, LTD.,
a California limited partnership

By: Richard W. Silver 1988 Living Trust as amended and restated August 23, 1997, General Partner

By: _____
Richard W. Silver, Trustee

By: Aspen Marina, Inc., General Partner

By: _____
Richard W. Silver, President

By: _____
Richard A. Franklin, Secretary/Treasurer

ATTEST:

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

By: _____
Deputy

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

By: ORIGINAL SIGNED
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: ORIGINAL SIGNED

ADOPTED
BOARD OF SUPERVISORS

#24 FEB 04 2014

SACHI A. HAMAI
EXECUTIVE OFFICER

78120

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

THE COUNTY OF LOS ANGELES

By: ORIGINAL SIGNED
Chairman, Board of Supervisors

VILLA DEL MAR PROPERTIES, LTD.,
a California limited partnership

By: Richard W. Silver 1988 Living Trust as amended and restated August 23, 1997, General Partner

By: ORIGINAL SIGNED
Richard W. Silver, Trustee

By: Aspen Marina, Inc., General Partner

By: ORIGINAL SIGNED
Richard W. Silver, President

By: ORIGINAL SIGNED
Richard A. Franklin, Secretary/Treasurer

78120

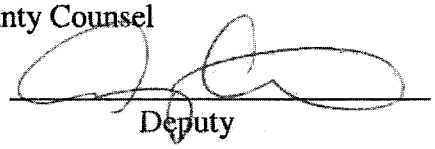
ATTEST:

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

By: ORIGINAL SIGNED
Deputy

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

By: 
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: ORIGINAL SIGNED

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

THE COUNTY OF LOS ANGELES

By: ORIGINAL SIGNED
Chairman, Board of Supervisors

VILLA DEL MAR PROPERTIES, LTD.,
a California limited partnership

By: Richard W. Silver 1988 Living Trust as amended and restated August 23, 1997, General Partner

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By: Aspen Marina, Inc., General Partner

By: ORIGINAL SIGNED
Richard W. Silver, President

By: ORIGINAL SIGNED
Richard A. Franklin, Secretary/Treasurer

78120

ATTEST:

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

By: ORIGINAL SIGNED
Deputy

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

By: ORIGINAL SIGNED
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: [signature]

EXHIBIT A

FORM OF RESTATED LEASE

Environmental Checklist Form (Initial Study)
County of Los Angeles, Department of Regional Planning

Project title: Parcel 13 - Villa Del Mar Apartments Rehabilitation / Project No. R2013-01078 / Case No. RENV201300106.

Lead agency name and address: Los Angeles County, 320 West Temple Street, Los Angeles, California 91020

Contact Person and phone number: Anita Gutierrez, Special Projects Section, (213) 974-4813

Project sponsor's name and address: Villa Del Mar Properties, Ltd., 17941 Mitchell S
Irvine, California 92614

Project location: Parcel 13R at 13999 Marquesas Way, Marina del Rey, California 90292
APN: 4224-003-900 *Thomas Guide*: Page 671 J-7 and 672 A-7 *USGS Quad*: Venice

Gross Acreage: 12.5 acres (Total), 7.4 acres (water) 5.1 acres (Landside)

General plan designation: Specific Plan

Community/Area wide Plan designation: Marina del Rey Specific Plan

Zoning: Marina del Rey Land Use Plan: "Marquesas Area" - Residential III (Medium-density residential) and Water with a Waterfront overlay

Description of project: The proposed project (Villa Del Mar Apartments, constructed on the site in 1972) is located on Parcel 13R at 13999 Marquesas Way in the unincorporated community of Marina del Rey. The subject parcel is approximately 12.5 acres in size (5.1 landside acres and 7.4 waterside acres) and is leased by the Applicant (Villa Del Mar Properties, Ltd.) from the County of Los Angeles. The proposed project requires a ministerial Site Plan Review approval to authorize the Applicant's rehabilitation of the 198-unit existing apartment complex and associated site facilities/amenities over a 36-month period, beginning on or about June 2014 and being completed by approximately June 2017. The proposed project includes substantial renovation of the apartment buildings' interiors and exteriors, both private and public areas, waterfront promenade, parking facilities and landscaped areas of the existing apartment complex. The project also includes an Option to Amend Lease Agreement for the subject Parcel 13R, to be approved by the County Board of Supervisors prior to initiation of the proposed rehab work at the site. The current renovation project does not entail any demolition or replacement of the existing Villa Del Mar Marina boat slips. The rehabilitation of the facility will require the removal of approximately 3,300 cubic yards of debris and the repaving of approximately 56,000 square feet with asphalt or pervious material; additionally, some minor grading (approx. 55 cubic yards of fill) will be required in conjunction with re-leveling the complex's primary entry driveway. The parking garage will have new high-density concrete accent panels and new green wall trellises. The surface will remain unpainted concrete.

The proposed project will include the following renovation items for the complex:

Apartment Building Façade: The existing apartment buildings located on the project site will be stripped of their current exterior façade. The exteriors of the buildings will be upgraded with cement plaster and accent panels of integral colored (a color application technique), high-density concrete. The proposed rehabilitation also includes replacement of all windows, sliding doors, and balcony decking; replacement of all exterior doors with marine galvanized hollow metal doors; and the refinishing of all balconies with integral colored, high-density concrete panels and metal railing details.

The Apartment Building Individual Unit Interiors: All of the residential units located within the complex will be fully renovated. The renovation will include installation of new bathrooms, kitchens, flooring, and fixtures; installation of stacked washer and dryers; repair or replacement of existing waste plumbing; installation of new copper water pipes; and electrical systems and technology infrastructure upgrades (including installation of cable TV and CAT 5 wiring, installation of GFI-protected outlets, installation of new copper. The renovation will install energy efficient devices including low-flow toilets, dual-glazed windows and doors, low-flow faucets and showerheads, LED and fluorescent lighting, and building insulation.

Apartment Building Interior Common Areas: The interior common areas of the existing apartment buildings will be fully renovated, including installation of new carpeting, lighting and decorative finishes, and fixtures.

Exterior Common Areas:

All exterior common areas of the existing complex will be completely renovated, to include: a redesigned entry courtyard with arbor structure; new rental office courtyard with wall fountain; renovation of the existing gym/fitness center and men's and women's saunas; renovation of the leasing office with new exterior integral color, high density concrete panels, a new ADA elevator, and new green wall trellises; new entry gates at the project driveways; new paving materials, fencing and landscaping in the outdoor pool area; and installation of new landscaping, lighting, promenade paving, bulkhead railing, entry drive pavers and NPDES/MS4-compliant drainage system.

An elevator will also be affixed to the existing leasing office building in order to comply with ADA requirements.

Electrical Upgrade: The proposed project will include electrical upgrade to the entire complex. The Applicant will upgrade the main panel to each building, the wiring to each unit and install new interior panels.

Boaters' Restrooms: The proposed project will include installation of new finishes, fixtures, hardware, and appliances in the four boaters' restrooms and one boaters' laundry facility located within the complex. The exterior of the building will have new integral color cement plaster and a modular green roof system. Bicycle parking areas and outdoor drinking fountains will be added to the public areas.

The planned rehabilitation project will also include the installation of new apartment building roofs and insulation, as required; replacement of all gutters, scuppers and other roof drainage; and the repair and/or replacement of the existing solar hot water heating system.

The proposed landside renovation project does not entail any demolition or replacement of the existing Villa Del Mar Marina anchorage, which is a private recreational boat anchorage containing 209 boat slips located on the waterside portion of the subject parcel. Pursuant to the terms of the Option to Amend Lease Agreement for the subject Parcel 13R, to be approved by the County Board of Supervisors prior to initiation of the proposed rehab work at the site, the applicant will be contractually obligated to the County

to demolish the existing waterside anchorage and to construct a new private boat anchorage on the waterside portion of the subject parcel on or about January 2029. While the subject Initial Study review for the proposed landside rehabilitation project does not evaluate the future redevelopment plans for the waterside anchorage facilities, the applicant will comply with all applicable laws governing Marina development, including environmental review pursuant to the California Environmental Quality Act, at the time of application for the new private boat anchorage on the waterside portion of the subject parcel.

Surrounding land uses and setting: The project site is located in the unincorporated Los Angeles County community of Marina del Rey, in the western portion of the harbor. Specifically, the project site is located on the northerly side of Marquesas Way, abutted by Marina basin "C" to the north, Marina Parcel 12 (Esprit Apartments) to the east, and Marina Parcel 14 (public parking lot approved for multi-family residential development) to the west. There are residential apartments to the east and south, with boat docks in the water to the north within Basin C. The site is currently developed with a 198-unit apartment complex located within four three-story buildings; parking occurs within partially subterranean garages located under the apartment buildings and within a freestanding parking structure located on the westerly side of the parcel. The complex contains 572 parking spaces on-site, 447 of which are allocated for apartment residents, their guests and the leasing office and 125 of which are allocated to the Villa Del Mar Marina's boat slip tenants.

Other public agencies whose approval may be required (e.g., permits, financing approval, or participation agreement):

Public Agency	*Approval Required*

Major projects in the area:

Project/Case No.	*Description and Status*
R2010-00669/ RENV201000022	*Parcels 42 and 43(APN No. 4224-008-900): Coastal Development Permit for rehabilitation of the Marina del Rey Hotel, an existing 154-room hotel, and the demolition and subsequent redevelopment of the hotel's private boat anchorage.*
R2006-03647/ CDP200600008	*Parcel 10R (APN No. 4224-003-900): Coastal Development Permit to authorize the demolition of an existing 136-unit apartment complex and the development of a 400-unit complex (including a total of 62 affordable housing units).*
R2006-03652/ CDP200600009	*Parcel FF (APN No. 4224-003-900): Coastal Development Permit to authorize the demolition of an existing parking lot and the development of a 126-unit apartment complex.*
TR067861/ CDP200600007	*Parcel 9U, Northern Portion (APN No. 4224-002-900): Pending Coastal Development Permit to authorize the construction of a 19-story, 288-unit hotel with a restaurant and other auxiliary facilities.*
R2006-03643/ CDP200600006	*Parcel 9U, Southern Portion (APN No. 4224-002-900): Coastal Development Permit to authorize the development of a public wetland and upland park.*
R2007-01480/ CDP200700001	*Parcels 55, 56 and W (APN No. 4224-011-901): Pending Permit to authorize the demolition of Fisherman's Village and all existing parking, landscaping, and hardscaping, and the development of a new mixed-use commercial plaza and multi-story parking structure.*
R2005-04106/ CDP200500006	*Parcel 27R (APN No. 4224-005-906): Coastal Development Permit to authorize the rehabilitation and expansion of the Jamaica Bay Hotel for 69 new guest rooms (total of 111 guest rooms) and a new restaurant.*
R2006-01510/ CDP200600002 & CDP 20060003	*Parcels OT & 21 (APN No. 4224-006-900): Pending Coastal Development Permit to authorize the demolition of all existing landside improvements and the construction of a 114 unit senior accommodations facility, 5000 square feet of retail space and other site amenities and facilities; & 447-space parking structure, marine commercial & community park (Parcel 21)*
R2009-00924/ RENV200900055	*Parcel 145R (APN No. 4224-006-900): Interior and exterior renovation of the existing 132-room Marina International Hotel (Under Construction)*
R2009-00752/ PP201000954	*Parcel 64 (APN No. 4224-011-901): Interior and exterior renovation of the existing 224-unit Villa Venetia apartment complex. (Under Construction)*
R2008-02340/ CDP200800007	*Parcels 52R (APN No. 4224-003-900): Coastal Development Permit to authorize a dry stack boat storage facility, with capacity for 345 boats, along with appurtenant office space and customer lounge, 30 mast up storage spaces, parking, and a new Sheriff's Department/Lifeguard Boatwright facility.*
R2005-00234/ CDP200500002	*Parcel 100 & 101 (APN No. 4224-005-903): (Approved January 27, 2009; Under Construction) 544-unit apartment complex in 12 buildings.*

Project 98-134/ CDP 98-134	*Parcel 15 (APN No. 4224-003-900): (Approved December 6, 2000) Replace existing 288-unit apartment complex with a 585-unit apartment complex.*
R2012-00180/ RENV201200026	*Parcels 95 & LLS (APN No. 4224-005-910): Demolition of three existing office-retail structures to be replaced with two new commercial retail buildings, with rehabilitation of existing restaurant.*

Reviewing Agencies:

Responsible Agencies

- [ ] None
- Regional Water Quality Control Board:
  - [ ] Los Angeles Region
  - [ ] Lahontan Region
- [x] Coastal Commission
- [ ] Army Corps of Engineers
- [ ] State Department of Conservation, Division of Oil, Gas & Geothermal Resources

Special Reviewing Agencies

- [ ] None
- [ ] Santa Monica Mountains Conservancy
- [ ] National Parks
- [ ] City of Culver
- [ ] City of Los Angeles Sanitation Bureau
- [x] South Coast Air Quality Management District
- [ ] City of Los Angeles

Regional Significance

- [ ] None
- [ ] SCAG Criteria
- [ ] Air Quality
- [ ] Water Resources
- [ ] Santa Monica Mtns. Area
- [ ]

Trustee Agencies

- [ ] None
- [x] State Dept. of Fish and Wildlife
- [ ] State Dept. of Parks and Recreation
- [ ] State Lands Commission
- [ ] University of California (Natural Land and Water Reserves System)

County Reviewing Agencies

- [x] DPW:
  - Land Development Division (Grading & Drainage)
  - Geotechnical & Materials Engineering Division
  - Watershed Management Division (NPDES)
  - Traffic and Lighting Division
  - Environmental Programs Division
  - Waterworks Division
  - Sewer Maintenance Division
- [x] Fire Department
  - Forestry, Environmental Division
  - Planning Division
  - Land Development Unit
  - Health Hazmat
- [x] Sanitation District – Solid Waste
- [x] Public Health/Environmental Health Division: Toxics Epidemiology Program (Noise)
- [x] Sheriff Department
- [x] Beaches and Harbors
- [ ] Subdivision Committee
- [ ]

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project.

- ☐ Aesthetics
- ☐ Agriculture/Forest
- ☐ Air Quality
- ☒ Biological Resources
- ☐ Cultural Resources
- ☐ Energy
- ☐ Geology/Soils
- ☐ Greenhouse Gas Emissions
- ☐ Hazards/Hazardous Materials
- ☐ Hydrology/Water Quality
- ☐ Land Use/Planning
- ☐ Mineral Resources
- ☒ Noise
- ☐ Population/Housing
- ☐ Public Services
- ☐ Recreation
- ☐ Transportation/Traffic
- ☐ Utilities/Services
- ☒ Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Department.)
On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature (Prepared by) — Date: 1/22/14

Signature (Approved by) — Date: 1/22/14

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources the Lead Department cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3) Once the Lead Department has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level. (Mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced.)
5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA processes, an effect has been adequately analyzed in an earlier EIR or negative declaration. (State CEQA Guidelines § 15063(c)(3)(D).) In this case, a brief discussion should identify the following:
   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of, and adequately analyzed in, an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
7) The explanation of each issue should identify: the significance threshold, if any, used to evaluate each question, and; mitigation measures identified, if any, to reduce the impact to less than significance. Sources of thresholds include the County General Plan, other County planning documents, and County ordinances. Some thresholds are unique to geographical locations.
8) Climate Change Impacts: When determining whether a project's impacts are significant, the analysis should consider, when relevant, the effects of future climate change on : 1) worsening hazardous conditions that pose risks to the project's inhabitants and structures (e.g., floods and wildfires), and 2) worsening the project's impacts on the environment (e.g., impacts on special status species and public health).

1. AESTHETICS

Would the project:	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐

The project site is located on the northerly side of Marquesas Way, which is not designated by the Scenic Highway Element as a scenic highway. However, the Marina del Rey Land Use Plan identifies land adjacent to the Main Channel as significant vantage points within the Marina. Thus, the project site is considered a significant vantage point and can be seen from significant vantage points throughout the Marina. Because the project would not add height or substantial building mass to existing development, the existing viewshed to and from the project site would not be altered. Further analysis on this topic is not required.

b) Be visible from or obstruct views from a regional riding or hiking trail?	☐	☐	☐	☒

The project site is located in an established urbanized area with existing residential and parking structures and is not visible from any regional riding or hiking trail. Further analysis on this topic is not required.

c) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒

The project site is currently developed with residential and parking structures and is located within an urbanized community of the County unincorporated Marina del Rey. The most significant qualities of the Marina del Rey area in terms of visual resources are the waters within the small craft harbor, the boats, and boating related elements (e.g., masts, sails, moles, slips, etc.)[1]. These water-oriented aesthetic qualities are visible from the project site; however, the project proposes no change in physical building footprint or height, but does propose to substantially improve the design aesthetic of the existing apartment complex.

d) Substantially degrade the existing visual character or quality of the site and its surroundings because of height, bulk, pattern, scale, character, or other features?	☐	☐	☐	☒

The proposed project includes the rehabilitation/renovation of an existing residential apartment complex. The proposed rehabilitated residential structures are the same height and width as the existing structures, which are consistent with the height limitations of the project site zoning. The building would be of a similar height and massing to the existing structures on the project site. Moreover, the significant aesthetic design upgrades to the existing apartment complex that will result from the proposed project will serve to greatly improve the existing visual character and quality of the site. Therefore, there would be no impacts with implementation of the proposed project and further analysis would not be required.

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1 Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 2012, pg. 9-1 through pg. 9-4.

e) Create a new source of substantial shadows, light, or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

The proposed project does not include the construction of additional floors to the rehabilitated buildings nor does it include an increase of floor area or bulk. The buildings are located at a location where shadows that are cast due to the building height would be primarily on the Marina Basin C to the north, which is the existing condition. Since the proposed project design would not include a change in building height or bulk, the shadows that would be cast with project implementation would remain the same currently exist at the project site. Furthermore, the proposed project would include the rehabilitation of exterior windows and glass doors, which would be designed to produce minimal glare as required by County Standards. Additionally, the proposed project will include modern lighting features that would minimize impacts and further analysis would not be required on this topic.

2. AGRICULTURE / FOREST

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒

The project site is not located in an area that is designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance pursuant to the Farmland Mapping and Monitoring Program of the California Department of Conservation. Further analysis regarding this topic would not be required.

b) Conflict with existing zoning for agricultural use, with a designated Agricultural Opportunity Area, or with a Williamson Act contract?	☐	☐	☐	☒

The project site is located in the community of Marina del Rey, which is designated as Specific Plan Zone as zoned under the County of Los Angeles. Parcel 13 is designated Residential III. The project site does not have nor is it located near an area that is contracted under the Williamson Act. Therefore, no impacts would occur to agricultural land uses or conflict with any agricultural zones, and further analysis on this topic is not required.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code § 12220 (g)), timberland (as defined in Public Resources Code § 4526), or timberland zoned Timberland Production (as defined in Government Code § 51104(g))?	☐	☐	☐	☒

The project site is located in the unincorporated community of Marina del Rey, which is designated as Specific Plan Zone as zoned under the County of Los Angeles. Parcel 13's land use designations per the certified Marina del Rey Local Coastal Program (certified LCP) are Residential III-Waterfront Overlay Zone & Water. The project site is not located near or within an area that is zoned as or for forestland or timberland. Therefore, no impacts would occur and further analysis on this topic is not required.

d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒

The project site is located in the unincorporated community of Marina del Rey, and is within the Marina del Rey Specific Plan area pursuant to the County of Los Angeles Zoning Code. Parcel 13's land use designations per the certified LCP are Residential III-Waterfront Overlay Zone & Water. The project site is not located near or within an area that is zoned as forestland or timberland. Therefore, no impacts resulting from the loss of forestland would occur or be converted, and further analysis on this topic is not required.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

The project site is located in the unincorporated community of Marina del Rey, a highly urbanized area that is within the Marina del Rey Specific Plan area pursuant to the County of Los Angeles Zoning Code. The proposed project site does not contain agricultural farmland nor is it near an area of agricultural farmland. Therefore, implementation of the proposed project would not convert farmland to non-agricultural land. No further analysis on this topic is required.

3. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of applicable air quality plans of either the South Coast AQMD (SCAQMD) or the Antelope Valley AQMD (AVAQMD)?	☐	☐	☒	☐

According to the SCAQMD CEQA Air Quality Handbook, *a project would have a significant impact if it conflicts with or delays implementation of the applicable Air Quality Management Plan (AQMP). A project is consistent if it meets the following indicators:*

- *The project will not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP;*
- *The project will not exceed the assumptions in the AQMP in 2010 or increments based on the year of project buildout.*

As discussed later in this section, the proposed project would not exceed the significance thresholds for construction or the operational emissions. In addition, the project would not exceed the screening criteria for the localized significance thresholds. Therefore, since the project would not exceed the thresholds, it would not increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP.

Consistency with the assumptions in the AQMP is established by demonstrating that the project is consistent with the land use plan that was used to generate the growth forecast. The 2007 Air Quality Management Plan based its assumptions on growth forecasts contained in the Southern California Association of Governments (SCAG) 2004 Regional Transportation Plan (2004 RTP)[2]. The 2004 RTP is based on growth assumptions through 2030 developed by each of the cities and counties in the SCAG region. The proposed project will not increase the number of dwelling units or increase the intensity but rather includes a renovation and upgrade of an existing permitted use. Consequently, the project would not result in an increase in population or vehicle trips form the project site. Therefore, the project would not cause an exceedance of the growth projections in the AQMP. Impacts would be less than significant.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐

Construction Emissions

2 South Coast Air Quality Management District, *Final 2007 Air Quality Management Plan*, (2007) 3-1.

Air pollutant emissions of volatile reactive organic compounds (VOCs), oxides of nitrogen (NO_X), carbon monoxide (CO), sulfur dioxide (SO_2), respirable particulate matter less than 10 microns in diameter (PM10), and fine particulate matter less than 2.5 microns in diameter (PM2.5) from the proposed project are estimated using the California Emissions Estimator Model (CalEEMod)[3]*. CalEEMod is a program that calculates air pollutant emissions from land use sources and incorporates the California Air Resources Board EMFAC2007 model for on-road vehicle emissions and the OFFROAD2007 model for off-road vehicle emissions. The model also incorporates factors specific to the project region, such as vehicle fleet mixes. During project construction, the model can analyze emissions that occur during different phases, such as grading and building construction, concurrently or separately.*

Construction activities associated with the proposed project would occur in phases over two years. For the purposes of the modeling analysis, construction would occur from June 2014 to June 2016. The proposed project site consists of five separate buildings, four of which contain a total of 198 residential units (distributed relatively equally among the four buildings); an above-grade parking structure is sited on the westerly portion of the parcel. There are also associated facilities such as parking for 572 vehicles, landscaping, restroom facilities, and a fitness center. According to information obtained from the project applicant, the project structures are anticipated to be renovated sequentially, with each building taking approximately six months. An estimated 3,300 cubic yards of debris will be created during renovation and construction, as well as the repaving of approximately 56,000 square feet of asphalt or pervious material; additionally, some minor grading (approx. 55 cubic yards of fill) will be required in conjunction with re-leveling the complex's primary entry driveway. A single CalEEMod run was performed, which represents one of four project phases. The remaining three phases would include similar construction activities and would result in similar emissions. The exception would be grading emissions, which were all included in the first phase and therefore would not be included in subsequent phases.

Site-specific or project-specific data were used in the CalEEMod model where available. The number and types of construction equipment, vendor trips (e.g., transport of building materials), and worker trips were based on values provided in the CalEEMod model. Construction emissions would be generated from the use of mobile equipment and motor vehicles and the application of architectural coatings and paving materials. The results of the analysis are shown in ***Table 1, Estimated Construction Emissions****. These emission results are for a single phase occurring between June 2014 and December 2014. The emissions for the remaining phases would be similar. As indicated below, emissions would not exceed the SCAQMD's significance thresholds during construction and impacts would be less than significant.*

Table 1
Estimated Construction Emissions

Construction Subphase	Maximum Emissions in Pounds per Day					
	VOC	NO_X	CO	SO_X	PM10	PM2.5
Demolition	3.34	24.90	16.58	0.03	2.19	1.44
Grading	3.06	23.60	15.15	0.02	3.89	2.50
Building Construction	3.73	20.48	18.18	0.03	2.29	1.24
Architectural Coating	40.23	2.84	2.74	0.00	0.43	0.25
Asphalt Paving	2.77	16.61	12.26	0.02	1.62	1.39

3 South Coast Air Quality Management District, "CalEEMod, Version 2011.1.1," http://www.caleemod.com/.

Maximum pounds per day:	*46.72*	*68.97*	*49.90*	*0.09*	*8.34*	*5.18*
SCAQMD Threshold:	*75*	*100*	*550*	*150*	*150*	*55*
Exceeds Threshold?	NO	NO	NO	NO	NO	NO

Source: Impact Sciences, Inc., (2013). Emissions calculations are provided in **Appendix A**.
Note: Totals in table may not appear to add exactly due to rounding in the computer model calculations.

Operational Emissions

The proposed project would not result in an increase in project related traffic, population, or residential units. Therefore, the proposed project would not result in an increase in existing operational emissions. The average daily trips associated with the project would remain the same as the existing average daily trips. Therefore, the proposed project would not result in an incremental increase in mobile source emissions. As part of the renovation, the project would upgrade the lighting fixtures and appliances to energy efficient models. This would result in a net reduction in stationary and area source emissions compared to the existing site. Based on this, the net operational emissions associated with complete buildout and operation of the project would not exceed the SCAQMD's significance thresholds during operation. Therefore, operational emissions are considered less than significant.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? ☐ ☐ ☒ ☐

According to the SCAQMD CEQA Air Quality Handbook, projects that are within the emission thresholds identified above should be considered less than significant on a cumulative basis unless there is other pertinent information to the contrary[4]. As previously discussed, the project would not exceed the construction or operational project-level thresholds. Thus, the project would not result in a cumulatively considerable net increase in emissions and impacts would be less than significant.

d) Expose sensitive receptors to substantial pollutant concentrations? ☐ ☐ ☒ ☐

Localized Significance Thresholds Analysis

The SCAQMD recommends that the potential localized impacts be evaluated on the ambient air concentrations due to on-site construction emissions of NO_X, CO, PM10, and PM2.5. The SCAQMD Final Localized Significance Threshold Methodology (LST Methodology) includes screening tables that can be used to determine the maximum allowable daily emissions that would satisfy the LSTs (i.e., not cause an exceedance of the applicable concentration limits). The allowable emission rates depend on (a) the Source Receptor Area (SRA) in which the project is located, (b) the size of the project site, and (c) the distance between the project site and the nearest sensitive receptor (e.g., residences, schools, hospitals).

The project site is located in Marina del Rey, which is in SRA 2 (Northwest Los Angeles County Coastal). The total project site is just over 5 acres. Each construction phase would renovate an area of approximately 1.28 acres. The nearest sensitive

4 South Coast Air Quality Management District, *CEQA Air Quality Handbook*, (1993) 9–12.

receptors would be located to the east and south of the project site, within 25 meters of the project boundary. According to the LST Methodology, "projects with boundaries located closer than 25 meters to the nearest receptor should use the LSTs for receptors located at 25 meters.[5]*" The thresholds are based on a 25-meter distance and a 1-acre project site, which provides for a conservative analysis. The LSTs for the proposed project are shown in* ***Table 2, Localized Significance Thresholds Analysis during Construction****, and are compared with the maximum daily on-site construction emissions.*

Table 2
Localized Significance Thresholds Analysis during Construction

	Pollutant (pounds per day)[1]			
Significance Threshold	***NO_X***	***CO***	***PM10***	***PM2.5***
Construction				
Maximum Daily On-site Emissions	*24.39*	*14.43*	*3.56*	*2.49*
LST Screening Criteria	*103*	*562*	*4*	*3*
Exceeds Threshold?	*NO*	*NO*	*NO*	*NO*

Sources: Impact Sciences, Inc., (2013); South Coast Air Quality Management District, Final Localized Significance Threshold Methodology, (2008), Appendix C.

[1] The NO_X thresholds contained in the SCAQMD lookup tables are based on emissions of NO_X and assume gradual conversion to NO_2 based on the distance from the project site boundary.

The project would not result in an incremental increase in operational emissions. Therefore, an LST analysis for on-site operational emissions is not required. Therefore, construction and operation of the project would generate incremental on-site emissions that are less than the site-specific localized significance thresholds. Therefore the project would have a less than significant impact on localized air quality.

It should be noted that the US Environmental Protection Agency (EPA) promulgated a new 1-hour National Ambient Air Quality Standard (NAAQS) for nitrogen dioxide (NO_2). The new 1-hour standard is 100 parts per billion (ppb) (188 micrograms per cubic meter [$\mu g/m^3$]) and goes into effect on April 12, 2010. Compliance with the standard is determined on a statistical basis (i.e., the three-year average of the 98th-percentile of the annual distribution of daily maximum 1-hour concentrations). The US EPA also retained the existing annual average standard of 53 ppb (100 $\mu g/m^3$). The LST analysis should be based on the most stringent ambient air quality standards in effect. Prior to the new US EPA standard, the 1-hour California Ambient Air Quality Standard (CAAQS) for NO_2 was the most stringent standard at 180 ppb. The SCAQMD screening tables for NO_2 are based on the 1-hour CAAQS. The SCAQMD has not revised the LST screening tables to correspond to the new US EPA 1-hour NO_2 standard. However, as shown in ***Table 2****, the NO_X emissions are less than 38 percent of the previous threshold. Given that the project's NO_X emissions are well under the previous threshold, the project would not exceed the new US EPA 1-hour NO_2 standard at nearby sensitive receptors.*

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5 South Coast Air Quality Management District, *CEQA Air Quality Handbook*, (1993) 9–12.

Operational CO "Hotspots" Analysis

Emissions associated with the proposed project would primarily be generated by motor vehicles visiting the site. Traffic congested roadways and intersections have the potential to generate localized high levels of CO. Localized areas where ambient concentrations exceed state and/or federal standards are termed CO "hotspots." Such hot spots are defined as locations where the ambient CO concentrations exceed the state or federal ambient air quality standards. CO is produced in greatest quantities from vehicle combustion and is usually concentrated at or near ground level because it does not readily disperse into the atmosphere. Areas of vehicle congestion have the potential to create CO hotspots that exceed the state ambient air quality 1-hour standard of 20 ppm or the 8-hour standard of 9.0 ppm. The federal levels are less stringent than the state standards and are based on 1- and 8-hour standards of 35 and 9 ppm, respectively. The project does not propose the addition of new residential units or the extension of its existing facilities and therefore would not increase vehicle trips to and from the site. Therefore, the proposed project would not cause an incremental increase in CO hotspots and impacts would be less than significant.

Toxic Air Contaminants

The residential land uses associated with the proposed project are not anticipated to emit toxic air contaminants (TACs) in appreciable quantities. Emissions of TACs would be significant if sensitive receptors would be exposed to an increase in carcinogenic risk that exceeds 10 in 1 million or a noncancer Hazard Index greater than 1.0. Sources of TACs from residential land uses may include household solvents and cleaners and motor vehicle emissions. However, residences do not generate TAC emissions in quantities that would exceed the SCAQMD thresholds. Furthermore, the project does not propose the addition of new residential units, new area, or stationary sources of emissions or the extension of its existing facilities. The project would not increase vehicle trips to and from the site. Accordingly, impacts would be less than significant.

Motor vehicles emit TACs which contain carcinogens such as diesel particulate matter from trucks, and benzene and 1,3-butadiene from passenger vehicles. Concentrations of these TACs are reduced with increasing distance. The California Air Resources Board (CARB) guidance document, Air Quality and Land Use Handbook, recommends that lead agencies, where possible, avoid locating new sensitive land uses within 500 feet of a freeway, urban roads with 100,000 vehicles per day, or rural roads with 50,000 vehicles per day[6]*. Regional access to the project is provided by California State Route 1 (Pacific Coast Highway) located approximately 1,500 feet to the northeast of the project, Highway 90 (Marina Del Rey Freeway) located approximately 2,135 feet to the northeast of the project, Highway 405 (San Diego Freeway) approximately 14,600 feet to the east of the project, and Interstate 10 (Santa Monica Freeway) approximately 17,500 feet to the northwest of the project. While the proposed project is not a new sensitive land use, it is consistent with CARB's recommendations, as described above. Therefore, the project will not expose sensitive receptors to high TAC concentrations and is considered to have a less than significant impact.*

The project would comply with SCAQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities), which requires owners and operators of any demolition or renovation activity to implement work practice requirements to limit asbestos emissions from building demolition and renovation activities, including the removal and associated disturbance of asbestos-containing materials. Compliance with the provisions of this rule would ensure no impacts would occur from any asbestos-containing materials.

e) Create objectionable odors affecting a substantial number of people? ☐ ☐ ☒ ☐

During project construction, certain pieces of construction equipment and construction activities could emit odors associated with exhaust emissions and evaporative VOCs. Diesel odors emitted from construction equipment would be short term and dissipate quickly. Odors from spray-coating applications of paint and related materials during construction would be regulated by

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6 California Air Resources Board, *Air Quality and Land Use Handbook, (2005) 4.*

SCAQMD Rule 481 (Spray Coating Operations). This rule imposes equipment and application restrictions during spray painting and spray coating operations. Compliance with SCAQMD rules and permit requirements would ensure no objectionable odors would be created during construction. Therefore, impacts from odors during construction would be less than significant.

The SCAQMD lists land uses primarily associated with odor complaints as waste transfer and recycling stations, wastewater treatment plants, landfills, composting operations, petroleum operations, food and byproduct processes, factories, and agricultural activities, such as livestock operations. The proposed project does not include the development and operation of any of these land uses. In addition, the project is not located downwind and in close proximity to these sources of odors. Therefore, it is not anticipated the project residents would be adversely affected by off-site odorous emissions. Therefore, no significant impacts from odors are anticipated from operation of the proposed project.

Project Design and BMPs

While the above analyses conclude the proposed project will not result in significant air quality impacts requiring implementation of mitigation measures to reduce any such impacts to a less than significant level, the following measures shall nonetheless be implemented by the applicant to reduce air emissions during project construction:

AQ-1: *Construction parking shall be configured to minimize traffic interference.*

AQ-2: *Construction activities that affect traffic flow on the arterial system shall be scheduled at off-peak hours as permitted.*

AQ-3: *Truck deliveries will be consolidated, when possible.*

AQ-4: *Maintain equipment and vehicle engines in good condition and in proper tune according to manufacturers' specifications and per SCAQMD rules, to minimize exhaust emissions.*

AQ-5: *Suspend use of construction equipment during second stage smog alerts.*

AQ-6: *Use electricity from power poles rather than temporary diesel- or gasoline powered generators, as feasible.*

AQ-7: *Use methanol- or natural gas-powered mobile equipment and pile drivers instead of diesel if readily available at competitive prices.*

AQ-8: *Use propane- or butane-powered on-site mobile equipment instead of gasoline if readily available at competitive prices.*

4. BIOLOGICAL RESOURCES

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or US Fish and Wildlife Service (USFWS)?	☐	☒	☐	☐

The urban project site is currently developed with apartment buildings, parking structures, an outdoor pool and spa and hardscaped and ornamentally landscaped areas, without any common or sensitive natural habitat areas. There are no habitat areas that may support any federally or state-listed Endangered or Threatened species, such as the least tern that may occur at Venice Beach or foraging over the marina waters. The project site may provide nesting habitat for sensitive bird species in areas that may be affected by project construction or infrastructure improvements; however, the proposed project would not have a substantial adverse effect to a species regulated by the California Department of Fish and Wildlife or the US Fish and Wildlife Service. There is a possibility that special-status birds could establish nests in the landscape trees within or adjacent to the project site that may affect the breeding success for those species. Applicant's mandatory compliance with all applicable provisions contained in LCP Policy Nos. 23 (Marina del Rey Tree Pruning and Tree Removal Policy), and 34 (Marina del Rey Leasehold Tree Pruning and Tree Removal Policy), as well as mitigation measures recommended to minimize impacts to special-status biological resources (contained within "Biological Report & Construction Monitoring Requirements") (BIOTA 1) will reduce this potential impact to bird species to a less than significant level. Therefore, no further analysis would be required on this topic with the adoption of the recommended mitigation measure.

b) Have a substantial adverse effect on any sensitive natural communities (e.g., riparian habitat, coastal sage scrub, oak woodlands, non-jurisdictional wetlands) identified in local or regional plans, policies, regulations or by CDFW or USFWS?	☐	☒	☐	☐

The urban project site is currently developed with apartment buildings, parking structures, an outdoor pool and spa and hardscaped and ornamentally landscaped areas. The landside parcel is urbanized and does not contain any sensitive natural communities—such as wetlands, oak woodlands or riparian habitat—identified in local or regional plans, policies, regulations, or by CDFW or USFWS. Moreover, there are no known "important biological resources" located on the subject property, as defined in the certified Local Coastal Program for Marina del Rey. Therefore, no further analysis would be required on this topic. However, as noted, there is a possibility that special-status birds could establish nests in the landscape trees within or adjacent to the project site that many affect the breeding success for those species. Applicant's mandatory compliance with all applicable provisions contained in LCP Policy Nos. 23 (Marina del Rey Tree Pruning and Tree Removal Policy), and 34 (Marina del Rey Leasehold Tree Pruning and Tree Removal Policy), as well as mitigation measures recommended to minimize impacts to special-status biological resources (contained within "Biological Report & Construction Monitoring Requirements") (BIOTA 1) will reduce this potential impact to special-status bird species to a less than significant level. Therefore, no further analysis would be required on this topic with the adoption of the recommended mitigation measure.

c) Have a substantial adverse effect on federally or state protected wetlands (including, but not limited to, marshes, vernal pools, coastal wetlands, and drainages) or waters of the United States, as defined by § 404 of the federal Clean Water Act or California Fish & Game code § 1600, et seq. through direct removal, filling, hydrological interruption, or other means? ☐ ☐ ☐ ☒

The urban project site is currently developed with apartment buildings, parking structures, an outdoor pool and spa and hardscaped and ornamentally landscaped areas. The project site does not contain wetlands, vernal pools, natural drainage courses, or waters of the United States. Since the project site does not have any natural jurisdictional habitat areas that can be affected, removed, or filled by construction, fire clearance, or flood related improvements, there would be no impacts. Therefore, no further analysis would be required on this topic.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? ☐ ☒ ☐ ☐

The project site is not adjacent to or located in a wildlife corridor, nor is it adjacent to an open space linkage. As noted, the project does not involve any waterside construction or other work within the small craft harbor. The above discussion regarding potential impacts associated with renovation and redevelopment of the project site to nesting and roosting birds such as the Great Blue Heron, Black-crowned Night Heron, Double-crested Cormorant, and the Great Egret conclude that these may be mitigated to a less than significant level with the adoption of the recommended mitigation measures. Impacts to nesting birds would be less than significant with mitigation and no further analysis would be required. In addition, there would be no impact on wildlife movement corridors.

e) Convert oak woodlands (as defined by the state, oak woodlands are oak stands with greater than 10% canopy cover with oaks at least 5 inch in diameter measured at 4.5 feet above mean natural grade) or otherwise contain oak or other unique native trees (junipers, Joshuas, southern California black walnut, etc.)? ☐ ☐ ☐ ☒

The project site contains no habitat areas that support oak woodlands and no native trees occur on the project site. Therefore, no oak resources would be impacted and no further analysis is required.

f) Conflict with any local policies or ordinances protecting biological resources, including Wildflower Reserve Areas (L.A. County Code, Title 12, Ch. 12.36), the Los Angeles County Oak Tree Ordinance (L.A. County Code, Title 22, Ch. 22.56, Part 16), the Significant Ecological Areas (SEAs) (L.A. County Code, Title 22, § 22.56.215), and Sensitive Environmental Resource Areas (SERAs) (L.A. County Code, Title 22, Ch. 22.44, Part 6)? ☐ ☐ ☐ ☒

The subject property has been developed for many years with an apartment complex and is located in an urbanized setting within the state-designated Coastal Zone. The project site is not located within a designated SEA, coastal Sensitive Environmental Resource Area ("SERA" or "ESHA"). The closest SEA to the project site is the Ballona Creek SEA, located approximately 1 mile southeast of the project site. Because the project site is not located within or adjacent to an SEA or SERA, no impacts would occur from implementation of the proposed project. Moreover, there are no known "important biological resources" located on the subject property, as defined in the certified Local Coastal Program for Marina del Rey. As noted in the response to item 4(a) above, there is a possibility that special-status birds could establish nests in the landscape trees within or adjacent to the project site that many affect the breeding success for those species; however, Applicant's mandatory compliance with all applicable provisions contained in LCP Policy Nos. 23 (Marina del Rey Tree Pruning and Tree Removal Policy), and 34 (Marina del Rey Leasehold Tree Pruning and Tree Removal Policy), as well as mitigation measures recommended to minimize impacts to special-status biological resources (contained within "Biological Report & Construction Monitoring Requirements") (BIOTA 1) will reduce this potential impact to bird species to a less than significant level. Therefore, no further analysis would be required on this topic as the Applicant will comply with all applicable policies.

g) Conflict with the provisions of an adopted state, regional, or local habitat conservation plan?	☐	☐	☐	☒

The urban project site is currently developed with apartment buildings, parking structures, an outdoor pool and spa and hardscaped and ornamentally landscaped areas. As described above, mitigation measures will be imposed to ensure potential project impacts to nesting birds are reduced to a less than significant level. The proposed project would not conflict with any adopted state, regional, or local habitat conservation plan, as none exist in the project vicinity. Therefore, the proposed project would not conflict with provisions of any habitat conservation plan and no further analysis is required.

MITIGATION MEASURES:

BIOTA-1: *Prior to and during all project-related construction activities, Applicant shall strictly comply with all applicable provisions contained in Policy Nos. 23 (Marina del Rey Tree Pruning and Tree Removal Policy) and 34 (Marina del Rey Leasehold Tree Pruning and Tree Removal Policy) as well as mitigation measures recommended to minimize impacts to special-status biological resources (contained within "Biological Report & Construction Monitoring Requirements") of the certified LCP.*

5. CULTURAL RESOURCES

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines § 15064.5?	☐	☐	☐	☒

The project site is not considered a historical site nor does it contain historical structures. The proposed project site does not contain known historic structures and is not considered a historic site according to of the Office of Historic Preservation website.[7] *Furthermore, the Marina del Rey Land Use Plan does not identify any known historical structures or sites within the community of Marina Del Rey.*[8] *Implementation of the proposed project site would not include renovation of a historic structure or historic site. Therefore, the proposed project would have no impact on historical resources and no further analysis is required.*

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines § 15064.5?	☐	☐	☐	☒

The proposed project site is located in an area of Marina del Rey that is currently developed and has been developed for the past 40 years; as noted, the project proposes rehabilitation of an existing apartment complex and its appurtenant landside facilities and does not involve demolition of the existing apartments or significant landform excavation or grading. The proposed project site does not contain known archaeological resources, drainage courses, springs, knolls, rock outcroppings, or oak trees that indicate potential archaeological sensitivity. The closest area containing known archaeological resources is the Ballona Creek Watershed area, approximately 1 mile from the project site, where remnants of past human activity have been located. Any resources on Marina del Rey land already altered or designated for development have been or have already been impacted. The proposed project would have no impact on archaeological resources and no further analysis is required. Furthermore, the project will not require substantial ground excavation and the site is disturbed by existing development and has no history of known archaeological resources. No mitigation or further investigation is needed.

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature, or contain rock formations indicating potential paleontological resources?	☐	☐	☐	☒

The proposed project site is currently developed with a 198-unit residential apartment complex. As described above, the proposed project site has been urbanized over the past 40 years and the likelihood of paleontological resources existing under the project site is limited. The proposed project would involve limited debris removal (i.e., removal and replacement of exterior hardscape and some of the existing landscaping) on site with no unique geologic feature. Additionally, the project site is not adjacent to any unique geologic features. Since the proposed project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature there would be no impacts. Further analysis on this topic would not be required.

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7 Office of Historic Preservation, California State Parks, California Historical Resources, http://ohp.parks.ca.gov/listed_resources/ Accessed January 8, 2010.

8 Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 2012, pg. 7-1 through pg. 7-3.

d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

The proposed apartment rehabilitation project does not propose any significant earth excavation or landform alteration, and the subject property's earth is comprised of fill material imported to the site during Marina del Rey's construction in the early 1960s; as such, human remains are not present on the site. The proposed project would thus have no impact on human remains and no further analysis is required.

6. ENERGY

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Conflict with Los Angeles County Green Building Ordinance (L.A. County Code Title 22, Ch. 22.52, Part 20 and Title 21, § 21.24.440) or Drought Tolerant Landscaping Ordinance (L.A. County Code, Title 21, § 21.24.430 and Title 22, Ch. 22.52, Part 21)?	☐	☐	☐	☒

As a rehabilitation of existing apartment facilities with no new floor area expansion being proposed, the proposed project is exempt from the County's Green Building Ordinance. Project landscaping installed as part of the project will be compliant with the County's Drought Tolerant Landscaping Ordinance. Further, the project would be developed in compliance with all state and local regulations related to energy conservation. Therefore, additional analysis is not required.

b) Involve the inefficient use of energy resources (see Appendix F of the CEQA Guidelines)?	☐	☐	☐	☒

The project site is currently served by Southern California Edison for its electrical needs. The existing residential uses on the project site are currently outdated with respect to energy reduction resources within its design. Rehabilitation of the Parcel 13 structures would include replacement of outdated lighting fixtures with replacement of more energy efficient lighting fixtures and LED bulbs. This would reduce the net amount of energy that the proposed project would require, compared to existing conditions.

7. GEOLOGY AND SOILS

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known active fault trace? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐

As noted, the proposed project involves the rehabilitation/renovation of an existing apartment complex; apart from the installation a single ADA-compliant elevator at the leasing office, construction of new buildings is not proposed. The proposed project site is located in Southern California, which is considered an active seismic area; however, the proposed project is not located in an active or potentially active fault zone or Alquist-Priolo Earthquake Fault Zone[9]*. Moreover, during the plan check process, the proposed project will be required to comply with all applicable seismic engineering standards enforced by LA County Division of Building & Safety, as applicable. Since the proposed project is not located in an active or potentially active fault zone or Alquist-Priolo Earthquake Fault Zone and the project will be subject to the County's applicable seismic engineering standards, impacts would be less than significant, and no further analysis would be required.*

ii) Strong seismic ground shaking?	☐	☐	☒	☐

The proposed project involves the rehabilitation/renovation of an existing apartment complex; apart from installing a single ADA-compliant elevator at the leasing office, construction of new structures is not proposed. The proposed project site is located in Southern California, which is considered an active seismic area; however, the proposed project is not located in an active or potentially active fault zone or Alquist-Priolo Earthquake Fault Zone[10]*. Since the proposed project is not located in an active or potentially active fault zone or Alquist-Priolo Earthquake Fault Zone, impacts from seismic ground shaking would be less than significant, and no further analysis would be required. Moreover, during the plan check process, the proposed project will be required to comply with all applicable seismic engineering standards enforced by LA County Division of Building & Safety, as applicable; potential impacts associated with strong seismic ground shaking would thus be less than significant and no additional analysis is required on this topic.*

iii) Seismic-related ground failure, including liquefaction and lateral spreading?	☐	☐	☒	☐

9 County of Los Angeles, Department of Regional Planning, Marina Del Rey Land Use Plan, February 8, 2012, pg. 10-2.

10 County of Los Angeles, Department of Regional Planning, Marina Del Rey Land Use Plan, February 8, 2012, pg. 10-2.

The proposed project site is located in an area that has been designated as a liquefiable area[11]*. Furthermore, the proposed project is located within an area having a high groundwater level*[12]*. As noted, the proposed project involves rehabilitation of existing 198-unit residential apartment complex; no expansion of the exiting floor area is being proposed and the only new structure to be constructed is a single, ADA-compliant elevator at the existing leasing office. If required by the Los Angeles County Department of Public Works (DPW) as part of the normal building permit plan check process, the applicant would submit a geotechnical report to DPW to assess liquefaction potential at the site and assign appropriate structural engineering measures to address any such threat.*

iv) Landslides?	☐	☐	☐	☒

The proposed project site is located on land that is topographically flat. There are no hills, mounds, or mountains located on the proposed project site. Furthermore, the surrounding area of the project site is topographically flat as well. The proposed project is not located in an area containing a major landslide; therefore, there would be no impacts, and no further analysis would be required.

b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐

The proposed project site is located on land that is topographically flat. There are no hills, mounds, or mountains located on the proposed project site. Furthermore, the surrounding area of the project site is topographically flat as well. The proposed project is currently developed with parking and residential structures. An adequate drainage system currently exists on the project site, and only minimal site excavation is proposed (associated with removal of existing landscape and hardscape on the site and to re-level the complex's main entry driveway); since the proposed project site is currently developed with non-permeable surfaces and would remain so developed after the proposed rehabilitation project, and the project involves only minimal site excavation, the project site would not be subject to high erosion. Because the proposed project is not located in an area containing easily erodible soil, there would be no impacts, and no further analysis would be required.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐

The proposed project site is located in an area that has been designated as a liquefiable area (State of California Seismic Hazards Zone Map – Venice Quad). Furthermore, the proposed project is located within an area having a high groundwater level. As noted, the proposed project involves the rehabilitation/renovation of an existing apartment residential facility. Apart from the construction of a single ADA-compliant elevator at the existing leasing office, no new structures are being proposed. If required by DPW as part of the normal building permit plan check process, the applicant would submit a geotechnical report to DPW to determine whether liquefaction and/or groundwater level could pose a threat to the project site and assign appropriate structural engineering measures addressing any such threat.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒

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11 County of Los Angeles, Department of Regional Planning, County of Los Angeles General Plan, Safety Element, Plate 4, Liquefaction Susceptibility.

12 County of Los Angeles, Department of Regional Planning, County of Los Angeles General Plan, Safety Element, Plate 3, Shallow and Perched Groundwater.

The project site is not located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994). As such, the proposed project (which involves the renovation/rehabilitation of existing facilities with new floor area expansion), would not create a substantial risk to life or property on these grounds; no additional analysis is required.

e) Have soils incapable of adequately supporting the use of onsite wastewater treatment systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒

The proposed project does not include the use of a septic system as sanitary sewers are used in the project area. Wastewater generated at the project site is collected and conveyed by a sewer system owned and operated by the Los Angeles County Department of Public Works and treated by an agreement with the City of Los Angeles. The proposed project would have no impact in regard to the use of septic systems or alternative wastewater disposal. No further analysis is required.

f) Conflict with the Hillside Management Area Ordinance (L.A. County Code, Title 22, § 22.56.215) or hillside design standards in the County General Plan Conservation and Open Space Element?	☐	☐	☐	☒

The proposed project site is located on land that is topographically flat and therefore the project site not located within a Hillside Management Area. There are no hills, mounds, or mountains on the project site that could result in the project site having slope instability or conflict with the Hillside Management design standards. No substantial alteration of topography is involved due to the fact that all existing buildings would be maintained in place and would merely be renovated Therefore, no impacts would occur and no further analysis on this topic would be required.

8. GREENHOUSE GAS EMISSIONS

	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas (GHGs) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐

The proposed project would have a significant impact on global climate change if the project would emit significant amounts of greenhouse gases (GHGs). Construction of the proposed project would result in one-time emissions of GHGs. These emissions, primarily carbon dioxide (CO_2), methane (CH_4), and nitrous oxide (N_2O), are the result of fuel combustion by construction equipment and motor vehicles. The other primary GHGs (hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) are associated with specific industrial sources and would not be emitted by the project. The emissions of GHGs were estimated with CalEEMod using the same parameters for criteria pollutants as previously discussed.

***Table 3, Estimated Construction GHG Emissions**, lists the estimated GHG emissions associated with construction of the project. As previously discussed, a single CalEEMod run was performed, which represents one of four project phases. The remaining three phases would include similar construction activities and would result in similar emissions. Therefore, the emissions were multiplied by a factor of four to determine total construction GHG emissions. The SCAQMD recommends amortizing total construction-related GHG emissions over a project's lifetime in order to include these emissions as part of a project's annualized lifetime total emissions. The SCAQMD has defined a project lifetime to be a 30-year period. In accordance with this methodology, the project's construction GHG emissions have been amortized over a 30-year period.*

Table 3
Estimated Construction GHG Emissions

GHG Emissions Source	Emissions (Metric Tons CO_2e/year)
Demolition	116
Grading	320
Building Construction	909
Architectural Coating	33
Asphalt Paving	215
One-Time Total Construction GHG Emissions	**1,593**
Amortized over Project Lifetime	**53**

*Source: Impact Sciences, Inc., (2013). Emissions calculations are provided in **Appendix A**.*
Note: Totals in table may not appear to add exactly due to rounding.

The residential uses on the project site would result in direct annual emissions of GHGs during project operation. These emissions, primarily CO_2, CH_4, and N_2O, are the result of fuel combustion from building heating systems and motor vehicles. Building and motor vehicle air conditioning systems may use hydrofluorocarbons (and hydrochlorofluorocarbons and chlorofluorocarbons to the extent that they have not been completely phased out at later dates). However, the project does not propose an increase in the number of residential units and would not increase area or stationary sources of emissions. The project

would not increase the number of vehicle trips to and from the project site. Therefore, the project would not result in an incremental increase over the existing GHG emissions. In addition, the proposed project would result in the installation of energy saving features such as low flow toilets, dual glazed windows and doors, low flow heads and faucets, energy efficient lighting, improved insulation, and energy-efficient appliances. These changes would result in a reduction in operational GHG emissions since the renovated residential units and associated facilities would be more energy and resource efficient.

The GHG emissions associated with the proposed project are compared with the SCAQMD's threshold of significance for all land use projects, which is 3,000 metric tons of CO_2 equivalent ($MTCO_2e$) per year. Because the project would result in minor amounts of construction-related GHG emissions and would reduce operational GHG emissions, the project would clearly not exceed the draft SCAQMD threshold of significance. The proposed project would result in a less than significant impact with respect to GHG emissions.

b) Conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Project impacts would have a cumulatively considerable contribution to global climate change impacts if the project is not consistent with an applicable plan, policy, or regulation concerning greenhouse gas reductions. The County of Los Angeles has adopted green building program; however, it applies to new buildings or first-time initial tenant improvements greater than or equal to 10,000 square feet. The LID ordinance applies to residential (5 units or greater) and non-residential projects that alter existing impervious surfaces. Projects that alter less than 50 percent of the existing impervious surface must comply with LID best management practices that promote infiltration and beneficial use of stormwater runoff for the altered portion. If greater than 50 percent of the existing impervious surface is altered, the entire site must comply with LID best management practices. The LID ordinance requires the use of LID principles in development projects and encourages site sustainability and smart growth in a manner that respects and preserves the characteristics of the County's watersheds, drainage paths, water supplies, and natural resources. The project would comply with the LID ordinance, in the event the County determines the project is eligible for compliance with the ordinance.

In addition to complying with County of Los Angeles requirements, lead agencies, under the California Environmental Quality Act (CEQA), may look to and assess general compliance with comparable regulatory schemes[13]*. The goal of Assembly Bill 32, The Global Warming Solutions Act of 2006, is to reduce statewide GHG emissions to 1990 levels by 2020. In order to achieve the state mandate of AB 32, CARB has been tasked with implementing statewide regulatory measures to reduce GHG emissions from all sectors.*

In December 2008, CARB adopted the Climate Change Scoping Plan, which details strategies to meet that goal. The Scoping Plan instructs local governments to establish sustainable community strategies to reduce GHG emissions associated with transportation, energy, and water, as required under Senate Bill 375. The Climate Change Scoping Plan recommends energy-efficiency measures in buildings such as maximizing the use of energy-efficient appliances and lighting as well as complying with green building standards that result in decreased energy consumption compared to Title 24 building codes.

The purpose of the proposed project is to renovate an existing multi-family residential land use. The project would neither increase the number of residential units nor cause an expansion of the amount of floor area currently developed on the site. The project would not increase the number of vehicle trips to or from the site. The project incorporates design standards and measures

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13 See Protect Historic Amador Waterways v. Amador Water Agency (2004) 116 Cal. App. 4th 1099, 1107 ["'[A] lead agency's use of existing environmental standards in determining the significance of a project's environmental impacts is an effective means of promoting consistency in significance determinations and integrating CEQA environmental review activities with other environmental program planning and resolution.'"]. Lead agencies can, and often do, use regulatory agencies' performance standards. A project's compliance with these standards usually is presumed to provide an adequate level of protection for environmental resources. See, e.g., Cadiz Land Co. v. Rail Cycle (2000) 83 Cal.App.4th 74, 106-09 (upholding use of regulatory agency performance standard).

that are both feasible and consistent with many of the GHG reduction measures recommended for new projects. The proposed project would install energy-efficient lighting and low flow fixtures. Additionally, any renovation and demolition debris that would be generated by the proposed project would be subject to the diversion rate of Unincorporated Los Angeles County, allowing approximately 54 percent of the debris to be diverted and recycled. These measures would result in a net reduction in GHG emissions compared to the existing site.

According to data presented by the California Air Pollution Control Officer's Association (CAPCOA), the use of energy efficient appliances in residential units can reduce GHG emissions by 2 to 4 percent compared to standard appliances[14]*. The use of energy efficient boilers can reduce GHG emissions by 1.2 to 18.4 percent compared to standard boilers*[15]*. The use of higher efficiency outdoor area and public street lighting can reduce GHG emissions by 16 to 40 percent compared to standard outdoor area and public lighting*[16]*. Energy efficient indoor lighting would also reduce GHG emissions; however, the CAPCOA guidance does not provide an estimate of the level of reductions that could be expected.*

Based on the project features described above, the project is generally consistent with applicable and feasible GHG reduction measures recommended by CARB and the project would result in an overall net reduction in operational GHG emissions compared to the existing site. Therefore, the proposed project would have a less than significant impact on the environment with respect to this criterion.

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14 California Air Pollution Control Officers Association (CAPCOA), Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures, (2010) 103-110.

15 California Air Pollution Control Officers Association (CAPCOA), Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures, (2010) 111-114.

16 California Air Pollution Control Officers Association (CAPCOA), Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures, (2010) 115-118.

9. HAZARDS AND HAZARDOUS MATERIALS

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Create a significant hazard to the public or the environment through the routine transport, storage, production, use, or disposal of hazardous materials?	☐	☐	☒	☐

Residential uses do not typically store or handle hazardous materials. However, personal and support services, such as janitorial services, could store small amounts of paint, cleaning substances, and chlorine. Any amount of hazardous materials that would be stored on-site upon project completion would be subject to federal and state laws pertaining to the storage, generation, and disposal of hazardous waste materials. Since the proposed project could store hazardous materials on-site pertaining to cleaning supplies, the proposed project site would be governed by federal, state, and local laws to ensure the proper use, storage, and transport of such materials. Impacts would be less than significant and further analysis on this topic would not be required.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials or waste into the environment?	☐	☐	☒	☐

The proposed project could use hazardous materials such as paints, cleaning agents, aerosol cans, landscaping-related chemicals, and common household substances such as bleaches during rehabilitation activities on the project site, as well as during operation of the uses on the project site. All uses and storage of these materials could be subject to federal, state, and local laws pertaining to the use, storage, and transportation of these hazardous materials. Most of the hazardous materials indicated above are allowed to be disposed of at the local Class II and Class III landfills that serve the proposed project site and community of Marina del Rey. Since the proposed project would be required to abide by federal, state, and local laws pertaining to the use, storage, and transportation of these materials, the likelihood of an accidental release occurring and creating a significant hazard to the public would be minimal. Therefore, impacts would be less than significant. No further analysis is required on this topic.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of sensitive land uses?	☐	☐	☐	☒

The project site consists of residential units; however, the proposed project would not include the storage of large quantities of hazardous materials or pressurized tanks. Consequently, there would be no impact from hazardous materials. Further analysis on this topic is not required.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code § 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒

The project site is not located on a parcel of land that has been included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5[17]*. The closest site that is included on a list of hazardous materials sites is located at 4144 Glencoe Avenue, approximately 1 mile northeast of the project site. Since the proposed project site is not located on a site that is listed as a hazardous materials site, there would be no impacts. Further analysis on this topic would not be required.*

e) For a project located within an airport land use plan, or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒

The project site is located approximately 3 miles to the northwest of Los Angeles International Airport (LAX) and approximately 1.5 miles southeast of the Santa Monica Airport. The project site is not located within 2 miles of LAX, is not located within the Santa Monica Airport Influence Area[18]*, is not located in the LAX Airport Influence Area*[19]*, and would not result in a safety hazard for people in the project area. No impacts would occur and further analysis on this topic would not be required.*

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒

There are no private airstrips in the project site vicinity and no safety hazard impact would occur. Further analysis is not required.

g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

The project site is located in Marina del Rey, which is an unincorporated portion of the County of Los Angeles. The project site would be subject to the Operational Area Emergency Response Plan (OAERP), which is prepared by the Office of Emergency Management[20]*. Implementation of the proposed project would not change current evacuation routes from off the project site. Furthermore, renovation of the proposed project would not physically interfere with the OAERP. No impacts would occur and further analysis on this topic would not be required.*

h) Expose people or structures to a significant risk of loss, injury or death involving fires, because the project is located:

i) within a Very High Fire Hazard Severity Zones (Zone 4)?	☐	☐	☐	☒

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17 California Department of Toxic Substances, Envirostor, Hazardous Waste and Substances Site List, http://www.envirostor.dtsc.ca.gov/public/ Accessed March 29, 2012.

18 Los Angeles County Department of Regional Planning, Los Angeles County Airport Land Use Commission, Santa Monica Airport Influence Area, http://planning.lacounty.gov/assets/upl/project/aluc_airport-santa-monica.pdf. Accessed March 29, 2012.

19 Los Angeles County Department of Regional Planning, Los Angeles County Airport Land Use Commission, LAX Airport Influence Area, http://planning.lacounty.gov/assets/upl/project/aluc_airport-lax.pdf. Accessed March 29, 2012.

20 Los Angeles County Department of Regional Planning, Draft General Plan 2008, Safety Element, pg. 176.

The project site is not located in a Very High Fire Hazard Severity Zone (Fire Zone 4). No further analysis is necessary. (Source: LA County Safety Element – Wildland and Urban Fire Hazards Map).

ii) within a high fire hazard area with inadequate access?	☐	☐	☐	☒

The project site is not located in a high fire hazard area. The project site is located on the northerly side of Marquesas Way and is currently developed with adequate access for firefighting equipment. During the plan check process, plans will be submitted to the Los Angeles County Fire Department for review and approval to insure sufficient access.

iii) within an area with inadequate water and pressure to meet fire flow standards?	☐	☐	☒	☐

The proposed project entails the rehabilitation/renovation of the existing Villa Del Mar Apartments complex; as noted, the project does not entail development that would cause for the expansion of existing floor area or the addition of dwelling units on the site. Since its construction on the site in the late 1960s, the existing apartment complex has been adequately and continuously served with water by Los Angeles County's Marina del Rey Water System. Water pressure at the site will continue to be provided consistent with Los Angeles County Fire Department fire flow standards, as has been the case over the years of the apartment complex's operation on the subject property.

iv) within proximity to land uses that have the potential for dangerous fire hazard?	☐	☐	☐	☒

The project site is located in the unincorporated Los Angeles County community of Marina del Rey, in the western portion of its small craft harbor. Surrounding land uses are mostly residential. The project site is not located in close proximity to potential dangerous fire hazard conditions. No additional analysis is required.

i) Does the proposed use constitute a potentially dangerous fire hazard?	☐	☐	☒	☐

The project proposes residential uses that do not constitute a potentially dangerous fire hazard. No further analysis is required.

10. HYDROLOGY AND WATER QUALITY

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐

The project site is currently developed with a 198-unit apartment complex. Best management practices (BMPs) would be applied during rehabilitation activities to ensure that pollutants are not introduced into the storm drain system and that pollutant discharges into the adjacent small craft harbor are minimized. With BMPs in place during rehabilitation activities, water quality standards would remain similar to the existing conditions, and the proposed project would not violate any water quality standards. The project shall comply with the California Regional Water Quality Control Board (CRWQCB) and the County National Pollutant Discharge Elimination System (NPDES) permit discharge requirements, the requirements of the Los Angeles County Municipal Separate Storm Sewer System (MS4) permit and the County's Low Impact Development (LID) Program. The applicant will need an approved drainage concept and grading plan from Public Works to ensure compliance with the MS4 and NPDES requirements. Compliance with the LID program includes preparation of a comprehensive LID plan that demonstrates compliance with the LID Standards Manual which is submitted for review and approval by Public Works. Impacts would be less than significant.

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒

The project site is currently developed with a 198-unit apartment complex. There is currently no groundwater recharge on the project site and this condition will not change with the implementation of the proposed project. The project does not propose any extraction of groundwater and therefore the proposed project would not cause any impacts to groundwater resources or to groundwater recharge.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☒	☐

The proposed project site contains an existing drainage system that is adequate in terms of capacity but that may require upgrading in regards to modern stormwater management and the County's Low Impact Development (LID) Program. LID encompasses the use of structural devices, engineered systems, vegetated natural designs and education to distribute stormwater and urban runoff. For this reason, it is anticipated that drainage patterns and runoff quantities of the project site would remain substantially the same size as under current conditions. Runoff would continue to outlet through the storm drain system after such treatment. Project implementation would not substantially alter existing runoff and drainage conditions at the project site nor substantially increase erosion or siltation.

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? ☐ ☐ ☒ ☐

The proposed project site contains an existing drainage system that is adequate in terms of capacity but that may require upgrading in regards to modern stormwater management and the County's Low Impact Development (LID) Program. For this reason, it is anticipated that drainage patterns and runoff quantities of the project site would remain substantially the same size as under current conditions. Runoff would continue to outlet through the storm drain system after such treatment. Project implementation would not substantially alter existing runoff and drainage conditions at the project site nor substantially increase risk of flooding.

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? ☐ ☐ ☒ ☐

The project site is currently developed with a 198-unit apartment complex. The proposed project would have the same or less runoff entering the stormwater drainage system as the current site condition. The project would not cause runoff that would exceed the capacity of the stormwater system. Consequently, there would be no impact to the stormwater drainage system. Further analysis on this topic is not required.

f) Generate construction or post-construction runoff that would violate applicable stormwater NPDES permits or otherwise significantly affect surface water or groundwater quality? ☐ ☐ ☒ ☐

The project site is currently developed with a 198-unit apartment complex. The proposed rehabilitation of the existing residential and parking buildings could introduce pollutants from construction activities into the storm water flow that empties into Marina del Rey small craft harbor. The Applicant would use BMPs during the rehabilitation process to ensure that a minimal amount of pollutants enter into the stormwater flow from the proposed project site. The project proponent would be required to comply with the California Regional Water Quality Control Board (CRWQCB) and the County National Pollutant Discharge Elimination System (NPDES) permit discharge requirements. Impacts from construction and operational runoff would be less than significant.

g) Conflict with the Los Angeles County Low Impact Development Ordinance (L.A. County Code, Title 12, Ch. 12.84 and Title 22, Ch. 22.52)? ☐ ☐ ☒ ☐

The proposed project site contains an existing drainage system that is adequate in terms of capacity but that may require upgrading in regards to modern stormwater management and the County's Low Impact Development (LID) Program (in the event the County determines the project to be subject its LID Ordinance). For this reason, it is anticipated that drainage patterns and runoff quantities of the project site would remain substantially the same size as under current conditions. Runoff would continue to outlet through the storm drain after such treatment. The aforementioned stormwater management improvements would not alter the existing drainage pattern of the site or area and would only be introduced to treat and retain runoff in compliance with the County's LID Program. Compliance with the LID requirements will be achieved through the implementation of the Drainage Concept, approved by Department of Public Works preceding the issuance of any project grading or building permits.

h) Result in point or nonpoint source pollutant discharges into State Water Resources Control Board-designated Areas of Special Biological Significance? ☐ ☐ ☐ ☒

The project site is not located within an area designated as an Area of Special Biological Significance (ASBS). Therefore, the proposed project would not impact an ASBS. No further analysis is required.

i) Use onsite wastewater treatment systems in areas with known geological limitations (e.g. high groundwater) or in close proximity to surface water (including, but not limited to, streams, lakes, and drainage course)? ☐ ☐ ☐ ☒

The project does not propose to use septic systems or private sewage disposal systems (on-site wastewater treatment systems). The proposed project would have no impact on surface water. No further analysis is required.

j) Otherwise substantially degrade water quality? ☐ ☐ ☒ ☐

The project site is currently developed with a 198-unit apartment complex. Rehabilitation/renovation of the existing site improvements would not substantially degrade water quality through compliance with NPDES/MS4 and implementation of a Stormwater Pollution Prevent Plan (SWPPP). The new permit order 2009-0009DWG requires a certified Qualified SWPPP Developer (QSD) to prepare the SWPPP and a certified Qualified SWPPP Practitioner (QSP) to enforce the SWPPP. Typical construction BMPs include the following: EC-1 Scheduling, EC-2 Preservation of Existing Vegetation, EC-7 Geotextiles & Mats, SE-1 Silt Fence, SE-7 Street Sweeping and Vacuuming, SE-8 Sandbag Barrier, WE-1 Wind Erosion Control, TC-1 Stabilized Construction Entrance/Exit, TC-3 Entrance/Outlet Tire Wash, NS-1 Water Conservation Practices, NS-6 Illicit Connection/Illegal Discharge Detection and Reporting, NS-8 Vehicle and Equipment Cleaning, NS-12 Concrete Curing, WM-1 Material Delivery and Storage, WM-2 Material Use, WM-3 Stockpile Management, WM-4 Spill Prevention and Control, WM-5 Solid Waste Management, WM-6 Hazardous Waste Management, WM-8 Concrete Waste Management, and WM-9 Sanitary/Septic Waste Management. Impacts from the proposed project would be less than significant on water quality.

k) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map, or within a floodway or floodplain? ☐ ☐ ☒ ☐

The proposed project involves the rehabilitation/renovation of an existing 198-unit apartment complex. Apart from the construction of a single ADA-compliance elevator at the existing leasing office, no new buildings are proposed. The applicant of the proposed project would be required to submit a drainage concept to DPW for review and approval prior to the issuance of a building permit. With submittal of this drainage concept plan and since flood protection standards that currently exist on the project site would not be changed, impacts would be less than significant. In addition, the project is not located within a floodway, floodplain, or other flood hazard area. Further analysis on this topic would not be required.

l) Place structures, which would impede or redirect flood flows, within a 100-year flood hazard area, floodway, or floodplain? ☐ ☐ ☒ ☐

The proposed project involves the rehabilitation/renovation of an existing 198-unit apartment complex. Apart from the aforementioned elevator, no new buildings are proposed and the project site would remain similar to existing conditions. The project site is not located within a floodway, floodplain, or other flood hazard area and no structures would be placed within a floodway, floodplain, or other flood hazard area. Therefore, the proposed project would not impact or impeded a flood hazard area. Further analysis on this topic would not be required.

m) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☒	☐

The project site is currently developed with a 198-unit apartment complex. The project sites is not located in an area having high flood potential. Impacts from the proposed project would be less than significant and no further analysis on this topic is required.

n) Place structures in areas subject to inundation by seiche, tsunami, or mudflow?	☐	☐	☒	☐

The proposed project entails the rehabilitation of existing apartment facilities that are located within the Marina del Rey Harbor, along the Southern California coastline. The potential exists for communities along low-lying areas of the Southern California coastline to experience flooding due to tsunamis caused by earthquakes or underwater landslides. The maximum expected run-up of a tsunami in the local area of the project site is 9.6 feet in a 100-year interval and 15.3 feet in a 500-year interval.[21] *Tsunamis generated from local earthquakes may be larger than distant earthquakes but are less likely to occur. Furthermore, the proposed project has been developed with a finished pad and street elevation about 10 feet above mean sea level (msl), although the boat slips are at an approximate of slightly higher than 7 feet above msl. Therefore, potential for the proposed project to be inundated by a tsunami is less than significant, and further analysis on this topic is not required. A seiche could occur within the Marina but the project and the proposed project is developed about 10 feet above mean sea level. Therefore, the proposed project site is protected from a seiche occurring within the Marina, and impacts would be less than significant. Since the proposed project site is not located in an area that is subject to high mudflow conditions, there would be no impacts. Further analysis on this topic would not be required.*

21 County of Los Angeles, Department of Regional Planning, Marina del Rey Land Use Plan, February 8, 2012, pg. 10-5.

11. LAND USE AND PLANNING

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Physically divide an established community?	☐	☐	☒	☐

The project site is located in an area of Marina del Rey that is highly urbanized. Existing residential structures, commercial structures, parking lots, and parks are located around the proposed project site. The proposed project would not divide an established community; therefore, there would be no impacts. No further analysis on this topic is required.

b) Be inconsistent with the applicable County plans for the subject property including, but not limited to, the General Plan, specific plans, local coastal plans, area plans, and community/neighborhood plans?	☐	☐	☒	☐

The subject parcel's land use designation per the Marina del Rey Land Use Plan is "Residential III." The Residential III land use designation permits medium-density residential land uses. The rehabilitation of the existing residential structures and facilities appurtenant thereto is therefore consistent with the plan designations on the project site.

c) Be inconsistent with the County zoning ordinance as applicable to the subject property?	☐	☐	☐	☒

The proposed project is zoned as Marina del Rey Specific Plan under the Los Angeles County Zoning Ordinance. Furthermore, the subject parcel is designated Residential III in the certified LCP. The project proposes no change in land use and is consistent with the Specific Plan zoning.

d) Conflict with Hillside Management criteria, Significant Ecological Areas conformance criteria, or other applicable land use criteria?	☐	☐	☐	☒

The project site is not located in or adjacent to a Hillside Management Area. Therefore, the proposed project would not be required to abide by the criteria of the Hillside Management Areas. The project site is not located adjacent or within an SEA. Therefore, the proposed project would not have to conform to SEA Criteria. There would be no impacts and further analysis on this topic would not be required.

12. MINERAL RESOURCES

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒

The project site is not located within a Mineral Resource Zone as mapped by the County of Los Angeles.[22] *The proposed project would not impact a known mineral resource area and no further analysis is required.*

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

The project site is not located within a Mineral Resource Zone as mapped by the County of Los Angeles. However, the project site is located within an Oil and Gas Resource Zone.[23] *The project site is developed with residential land use and does not currently contain existing drilling sites for the recovery of oil and natural gas, nor are any drilling sites located on the project site for the recovery of oil or natural gas proposed in the future. There would be no impacts to oil and natural gas resources with implementation of the proposed project. There are no recorded abandoned oil wells along Marquesas Way. The proposed project would not result in the loss of availability of a locally important mineral resource recovery site delineated within the County of Los Angeles General Plan or the Marina del Rey Specific Plan. No further analysis is required.*

22 County of Los Angeles Draft General Plan, Chapter 6 Conservation and Open Spaces Element, Figure 6.6, Natural Resource Areas, April 2011.

23 County of Los Angeles Draft General Plan, Chapter 6 Conservation and Open Spaces Element, Figure 6.6, Natural Resource Areas, April 2011.

13. NOISE

Would the project result in:	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exposure of persons to, or generation of, noise levels in excess of standards established in the County General Plan or noise ordinance (Los Angeles County Code, Title 12, Chapter 12.08), or applicable standards of other agencies?	☐	☒	☐	☐

Construction Noise

The proposed renovation would be conducted in four phases of approximately six months for a total duration of two years. Renovation in each phase would occur in one-fourth of the project site, and thus construction noise during each phase would cause similar increases in noise level in the area under renovation.

The County Noise Control Ordinance (County Code Section 12.08.440) identifies specific restrictions regarding construction noise. Operation of equipment used in construction, drilling, repair, alteration or demolition work is prohibited between weekday hours of 7:00 PM to 7:00 AM and anytime on Sundays or legal holidays if such noise would create a noise disturbance across a residential or commercial real-property line.[24] *The Noise Control Ordinance further states that the contractor shall conduct construction activities in such a manner that the maximum noise levels at affected buildings will not exceed those listed in* ***Table 4, County of Los Angeles Construction Equipment Noise Restrictions****. All mobile and stationary internal-combustion-powered equipment and machinery is required to be equipped with suitable exhaust and air-intake silencers in proper working order.*

Table 4
County of Los Angeles Construction Equipment Noise Restrictions

Residential Structures	Single-Family Residential	Multi-Family Residential	Commercial[1]
Mobile Equipment: Maximum noise levels for nonscheduled, intermittent, short-term operation (less than 10 days) of mobile equipment:			
Daily, except Sundays and legal holidays, 7:00 AM to 8:00 PM	75 dB(A) L_{eq}	80 dB(A) L_{eq}	85 dB(A) L_{eq}
Daily, 8:00 PM to 7:00 AM and all day Sunday and legal holidays	60 dB(A) L_{eq}	64 dB(A) L_{eq}	70 dB(A) L_{eq}
Stationary Equipment: Maximum noise level for repetitively scheduled and relatively long-term operation (periods of ten days or more) of stationary equipment:			
Daily, except Sundays and legal holidays, 7:00 AM to 8:00 PM	60 dB(A) L_{eq}	65 dB(A) L_{eq}	70 dB(A) L_{eq}
Daily, 8:00 PM to 7:00 AM and all day Sunday and legal holidays	50 dB(A) L_{eq}	55 dB(A) L_{eq}	60 dB(A) L_{eq}

24 Noise disturbance is not defined in the Noise Control Ordinance. The County Health Officer has the authority to define and determine the extent of a noise disturbance on a case-by-case basis.

Source: County of Los Angeles Noise Control Ordinance, County Code Section 12.08.440.

[1] *Refers to residential structures within a commercial area. This standard does not apply to commercial structures.*

The Federal Highway Administration (FHWA) has compiled data on the noise-generating characteristics of specific types of construction equipment[25]*. Noise levels generated by heavy equipment can range from approximately 70 A-weighted decibels (dB(A)) to noise levels in excess of 100 dB(A) when measured at a distance of 50 feet from the noise source. The noise levels diminish rapidly with distance at a rate of approximately 6.0 to 7.5 dB(A) per doubling of distance for acoustically hard and soft sites, respectively.*

The types of construction equipment used would vary depending on the construction activity taking place. Building renovation would use equipment such as cranes, forklifts, generators, pneumatic tools, and welders. Surface paving would use equipment such as mixers, rollers and paving equipment. Architectural coating would use equipment such as air compressors.

The noise levels in units of dB(A) Equivalent Continuous Sound Level (Leq) associated with construction of the proposed project are provided in ***Table 5, Estimated Construction Noise Levels****. The Leq noise level takes into account estimate usage factors, or load factors, for the equipment. The load factors are an estimated percentage of time that the equipment would actually be in use. The noise levels were estimated at the nearest sensitive receptors to the project site. The nearest receptors are multi-family uses to the south of the project site across Marquesas Way and multi-family uses to the east of the project site. Construction activity often requires sufficient space to operate in a safe and practically manner. In addition, equipment would typically be used at various locations throughout the project site. Therefore, noise was modeled at 50 feet from the noise receptors for the loudest equipment and 100 feet from noise receptors for the remaining equipment. In accordance with the County Noise Control Ordinance (County Code Section 12.08.440), the equipment used in construction, drilling, repair, alteration or demolition work is prohibited between weekday hours of 7:00 PM to 7:00 AM and anytime on Sundays or legal holidays if such noise would create a noise disturbance across a residential or commercial real-property line.*

As indicated in ***Table 4****, the exterior noise standard for mobile equipment is 80 dB(A). Based on the estimated construction noise levels shown in* ***Table 5****, renovation activities during all four project phases would potentially exceed the County of Los Angeles standard at the nearby multi-family residential uses. As discussed previously, the proposed renovation would occur in four phases during each of which renovation would be conducted for one-fourth of the total project site. As a result, increases in noise level at any particular location would be short-term as renovation activity occurs in the various areas of the project site. Although the increase in noise levels would be short-term in nature, the applicant would be required to implement noise reduction measures, which are included as mitigation.*

Table 5
Estimated Construction Noise Levels

Construction Activity	*Noise Levels Leq dB(A)*
Building Renovation	85
Paving/Grading	83
Architectural Coating	76
Combined Noise Level	87

Source: Impact Sciences, Inc. Noise calculations are provided in ***Appendix B.***

25 US Department of Transportation, Federal Highway Administration, Roadway Noise Construction Model (RCNM), Software Version 1.1 (12/08/2008).

Operational Noise

The proposed project would not result in an increase in project related traffic, population, or residential units. Therefore, the proposed project would not result in an increase in existing operational noise. The average daily trips associated with the project would remain the same as the existing average daily trips. Therefore, the proposed project would not result in an incremental increase in roadway noise levels. Based on this, the operational noise associated with complete buildout and operation of the project would not result in an increase in noise levels compared to existing conditions. Therefore, operational noise impacts are considered less than significant.

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐

Construction Vibration

Persons working in the area surrounding the project could be exposed to ground-borne vibration or ground-borne noise levels related to construction activities. The results from vibration can range from no perceptible effects at the lowest vibration levels, to low rumbling sounds and perceptible vibrations at moderate levels. Site ground vibrations from construction activities very rarely reach the levels that can damage structures, but they can achieve the audible range and be felt in buildings very close to the site. According to the Federal Transit Administration (FTA) guidelines, Transit Noise and Vibration Impact Assessment, certain types of construction equipment could generate groundborne vibration[26]. The frequency and intensity of a vibration event determines whether it would be considered excessive vibration. For infrequent vibration events of the type expected to occur during the proposed renovation, the threshold at which vibration is considered excessive for operations near sensitive uses is 80 VdB measured at 50 feet.

The proposed project consists of renovation for existing structures, and would not require the use of heavy construction equipment such as pile drivers, earthmoving equipment, or bulldozers. The most common source of vibration would likely be the result of trucks delivering construction equipment and materials to the project site. Loaded trucks can generate vibration levels of 0.076 peak particle velocity (PPV) (65 vibration decibels [VdB]) at 50 feet. These values do not exceed the damage criteria for even the most sensitive buildings that are extremely susceptible to vibration damage, and would be barely perceptible at a distance of 50 feet. Since the nearest vibration-sensitive uses (multi-family residential development) are located approximately 50 feet from the project site, these uses may experience infrequent perceptible vibration as trucks pass by. Such events would be infrequent, and would not be considered excessive, as defined above. Therefore, construction of the project would not result in any vibration impacts.

Operational Vibration

Operation of the apartment complex would not include any new stationary equipment that would generate ground-borne vibration that would cause an annoyance to humans or any structural damage to buildings. During operation, the project would be served by trash trucks that would collect municipal solid waste. However, these trash trucks would be similar to trash trucks that already serve the existing residential uses on the project site. Therefore, operation of the project would not result in any vibration impacts.

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project, including noise from parking areas?	☐	☐	☒	☐

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26 Federal Transit Administration, *Transit Noise and Vibration Impact Assessment*, (2006).

As previously discussed, the proposed project would not result in an increase in project related traffic, population, or residential units. Therefore, the proposed project would not result in an increase in roadway noise levels relative to existing conditions. The proposed project would not alter the layout of the existing parking areas located on the site and would not increase the number of parking spaces. Furthermore, the project would not include any new stationary equipment that would generate noise. Therefore, the project would not result in a substantial permanent increase in ambient noise levels and impacts would be less than significant.

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project, including noise from amplified sound systems?	☐	☒	☐	☐

Temporary or periodic increases in ambient noise levels would result from construction activity, which would be audible during construction in the surrounding the project area. Unmitigated impacts may potentially exceed the County of Los Angeles standards at the nearby multi-family residential uses. Although the increase in noise levels would be short-term in nature, the applicant would be required to implement noise reduction measures, which are included as mitigation.

The proposed project would not include an amplified sound system. Furthermore, the project would not include any new stationary equipment that would generate noise. Therefore, the project would not result in a substantial temporary or periodic increase in ambient noise levels from sound systems and other stationary equipment and impacts would be less than significant.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

The project is not located within an airport land use plan or within 2 miles of a public or public-use airport. The project would result in no impact for this criterion.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

The project is not located within the vicinity of the private airstrip. The project would result in no impact for this criterion.

Mitigation Measures

The following mitigation measures shall be implemented:

NOISE-1: *All construction equipment, fixed or mobile, that is utilized on the site for more than two working days shall be in proper operating condition and fitted with standard factory silencing features. In areas where construction equipment (such as generators and air compressors) is left stationary and operating for more than one day within 100 feet of residential land uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive land uses. As the project is constructed, the use of building structures as noise barrier would be sufficient.*

NOISE-2: *All exterior construction activity shall be limited to between the hours of 7:00 AM to 7:00 PM, except for concrete pours, and shall not occur on Sundays or legal holidays. The work schedule shall be posted at the construction site.*

NOISE-3: *The project applicant shall post a notice at the construction site and along the proposed truck haul route. The notice shall contain information on the type of project and anticipated duration of construction activity, and shall provide a phone number where people can register questions and complaints. The applicant shall keep a record of all complaints and take appropriate action to minimize noise generated by the offending activity, where feasible. A monthly log of noise complaints shall be maintained by the applicant and submitted to the County of Los Angeles Department of Public Health.*

NOISE-4: *The project applicant shall use electric air compressors and hydraulic tools rather than diesel equipment or pneumatic tools, when commercially available.*

NOISE-5: *Construction-related equipment, including heavy-duty equipment, motor vehicles, and portable equipment, shall be turned off when not in use for more than 30 minutes.*

14. POPULATION AND HOUSING

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒

Infrastructure such as sewage disposal, water conveyance systems, natural gas lines, and electrical lines currently exist and serve the project site. No additional infrastructure would be required with implementation of the proposed rehabilitation project. Therefore, the proposed project would not induce substantial direct or indirect growth within the community of Marina del Rey. There would be no impacts and further analysis on this topic would not be required.

b) Displace substantial numbers of existing housing, especially affordable housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☒	☐

The existing land uses on the project site include residential buildings and appurtenant facilities. A portion of the existing residential units located on the project site would be temporarily displaced during the rehabilitation activities although no affordable housing units would be displaced within the community of Marina Del Rey. The existing apartment units to be rehabilitated as part of the proposed project are all market rate units. The proposed rehab project will occur in four phases, so as to minimize resident displacement, to the extent possible, while completing the rehabilitation project in an expeditious manner. Each of the complex's four apartment buildings will be rehabilitated at one time (i.e., in four phases). Less than significant impacts would occur because no residential housing units would be permanently lost and no further analysis on this topic is needed.

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☒	☐

The proposed project site would displace a population currently residing in the existing apartment complex but not a substantial number of people, as the project will be constructed in four phases. However, this is a temporary displacement that does not require the construction of replacement housing. The project is not expected to permanently displace existing housing or residents. As such, the project would not result in the displacement of residents such that new replacement housing would need to be constructed. Impacts would be less than significant and further analysis on this topic would not be required.

d) Cumulatively exceed official regional or local population projections?	☐	☐	☐	☒

The proposed project is the rehabilitation of an existing residential apartment complex; there would be no change in use. No residential land use change is proposed. Therefore, implementation of the proposed project would not exceed official regional or local population projections and there would be no impacts. Additional analysis on this topic would not be required.

15. PUBLIC SERVICES

	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Would the project create capacity or service level problems, or result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☒	☐

The project site is located in the urbanized area of Marina del Rey. BMPs would be standard during rehabilitation of the residential buildings and appurtenant facilities on the site to ensure that the threat for fire and the threat of crime (pilferage of the construction equipment) is reduced or does not occur on the project site. Since the proposed project would not pose any special fire problems, impacts would be less than significant. Therefore, further analysis on this topic would not be required. The nearest County Fire Station (#110), located at 4433 Admiralty Way, to the project site is 1.24 miles away.

Sheriff protection?	☐	☐	☒	☐

The project site is located in the urbanized area of Marina del Rey. The rehabilitation of the existing residential buildings and appurtenant facilities could provide opportunity for crime (pilferage of the construction equipment and materials) but not different from other construction locations within the area. Furthermore, rehabilitation of the proposed project would include on-site security in addition to the existing Los Angeles County Sheriff service provided from the Marina del Rey station. Since the proposed project would not pose any special law enforcement problems, there would be no impacts. Therefore, further analysis on this topic would not be required. The nearest County Sheriff's Station, located at 13851 Fiji Way, to the project site is 2.78 miles away.

Schools?	☐	☐	☒	☐

The proposed project is a residential land use but proposes no increase in population of apartment units. As such, project implementation would not generate net new students compared to current uses, and no additional students would attend local schools. Consequently, the proposed project would have a less than significant impact on schools and no additional analysis is necessary.

Parks?	☐	☐	☒	☐

The proposed project is a residential land use but proposes no increase in population or apartment units. As such, no increase for recreation facilities is expected following project buildout. Therefore, there would be a less than significant impact to park resources and no additional analysis is necessary.

Libraries?	☐	☐	☒	☐

The proposed project would have no change to current library services as the proposed project would have the same demand as the current uses. As such, project implementation would not generate net new residents compared to current uses, and additional

demand for library services would not occur. The nearest County library, located at 4533 Admiralty Way, is 1.5 miles away from the project site.

Other public facilities? ☐ ☐ ☐ ☒

There are no other public services in the project area that would be impacted by the proposed project because there is no proposed change in land uses or intensity of use.

16. RECREATION

	Potentially Significant Impact	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒

Because the proposed project would not generate a permanent population increase within the community of Marina del Rey (as no new dwelling units are being added with the proposed rehabilitation project), there would not be a need to develop or expand additional recreational facilities around or near the project site. The existing recreational facilities in the project vicinity include Venice Beach and Marina/Mother's Beach. No impacts would occur and further analysis on this topic would not be required.

b) Does the project include neighborhood and regional parks or other recreational facilities or require the construction or expansion of such facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

Because the proposed project would not generate a permanent population increase within the community of Marina del Rey (the number of existing dwelling units on-site will remain unchanged), there would not be a need to develop or expand additional recreational facilities around or near the project site. There would be no impact from the proposed project.

c) Would the project interfere with regional open space connectivity?	☐	☐	☐	☒

There is no regional open space in the project area and the proposed project would not interfere with connectivity.

17. TRANSPORTATION/TRAFFIC

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☒	☐

The proposed project site is currently served by the Los Angeles County Metropolitan Transportation Authority (MTA) and Culver Citybus that provides alternative transportation throughout the community of Marina del Rey and into parts of the Los Angeles Metro Region. The closest bus stops from the proposed project are located on Washington Boulevard at Via Marina (Culver City) and at Palawan Way (Los Angeles County) for eastbound and at Washington Boulevard and Ocean Avenue (Culver City) and at Mindanao Way and Lincoln Boulevard (Los Angeles County) for westbound. Rehabilitation of the residential structures and appurtenant facilities on the site would not interfere with alternative transportation service as provided by the MTA and Culver Citybus. Since implementation of the proposed project would not conflict with adopted policies, plans, or programs supporting alternative transportation, impacts would be less than significant. Further analysis on this topic would not be required.

b) Conflict with an applicable congestion management program (CMP), including, but not limited to, level of service standards and travel demand measures, or other standards established by the CMP for designated roads or highways?	☐	☐	☒	☐

The proposed project would not add 50 or more total trips during either the weekday AM or PM peak hours, the threshold to require a detailed CMP analysis. Consequently, the project would not result in an increase in congestion on the surrounding roadway network due to increased vehicle trips; impacts would thus be less than significant and additional analysis is not necessary.

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?	☐	☐	☐	☒

The proposed project would not change any air traffic patterns and there would be no impact.

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐

The proposed project does not include changes in roadway design or incompatible uses. The project site is located on the northerly side of the Marquesas Way mole road. All staging and construction activities are expected to be located on the project site and all gates, temporary or permanent, will be appropriately set back from the right-of-way. As such, no hazardous conditions are anticipated on Marquesas Way due to project construction. Additionally, the project would not include an increase in intensity that would generate vehicle trips but rather include a renovation and upgrade of an existing permitted use. Consequently, the project would not result in an increase in congestion on the surrounding roadway network due to increased vehicle trips. The haul trucks will follow the regular main arterial routes in exporting grading materials. Project impacts would therefore be less than significant and no additional analysis is necessary.

e) Result in inadequate emergency access?	☐	☐	☒	☐

The proposed project does not include a change to any of the existing emergency access routes. Access to the site is provided via Marquesas Way, a fully improved street. The project will not impair or restrict access on Marquesas Way. The project design will require fire equipment access within 150 feet of all structures. Project impacts would therefore be less than significant and no additional analysis is necessary.

f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒

The proposed project will not interfere with existing Bikeway Plan, Pedestrian Plan, Transit Oriented District development standards in the County General Plan Mobility Element. Therefore, there will be no impact from the proposed project.

18. UTILITIES AND SERVICE SYSTEMS

Would the project:	*Potentially Significant Impact*	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Exceed wastewater treatment requirements of either the Los Angeles or Lahontan Regional Water Quality Control Boards?	☐	☐	☐	☒

There is no proposed increase in residential units; therefore, the proposed project would not substantially increase the amount of sewage that is generated compared to existing conditions. The proposed project would not increase capacity problems at the Hyperion wastewater treatment plant that currently serves the project site. Because the project would not intensify existing land uses at the project site, no net increase of wastewater generation is anticipated following project buildout. No impacts would occur and further analysis on this topic is not required.

b) Create water or wastewater system capacity problems, or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐

There is no proposed increase in residential units; therefore, the proposed project would not substantially increase the amount of sewage that is generated nor substantially increase the demand for water compared to existing conditions. The proposed project would not increase capacity problems at the Hyperion wastewater treatment plant that currently serves the project site. As such, project implementation would not materially increase existing flows to the wastewater treatment plan serving the site. The project's additional wastewater contributions from individual washing machines being added to the existing residential units has been analyzed by the Applicant's civil engineer (Breen Engineering), which analysis concludes local sewer lines serving the site have sufficient capacity to accept the additional wastewater generated by the individual unit washing machines without causing the lines to exceed their carrying capacity. Therefore, project impacts would be less than significant and further analysis on this topic is not required.

c) Create drainage system capacity problems, or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐

The proposed project site contains an existing drainage system that is adequate in terms of capacity but that may require upgrading in regards to modern stormwater management and the County's Low Impact Development (LID) Program. For this reason it is anticipated that drainage patterns and runoff quantities of the project site would remain substantially the same size as under current conditions, that drainage system capacity problems will thus not result from the project, and that there will be no need for expansion of existing drainage facilities. Runoff would continue to outlet through the storm drain system after such treatment. Project implementation would not substantially alter existing runoff and drainage conditions at the project site nor substantially increase erosion or siltation.

d) Have sufficient reliable water supplies available to serve the project demands from existing entitlements and resources, considering existing and projected water demands from other land uses? ☐ ☐ ☒ ☐

The project site is located in a developed area of Marina del Rey that is currently served by an existing water conveyance system. Fire flows to the project site are adequate for the uses that currently exist on the project site (Parcel 13). Furthermore, the proposed project site contains fire hydrants located around the project site to provide hook-ups for the fire department in case of a fire on the project site. The proposed project would not include the addition of floors to the existing residential structures; therefore, an increase need in fire flow is not anticipated to be required to adequately serve the proposed project upon its completion. Per Los Angeles County's typical process, formal approval of fire flow rates for the project site would occur during the building permit process prior to issuance of a building permit.

e) Create energy utility (electricity, natural gas, propane) system capacity problems, or result in the construction of new energy facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? ☐ ☐ ☐ ☒

The project site currently receives electricity from the Southern California Edison Company and natural gas from the Southern California Gas Company. Infrastructure currently exists on the project site, which conveys an adequate supply of electricity and natural gas to the existing uses on the project site. Project development would not result in an increase of residential unit and would not result in any appreciable intensification of use on the project site; therefore, the proposed project would demand the same amount of electricity and natural gas that is currently being demanded under existing conditions. No impacts would occur and further analysis on this topic would not be required.

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? ☐ ☐ ☒ ☐

The proposed project would not result in an increase the intensity of the existing land uses, and therefore, would generate the same amount of solid waste that is being generated under existing conditions. During project construction and rehabilitation activities, an increase in the amount of construction debris would occur; however, this increase would be temporary in nature and would be able to be accommodated by the local solid waste disposal service provided in the community of Marina del Rey. Furthermore, any debris that would be generated by the proposed project would be subject to the diversion rate. Since the proposed project would not generate more solid waste upon its completion than is being generated under existing conditions and since renovation of the proposed project site would produce a minimal amount of renovation debris that can be adequately disposed of at landfill facilities serving the project site, project impacts would be less than significant.

g) Comply with federal, state, and local statutes and regulations related to solid waste? ☐ ☐ ☒ ☐

The proposed project would comply with all federal, state, and local statutes regulating solid waste. There would be a less than significant impact from the proposed project on solid waste statutory compliance.

19. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	*Less Than Significant Impact with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐

Based on the findings of this initial study, the proposed project would neither degrade the quality of the environment nor is the proposed project expected to eliminate important examples of the major periods of California prehistory. The proposed project would not substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, nor threaten a plant or animal community. Some potential exists for the proposed project to impact nesting birds such as the Great Blue Heron, Black-crowned Night Heron, Double-crested Cormorant, and Great Egret, to the extent these or other avian species might happen to establish nests on the site. Mitigation measures are presented in this Initial Study that would require the applicant's strict adherence to policies of the certified LCP which appropriately mitigate impacts to nesting birds. With implementation of these mitigation measures, impacts would be reduced to a less than significant level and further analysis on this topic is not required.

b) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☐	☒

The proposed project would not disadvantage any long-term environmental goals of Los Angeles County or those identified in the Marina del Rey 2010 Conservation and Management Plan in an effort to achieve short-term environmental goals, as both goals are consistent with each other. Moreover, by incorporating state-of-the-industry Green Building standards, where feasible, the project's short-term environmental protection and sustainability components will help to fulfill the County's longer-term environmental protection and sustainability goals.

c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐

As described throughout this Initial Study, the proposed project would not increase the current land use intensity on the project site. Related projects as specified above would be involved in individual environmental review to determine the level of significance for impacts pertaining to each of their individual development. Therefore, cumulative impacts would be less than significant and the project's contribution to cumulative impacts would not be cumulatively considerable.

d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

As described throughout this Initial Study, the proposed project includes the rehabilitation of an existing residential apartment complex. The proposed project would not include construction or operational activities that would cause a substantial adverse effect on human beings. Any such impacts, either direct or indirect, would be less than significant and further analysis on this topic is not required.

APPENDICES

A: Air Quality and Greenhouse Gas Assessment for the Villa Del Mar Apartments Rehabilitation Project in Los Angeles County, California. Impact Sciences, April 2013

B: Noise Assessment for the Villa Del Mar Apartments Rehabilitation Project in Los Angeles County, California. Impact Sciences, June 2013

ental Factor	Mitigation	Action Required	When Monitoring to Occur	Responsible Agency or Party	Monitoring A Party
Resources	Prior to and during all project-related construction activities, Applicant shall strictly comply with all applicable provisions contained in Policy Nos. 23 (Marina del Rey Tree Pruning and Tree Removal Policy) and 34 (Marina del Rey Leasehold Tree Pruning and Tree Removal Policy) as well as mitigation measures recommended to minimize impacts to special-status biological resources (contained within "Biological Report & Construction Monitoring Requirements") of the certified LCP.	Applicant's compliance with LCP Policy Nos. 23 and 34 during tree pruning and/or removal activities associated with the project.	Prior to and during any tree trimming or tree removal activities associated with project construction.	Applicant	DRP & D
	All construction equipment, fixed or mobile, that is utilized on the site for more than two working days shall be in proper operating condition and fitted with standard factory silencing features. In areas where construction equipment (such as generators and air compressors) is left stationary and operating for more than one day within 100 feet of residential land uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive land uses. As the project is constructed, the use of building structures as noise barrier would be sufficient.	Construction equipment to be fitted with standard factory silencing features; installation of temporary noise barriers, as required.	During construction	Applicant	DPH & D
	All exterior construction activity shall be limited to between the hours of 7:00 AM to 7:00 PM, except for concrete pours, and shall not occur on Sundays or legal holidays. The work schedule shall be posted at the construction site.	Limitation on contruction hours; posting of construction work schedule on site.	During construction	Applicant	DPH & D

	construction site and along the proposed truck haul route. The notice shall contain information on the type of project and anticipated duration of construction activity, and shall provide a phone number where people can register questions and complaints. The applicant shall keep a record of all complaints and take appropriate action to minimize noise generated by the offending activity, where feasible. A monthly log of noise complaints shall be maintained by the applicant and submitted to the County of Los Angeles Department of Public Health.	re construction activity schedule; maintenance of construction noise compliants log; monthly submittal of noise complaints log to LACO Dept of Public Health.	construction activites at the site.		noise complai DRP.
	The project applicant shall use electric air compressors and hydraulic tools rather than diesel equipment or pneumatic tools, when commercially available.	Utilization of electric air compressors and hydrolic tools, when commercially available.	During construction	Applicant	DPH & D
	Construction-related equipment, including heavy-duty equipment, motor vehicles, and portable equipment, shall be turned off when not in use for more than 30 minutes.	Turning off of construction-related equipment when not in use more than 30 minutes.	During construction	Applicant	DPH & D
Compliance	As a means of ensuring compliance of above mitigation measures, the applicant and subsequent owner(s) are responsible for submitting compliance report to the Department of Regional Planning for review, and for replenishing the mitigation monitoring account if necessary until such as all mitigation measures have been implemented and completed.	Submittal and approval of compliance report and replenishing mitigation monitoring account	Yearly and as required until all measures are completed.	Applicant and subsequent owner(s)	DRP

n, the number before the decimal should always correspond with the chapter number in the initial study.

AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 13R — 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**"), as lessor, and VILLA DEL MAR PROPERTIES, LTD., a California limited partnership (together with its permitted successors and assigns, "**Lessee**"), as lessee.

RECITALS

WHEREAS, County, as lessor, and Lessee's predecessors, as lessee, entered into Lease No. 5352 dated September 7, 1961 (as amended prior hereto, the "**Existing Lease**"), concerning the lease of certain real property in the Marina del Rey Small Craft Harbor which, as modified prior to the date hereof, is now commonly known as Parcel No. 13R, and is more specifically described on Exhibit A attached hereto and incorporated herein by this reference (the "**Premises**");

WHEREAS, the term of the Existing Lease commenced on June 8, 1961 and was originally scheduled to expire on June 7, 2021 (the "**Existing Expiration Date**");

WHEREAS, County and Lessee entered into that certain Option to Amend Lease Agreement (Parcel 13R) dated as of _____, 2013 (the "**Option Agreement**"), pursuant to which County 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 June 7, 2060, and (ii) the renovation of the improvements on the Premises in accordance with the terms and provisions set forth in this Lease;

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

WHEREAS, pursuant to the Option Agreement and the exercise of the Option, County and Lessee desire to enter into this Lease to fully amend and restated the Existing Lease in its entirety.

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

1. BACKGROUND AND GENERAL.

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

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

1.1.2 "ACTUAL COST" shall mean (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.

1.1.4 "ADDITIONAL DISPUTES" shall have the meaning set forth in Section 16(a).

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 "AIR QUALIFIED HARD COSTS" shall have the meaning set forth in Section 5.11.

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

1.1.10 "ANCHORAGE IMPROVEMENTS" shall have the meaning set forth in Section 5.11.

1.1.11 "ANCHORAGE IMPROVEMENTS REPLACEMENT" shall have the meaning set forth in Section 5.11.

1.1.12 "ANCHORAGE IMPROVEMENTS REPLACEMENT REQUIRED COMMENCEMENT DATE" shall have the meaning set forth in Section 5.11.

1.1.13 "ANCHORAGE IMPROVEMENTS REPLACEMENT REQUIRED COMPLETION DATE" shall have the meaning set forth in Section 5.11.

1.1.14 "ANCHORAGE IMPROVEMENTS REPORT" shall have the meaning set forth in Section 5.11.

1.1.15 "ANTENNAE" shall have the meaning set forth in Subsection 3.2.2.5.

1.1.16 "ANNUAL FUNDING MONTH" shall have the meaning set forth in Section 5.13.

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

1.1.18 "ANNUAL RENT" shall have the meaning set forth in Section 4.2.

1.1.19 "APPLICABLE LAWS" shall have the meaning set forth in Subsection 1.2.1.

1.1.20 "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; provided, however, that the Applicable Rate shall in no event exceed the maximum rate of interest which may be charged pursuant to Applicable Laws.

1.1.21 "APPROVED APARTMENT/SLIP LEASE" shall have the meaning set forth in Subsection 11.1.2.

1.1.22 "APPROVED GOVERNMENTAL CHANGES" shall mean any changes to the Renovation Work (or other Alterations, as applicable) required by the California Coastal Commission or other applicable governmental agency as a condition to the issuance of required governmental permits and approvals for such Renovation Work (or other Alterations, as applicable), except for any change that is a Material Modification.

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

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

1.1.25 "AWARD" shall have the meaning set forth in Subsection 6.1.3.

1.1.26 "BASE VALUE" shall have the meaning set forth in Subsection 4.8.1.1.

1.1.27 "BENEFICIAL INTEREST" shall have the meaning set forth in Subsection 4.6.4.

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

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

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

1.1.31 "CAPITAL IMPROVEMENT FUND" shall have the meaning set forth in Section 5.14.

1.1.32 "CHANGE OF OWNERSHIP" shall have the meaning set forth in Subsection 4.6.1.

1.1.33 "CHANGE OF CONTROL" shall have the meaning set forth in Subsection 4.6.1.

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

1.1.35 "CONDEMNATION" shall have the meaning set forth in Subsection 6.1.1.

1.1.36 "CONDEMNOR" shall have the meaning set forth in Subsection 6.1.4.

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

1.1.38 "COST" shall have the meaning set forth in Subsection 4.2.2.3(6).

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

1.1.40 "COUNTY OPTION" shall have the meaning set forth in Subsection 11.2.4.

1.1.41 "COUNTY OPTION PRICE" shall have the meaning set forth in Subsection 11.2.4.

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

1.1.43 "COUNTY REMOVAL NOTICE" shall have the meaning set forth in Subsection 2.3.2.

1.1.44 "DATE OF TAKING" shall have the meaning set forth in Subsection 6.1.2.

1.1.45 "DEFAULT TERMINATION" shall have the meaning set forth in Subsection 2.3.2.

1.1.46 "DEMOLITION AND REMOVAL REPORT" shall have the meaning set forth in Subsection 2.3.2.

1.1.47 "DEMOLITION SECURITY" shall have the meaning set forth in Subsection 2.3.2.

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

1.1.49 "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.

1.1.50 "DISQUALIFICATION JUDGMENT" shall have the meaning set forth in Subsection 16.14.1.

1.1.51 "DOCUMENTED TRANSACTION COSTS" shall have the meaning set forth in Subsection 4.8.1.2.

1.1.52 "EFFECTIVE DATE" shall have the meaning set forth in the first paragraph of this Lease.

1.1.53 "ENCUMBRANCE" shall have the meaning set forth in Subsection 12.1.1.

1.1.54 "ENCUMBRANCE HOLDER" shall have the meaning set forth in Subsection 12.1.1.

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

1.1.56 "EQUITY ENCUMBRANCE HOLDER" shall have the meaning set forth in Subsection 12.1.1.

1.1.57 "EQUITY FORECLOSURE TRANSFEREE" shall have the meaning set forth in Subsection 12.2.1.

1.1.58 "ESTIMATED COSTS" shall have the meaning set forth in Subsection 2.3.2.

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

1.1.60 "EXCLUDED CONDITIONS" shall have the meaning set forth in Subsection 1.2.3.

1.1.61 "EXCLUDED DEFAULTS" shall have the meaning set forth in Subsection 12.3.3.

1.1.62 "EXCLUDED TRANSFERS" shall have the meaning set forth in Subsection 4.6.2.

1.1.63 "EXISTING EXPIRATION DATE" shall have the meaning set forth in the first paragraph of the Recitals to this Lease.

1.1.64 "EXISTING LEASE" shall have the meaning set forth in the first paragraph of the Recitals to this Lease.

1.1.65 "EXCESS PERCENTAGE RENT PAYMENT" shall have the meaning set forth in Subsection 4.2.2.4.

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

1.1.67 "EXTENSION FEE" shall have the meaning set forth in the Option Agreement.

1.1.68 "FAIR MARKET RENTAL VALUE" shall have the meaning set forth in Subsection 4.4.1.

1.1.69 "FINAL PLANS AND SPECIFICATIONS" shall have the meaning set forth in Subsection 5.3.3.

1.1.70 "FINANCING EVENT" shall have the meaning set forth in Subsection 12.1.1.

1.1.71 "FIRST ADJUSTMENT DATE" shall have the meaning set forth in Subsection 4.2.1.

1.1.72 "FORCE MAJEURE" shall mean any inability of a party to perform any non-monetary obligation under this Lease due to fire or other casualty, earthquake, flood, tornado or other act of God, civil disturbance, war, organized labor dispute, freight embargo, governmental order or other unforeseeable event beyond the reasonable control of the party required to perform the subject obligation, including, in the case of a delay in the commencement or completion by Lessee of the Renovation Work, the Anchorage Improvements Replacement or the Subsequent Renovation, a delay in such construction caused by 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, although Lessee shall, to the extent possible, commence and complete the portions, if any, of the work, not impacted by such delay within the timeframes set forth in this Lease. In addition, in the case of the construction of the Renovation Work, the Anchorage Improvements Replacement or the Subsequent Renovation, Force Majeure shall also include (a) Unreasonable County Activity, as defined in and subject to the terms and conditions of Section 5.6 of this Lease; and (b) an injunction or restraining order against the

performance of the Renovation Work, the Anchorage Improvements Replacement or Subsequent Renovation issued pursuant to a court action commenced by a plaintiff other than County or the California Coastal Commission acting in their governmental capacity, Lessee, or any person or entity affiliated with Lessee; provided, however, regardless of whether Lessee is a named party in the action, as a condition to this clause (b) Lessee shall diligently pursue the removal of any such restraining order or injunction and shall exhaust all commercially reasonable efforts to appeal such restraining order or injunction.

1.1.73 "FORECLOSURE TRANSFER" shall have the meaning set forth in Subsection 12.2.1.

1.1.74 "FORECLOSURE TRANSFEREE" shall have the meaning set forth in Subsection 12.2.1.

1.1.75 "GROSS ERROR" shall have the meaning set forth in Subsection 16.15.4.

1.1.76 "GROSS RECEIPTS" shall have the meaning set forth in Subsection 4.2.2.3.

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

1.1.78 "HAZARDOUS SUBSTANCES" shall mean the following:

(a) petroleum, any petroleum by-products, waste oil, crude oil or natural gas;

(b) any material, waste or substance that is or contains asbestos or polychlorinated biphenyls, or is radioactive, flammable or explosive; and

(c) any substance, product, waste or other material of any nature whatsoever which is or becomes defined, listed or regulated as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," "solid waste" or similarly defined substance pursuant to any Applicable Laws.

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

1.1.80 "IMPROVEMENT COSTS" shall have the meaning set forth in Subsection 4.8.1.1.

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

1.1.82 "INITIAL CURE PERIOD" shall have the meaning set forth in Subsection 12.4.1(2)(a).

1.1.83 "INITIATING PARTY" shall have the meaning set forth in Section 16 (a).

1.1.84 "INSTITUTIONAL LENDER" shall have the meaning set forth in Subsection 12.3.1.

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

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

1.1.87 "LANDSIDE IMPROVEMENTS WORK COMPLETION DATE" means the date of the substantial completion of the Landside Improvements Work.

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

1.1.89 "LEASE" shall have the meaning set forth in the first paragraph above.

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

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

1.1.92 "LESSEE SALE PRICE" shall have the meaning set forth in Subsection 11.2.4.

1.1.93 "MAJOR SUBLEASE" shall have the meaning set forth in Subsection 11.1.1.

1.1.94 "MAJOR SUBLESSEE" shall have the meaning set forth in Subsection 11.1.1.

1.1.95 "MATERIAL MODIFICATION" shall mean a modification to the Renovation Work (or other Alterations, as applicable) with respect to which any one of the following applies: (1) the total cost of the modifications exceeds one percent (1%) of the total estimated construction cost of the Renovation Work (or the other Alterations that are then proposed to be constructed by Lessee); (2) the proposed modification is structural in nature; (3) the modification materially affects or is visible from the exterior of the Improvements; (4) the modification is not in compliance with the Permitted Uses under this Lease; or (5) the modification (a) changes the total number of apartment units, (b) reduces the number of parking spaces, except for a corresponding reduction in the number of parking spaces required for the Improvements (based on parking ratios required under Applicable Law, without variance) resulting from a reduction in the

square footage or number of units of the Improvements, (c) changes the number of anchorage slips or end-ties, or (d) pertains to the Promenade.

1.1.96 "MINIMUM AIR REQUIRED COST AMOUNT" shall have the meaning set forth in Section 5.11.

1.1.97 "MINIMUM REQUIRED COST AMOUNT" shall have the meaning set forth in Section 5.1.

1.1.98 "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.

1.1.99 "MONTHLY MINIMUM RENT" shall have the meaning set forth in Subsection 4.2.1.

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

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

1.1.102 "NET REFINANCING PROCEEDS" shall have the meaning set forth in Subsection 4.8.5.

1.1.103 "NET TRANSFER PROCEEDS" shall have the applicable meaning set forth in Subsection 4.8.1 or 4.8.2.

1.1.104 "NOTICE OF COMPLETION" shall have the meaning set forth in Subsection 5.7.7.

1.1.105 "OPTION" shall have the meaning set forth in the fourth paragraph of the Recitals to this Lease.

1.1.106 "OPTION AGREEMENT" shall have the meaning set forth in the fourth paragraph of the Recitals to this Lease.

1.1.107 "OPTION FEE" shall have the meaning set forth in the Option Agreement.

1.1.108 "ORIGINAL LESSEE" shall have the meaning set forth in the first paragraph of the Recitals to this Lease.

1.1.109 "OWNERSHIP INTERESTS" shall have the meaning set forth in Subsection 12.1.1.

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

1.1.111 "PAYMENT BOND" shall have the meaning set forth in Subsection 5.4.3.2.

1.1.112 "PERCENTAGE RENT" shall have the meaning set forth in Subsection 4.2.2.

1.1.113 "PERFORMANCE BOND" shall have the meaning set forth in Subsection 5.4.3.1.

1.1.114 "PERMITTED CAPITAL EXPENDITURES" shall have the meaning set forth in Section 5.14.

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

1.1.116 "PORTION SUBJECT TO DEMOLITION" shall have the meaning set forth in Subsection 2.3.2.

1.1.117 "POST TERM REMOVAL PERIOD" shall have the meaning set forth in Subsection 2.3.2.

1.1.118 "PREMISES" shall have the meaning set forth in the first paragraph of the Recitals to this Lease.

1.1.119 "PRIMARY COVERAGE" shall have the meaning set forth in Subsection 9.1.1.

1.1.120 "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.

1.1.121 "PROMENADE" shall have the meaning set forth in Section 15.19 and in the Renovation Plan.

1.1.122 "PROPOSED TRANSFER" shall have the meaning set forth in Subsection 11.2.4.

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

1.1.124 "PURCHASE MONEY NOTE" shall have the meaning set forth in Subsection 4.7.2.

1.1.125 "QUALIFIED HARD COSTS" shall have the meaning set forth in Section 5.1.

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

1.1.127 "RENOVATION PLAN" shall have the meaning set forth in Section 5.1.

1.1.128 "RENOVATION WORK" shall have the meaning set forth in Section 5.1.

1.1.129 "RENOVATION WORK REQUIRED COMMENCEMENT DATE" shall have the meaning set forth in Section 5.1.

1.1.130 "RENOVATION WORK REQUIRED COMPLETION DATE" shall have the meaning set forth in Section 5.1.

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

1.1.132 "REQUEST FOR ARBITRATION" shall have the meaning set forth in Section 16(a).

1.1.133 "REQUESTING PARTY" shall have the meaning set forth in Section 16(a).

1.1.134 "REQUIRED AIR COST AMOUNT" shall have the meaning set forth in Section 5.11.

1.1.135 "REQUIRED COST AMOUNT" shall have the meaning set forth in Section 5.1.

1.1.136 "RESPONSE" shall have the meaning set forth in Section 16(a).

1.1.137 "RESPONDING PARTY" shall have the meaning set forth in Section 16(a).

1.1.138 "REVERSION" shall have the meaning set forth in Section 12.12.

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

1.1.140 "REVERSION CONDITION" shall have the meaning set forth in Section 12.12.

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

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

1.1.143 "SEPARATE DISPUTE" shall have the meaning set forth in Subsection 16.10.1.

1.1.144 "STATE" shall mean the State of California.

1.1.145 "STATEMENT OF POSITION" shall have the meaning set forth in Subsection 16.5(2)(a).

1.1.146 "SUBLEASE" shall have the meaning set forth in Subsection 11.1.1.

1.1.147 "SUBLESSEE" shall have the meaning set forth in Subsection 11.1.1.

1.1.148 "SUBSEQUENT RENOVATION" shall have the meaning set forth in Section 5.12.

1.1.149 "SUBSEQUENT RENOVATION FUND" shall have the meaning set forth in Section 5.13.

1.1.150 "SUBSEQUENT RENOVATION PLAN" shall have the meaning set forth in Section 5.12.

1.1.151 "substantial completion" means the completion of the Landside Improvements Work, Waterside Buildings Work, Renovation Work, Anchorage Improvements Replacement, Subsequent Renovation or other work of Improvement (as applicable), including without limitation, the receipt of a certificate of occupancy (whether temporary or permanent) or other applicable governmental certificate or approval for legal use and occupancy of the Improvements that are the subject of such work (if applicable with respect to the particular work), subject only to minor punch-list items that do not interfere with the use and occupancy of the subject Improvements, provided that any such minor punch-list items are completed in a diligent manner as soon as reasonably possible thereafter.

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

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

1.1.154 "UMBRELLA COVERAGE" shall have the meaning set forth in Subsection 9.1.1.

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

1.1.156 "WATERSIDE BUILDINGS WORK" shall have the meaning set forth in Section 5.1.

1.1.157 "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. This Lease fully amends, restates, replaces and supersedes the Existing Lease.

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 1961, 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 1.2.3, 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 as of the Effective Date, and Lessee hereby represents that it has performed all investigations that it deems necessary or appropriate with respect to the condition of the Premises or Improvements. 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 or any Improvements located thereon, including without limitation: (i) the quality, nature, adequacy and physical condition and aspects of the Premises 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, heating, ventilating and air conditioning, plumbing, sewage and utility systems, facilities and appliances, and the square footage of the land or Improvements, (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 the 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 or any Improvements located thereon for any particular purpose, (v) the zoning, entitlements or other legal status of the Premises or Improvements, and any public or private restrictions affecting use or occupancy of the Premises or Improvements, (vi) the compliance of the Premises or Improvements with any applicable codes, rules, regulations, statutes, resolutions, ordinances, covenants, conditions and restrictions or laws of the County, State, United States of America, California Coastal Commission or any other local, state or federal governmental or quasi-governmental entity ("**Applicable Laws**"), including, without limitation, relevant provisions of the Americans with Disabilities Act ("**ADA**"), (vii) the presence of any underground storage tank or Hazardous Substances on, in, under or about the Premises, Improvements, the adjoining or neighboring property, or ground or other subsurface waters, (viii) the quality of any labor and materials used in any Improvements, (ix) the condition of title to the Premises or Improvements, and (x) the economics of the operation of the Premises or Improvements. 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.

1.2.2 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.

1.2.3 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; OWNERSHIP OF IMPROVEMENTS.

2.1 Term. The term of the Lease ("**Term**") commenced on June 8, 1961 and, unless terminated sooner in accordance with the provisions of this Lease, shall expire at 11:59 p.m. on June 7, 2060. For purposes of this Lease, "**Lease Year**" shall mean each calendar year (or partial calendar) during the Term of this Lease.

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

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

2.3.1 County's Election to Receive Improvements. Unless Lessee is expressly directed by County in writing in accordance with this Section 2.3 to demolish and remove Improvements upon the expiration or earlier termination of the Term, all Improvements located on, in, or under the Premises (including all fixtures or equipment affixed thereto) shall remain upon and be surrendered with the Premises as part thereof, and title to such Improvements shall vest in County without any compensation 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 (a) receive any and all proceeds which are attributable to the Condemnation of Improvements belonging to Lessee immediately prior to the taking of possession by the Condemnor, to the extent provided in Article 6 of this Lease, or (b) remove any furniture or equipment that is neither 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 Improvements), or any personal property, upon the expiration of the Term or earlier termination of this Lease or at any time during the Term, subject to Lessee's obligations under this Lease to use the Premises for the Permitted Uses.

2.3.2 Duty to Remove. No earlier than 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 reasonably approved by County that details and estimates the cost and required time period for the removal of all Improvements on the Premises at the expiration of the Term (the "**Demolition and Removal Report**").

County may elect to require Lessee at the end of the Term or any earlier termination of this Lease to remove, at the sole cost and expense of Lessee, all or any portion of the Improvements located on, in or under the Premises, whether placed or maintained thereon by Lessee or others, including, but not limited to, concrete foundations, pilings, structures and buildings; provided, however, such portion ("**Portion Subject to Demolition**") of the Improvements designated by County for demolition must be able to be demolished separately from other portions of the then-existing Improvements which County has designated to remain. Lessee shall complete the required demolition and removal and shall restore and surrender to County possession of the Premises in the following condition: (a) as to any portion of the Premises on which the Improvements are required to be demolished, such portion of the Premises shall be surrendered to County in good, usable and buildable condition, consisting of a level, graded buildable pad with no excavations, hollows, hills or humps; and (b) as to any portion of the Premises on which the Improvements are not required to be demolished, the Premises and such Improvements shall be surrendered to County in the condition in which the Premises and Improvements are required to be maintained and repaired under this Lease.

In the case of the termination of the Lease at the scheduled expiration date of the Term, any election by County to require Lessee to demolish and remove the Improvements or a Portion Subject to Demolition must be made by County in writing to Lessee ("**County Removal Notice**") not later than four (4) years prior to the then-scheduled expiration date of the Term. If County elects to require Lessee to demolish and remove all of the Improvements or a Portion Subject to Demolition, Lessee shall complete such demolition and removal and otherwise comply with Lessee's surrender obligations under this Section 2.3 on or before the expiration of the Term of the Lease. In the case of the termination of the Lease at the scheduled expiration date of the Term, Lessee shall have the right, by written notice to County not later than thirty (30) days prior to the scheduled expiration date of the Term, to extend the date by which Lessee must complete the Improvement removal and Premises surrender obligations under this Subsection 2.3.2 and/or the Lessee's removal obligations under Subsection 2.3.4 below to a date not more than one hundred twenty (120) days after the expiration of the Term (the "**Post Term Removal Period**"); provided, however, that all of the Lessee's obligations and liabilities under the Lease (other than the obligation to affirmatively operate the Premises or to maintain and repair those Improvements required to be demolished) shall be applicable during the Post Term Removal Period, including without limitation, the Lessee's obligations with respect to insurance and indemnification, and Lessee's obligation to pay County compensation for the Post Term Removal Period in an amount equal to the Monthly Minimum Rent rate in effect immediately prior to the expiration of the Term multiplied by the number of months in the Post Term Removal Period. Such

Monthly Minimum Rent amount for the entire Post Term Removal Period shall be paid by Lessee in advance prior to the commencement of the Post Term Removal Period.

In the case of a termination of the Lease prior to the scheduled expiration date of the Term, any election by County to require Lessee to remove the Improvements or a Portion Subject to Termination must be made by County's delivery of the County Removal Notice not later than sixty (60) days after the effective date of such termination, and if County elects to require Lessee to demolish and remove all or a portion of the Improvements on a termination of the Lease prior to the scheduled expiration of the Term, Lessee shall complete such demolition and removal and otherwise comply with Lessee's surrender obligations under this Section 2.3 on or before the later of (a) ninety (90) days after the date on which this Lease terminated, or (b) if Lessee has submitted a Demolition and Removal Report to County, that period after the date on which this Lease terminated equal to the estimated demolition and removal period set forth in the Demolition and Removal Report.

Upon receipt of a County Removal Notice, Lessee shall within ninety (90) days after 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 Director ("**Demolition Security**"), and (ii) a schedule satisfactory to Director 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 any Demolition Security shall be equal to the estimated costs to remove the Improvements as set forth in the Demolition and Removal Report (the "**Estimated Costs**"), adjusted to reflect the percentage change in the ENR Index from the date on which the Estimated Cost was determined until the date on which Lessee delivers the Demolition Security. Thereafter, Lessee shall increase the amount of the Demolition Security on an annual basis (on or before each successive anniversary of the required date for Lessee's original delivery to County of the Demolition Security) by the same percentage as the percentage increase (if any) in the ENR Index over the preceding year. Any uncured failure by Lessee to deliver the Demolition Security described in this Subsection 2.3.2 shall constitute an Event of Default. County shall have the right to revoke County's election to require the removal of all Improvements or a Portion Subject to Demolition at the end of the scheduled expiration of the Term of the Lease by written notice to Lessee of such revocation at any time not later than ninety (90) days prior to the scheduled expiration date of the Lease. If County revokes its prior County Removal Notice, then any Demolition Security previously delivered by Lessee to County pursuant to this paragraph shall be returned to Lessee within thirty (30) days following the date of such revocation. Upon completion of all of Lessee's obligations under this Section 2.3, the remaining balance of any Demolition Security held by County (and not used by County pursuant to Subsection 2.3.3 or 2.3.4 below) shall be returned to Lessee.

If County fails to elect to require Lessee to remove all of the Improvements on the Premises in accordance with the terms of this Section 2.3 (or revokes such election as provided above), then upon the expiration of the Term, or earlier termination of the Lease, Lessee shall surrender possession to County of the Premises and those Improvements not required to be removed by Lessee, in the condition in which such Improvements are required to be repaired and maintained under this Lease.

2.3.3 County's Right to Remove Improvements. If County elects to have Lessee demolish and remove Improvements and Lessee fails to do so in accordance with this Lease, County may, at its election, retain, sell, remove or demolish such Improvements. In the event of any demolition or removal by County of Improvements required to have been demolished and removed by Lessee, Lessee shall reimburse County for any Actual Costs incurred by County in connection with such demolition and removal in excess of any funds used by County from the Demolition Security for such purpose and any consideration received by County as a result of any sale of the demolished Improvements; provided, however, that County shall be under no obligation to Lessee to effectuate any such sale or, in the case of a sale, to obtain any required level of compensation therefor.

2.3.4 Duty to Remove Personal Property. No later than the expiration of the Term or sooner termination of this Lease (subject to Lessee's rights with respect to the Post Term Removal Period described in Subsection 2.3.2 above), Lessee shall in all events remove, at its cost and expense, all furniture, equipment and other personal property that is not affixed to the Improvements or reasonably necessary for the orderly operation of the Premises or Improvements. Should Lessee fail to remove such furniture, equipment and other 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 therein, and County may elect to keep the same upon the Premises or to sell, remove, or demolish the same, in which event Lessee shall reimburse County for its Actual Costs incurred in connection with any such sale, removal or demolition in excess of any consideration received by County as a result thereof.

2.3.5 Title to Certain Improvements Passes to County; Lessee to Maintain. As between County and Lessee, title to all utility lines, transformer vaults and all other utility facilities constructed or installed by Lessee upon the Premises shall vest in County upon construction or installation to the extent that they are not owned by a utility company or other third party provider. Notwithstanding the foregoing sentence, such 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 and Improvements shall be used by Lessee for the operation and management of (i) a residential apartment project, (ii) boat anchorage facilities, 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**"). The Permitted Uses shall include the right of Lessee to provide concierge services to the occupants of the residential apartments. Except as specifically provided herein, the Premises and Improvements shall not be used for any purpose other than the Permitted Uses, without the prior written consent of County. County makes no representation or warranty regarding the continued legality of the Permitted Uses or any of them, and Lessee bears all risk of an adverse change in Applicable Laws. Lessee shall operate the Premises and Improvements in accordance with a minimum standard of operation that is at least consistent with the upgraded project amenities and services set forth in the Renovation Plan.

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 or the Improvements, 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 for trash collected in appropriate receptacles intended for such purposes, nor shall any portion of the Premises or Improvements be permitted to be operated or maintained in a manner that renders the Premises or Improvements a fire hazard.

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

3.2.2.1 The Premises and Improvements shall not be used or developed in any way which violates any Applicable Law.

3.2.2.2 The Premises and Improvements 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 All Improvements shall at all times be kept in good condition and repair consistent with the requirements of Section 10.1 of this Lease, except as such condition is affected by the performance of the Renovation Work or Alterations in accordance with the requirements of Article 5 of this Lease.

3.2.2.4 No condition shall be permitted to exist upon the Premises or Improvements which induces, breeds or harbors 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 or Improvements which create a danger to the health or safety of any persons occupying, using, working at, or patronizing the Premises or Improvements.

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 (collectively, "**antennae**") 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 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 or in any portion of the Premises or the Improvements, nor shall any Hazardous Substances be permitted to be generated, treated, stored, released, disposed of, or otherwise deposited in or on, or allowed to emanate from, the Premises, the Improvements or any portion thereof, including, without limitation, into subsurface waters; provided, however, that Hazardous Substances may be stored or used on the Premises or in the Improvements, so long as such storage and use is of a type and quantity, and conducted in a manner (a) in the ordinary course of business of an otherwise Permitted Use, (b) in accordance with standard industry practices for such Permitted Use, and (c) in compliance with all Applicable Laws. In addition, Lessee shall not be required to remove Hazardous Substances existing in the building materials of the existing Improvements as of the Effective Date if and to the extent that such Hazardous Substances in their condition in such Improvements as of the Effective Date do not require remediation or removal under Applicable Laws in effect as of the Effective Date; provided, however, that (i) such Hazardous Substances shall be removed or remediated if and to the extent required under any Applicable Laws hereafter applicable to the Premises and/or the Improvements located thereon, (ii) such Hazardous Substances shall be removed or remediated if and to the extent required under the Renovation Plan or the Final Plans and Specifications for the Renovation Work, or if required under Applicable Laws that apply to the performance of the Renovation Work, and (iii) any removal or remediation of such Hazardous Substances, including without limitation, any disposal thereof, shall be performed in compliance with all Applicable Laws.

This Subsection 3.2.2.7 shall not impose liability upon Lessee to County for any Hazardous Substances that might be present in seawater passing over, under, through or around any portion of the Premises or any Improvement as long as (I) such Hazardous Substances did not originate at or from the Premises or Improvements, and (II) with respect to Hazardous Substances that did not originate at or from the Premises or Improvements, were not caused by the acts or omissions of Lessee or its

Sublessees, or its or their respective contractors, employees, agents, representatives, consultants, customers, visitors, permittees or licensees.

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 sport fishing and tour boats; and (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, which approval shall not be unreasonably withheld, conditioned or delayed.

3.3 Active Public Use. The parties acknowledge that County's objective in entering into 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, and for the generation and realization by County of revenue therefrom. Accordingly, Lessee agrees and covenants that it will operate the Premises and Improvements 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 comparable residential apartment and 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, except for any closure approved by Director required to perform (a) any Alteration permitted under this Lease, or (b) maintenance, repair, replacement or restoration work permitted or required under this Lease. Lessee shall maintain a dockmaster on duty with respect to the Anchorage Improvements pursuant to the terms and provisions of Section 15.20 of this Lease, on a schedule approved by County, which approval shall not be unreasonably withheld, conditioned or delayed. Any changes in the days or hours of operation of the Promenade or the dockmaster shall be subject to the written approval of Director, which approval shall not be unreasonably withheld, conditioned or delayed.

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 or Improvements 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), in writing, whether pursuant to Article 5 of this Lease or otherwise, 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 required licenses and permits related to or affecting the use, operation, maintenance, repair or improvement of the Premises or Improvements. Without

limitation of the foregoing, Lessee shall comply with all public access requirements of the Marina del Rey Local Coastal Program, as amended.

3.7 Rules and Regulations. Lessee agrees to comply with such other reasonable rules and regulations governing the use and occupancy of the Premises and Improvements as may be promulgated by County from time to time for general applicability on a non-discriminatory basis to other residential apartment and 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 and County expressly agree that this Lease and all of Lessee's 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 in writing.

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 Renovation 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 Renovation 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 credit, 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 and Improvements, 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 the Premises and Improvements.

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 or 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 4.3 and 4.4 below) during each Lease Year during 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 period during which the Annual Minimum Rent is calculated is shorter or longer than a calendar year, then the Annual Minimum Rent for such period 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 the period from the Effective Date through the December 31 that is the closest in time to the earlier of (a) the Landside Improvements Work Completion Date or (b) the Renovation Work Required Completion Date, the Annual Minimum Rent shall be equal to seventy-five percent (75%) of the average total annual rent that was payable by Lessee under the Existing Lease during the first three (3) years of the 3.5 year period immediately preceding the Effective Date, provided that in no event shall the Annual Minimum Rent for the period described in this paragraph be less than the annual square

foot rental required to be paid under Section 12 of the Existing Lease as of the date immediately prior to the Effective Date.

As of the January 1 immediately following the period described in the immediately preceding paragraph (the "**First Adjustment Date**") the Annual Minimum Rent shall be adjusted to equal seventy-five percent (75%) of the average of the total Annual Rent projected to be payable by Lessee to County each year under Section 4.2 of this Lease during the three (3) year period immediately following the First Adjustment Date, based on the projected Gross Receipts for such three (3) year projection period; provided, however, in no event shall the Annual Minimum Rent payable by Lessee under this paragraph be less than the Annual Minimum Rent payable by Lessee during the period described in the immediately preceding paragraph. Not later than three (3) months prior to the First Adjustment Date, Lessee shall deliver to Director for Director's reasonable approval Lessee's estimate of projected Gross Receipts for the three (3) year period following the First Adjustment Date. Upon approval by Director, such projected Gross Receipts shall be used to calculate the Annual Minimum Rent payable by Lessee under this paragraph.

Commencing as of the third (3rd) anniversary of the First Adjustment Date and thereafter during the remainder of the Term, the Annual Minimum Rent shall be adjusted in accordance with the terms and provisions of 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 Subsection 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 (or any Sublessee) on, from or within the Premises or Improvements shall be reported under one or more of the percentage categories set forth below, 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, Lessee shall file a report of Gross Receipts and pay to County a sum equal to the total of the following percentages of Gross Receipts for such previous month, less the amount of the installment of Monthly Minimum Rent paid for such previous month.

(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 other water-side 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 retrieval of small boats and from the sale of live bait;

(c) FOURTEEN AND ONE-HALF PERCENT (14.5%) 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) TWELVE PERCENT (12%) of Gross Receipts or other fees charged for the rental, use or 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 retail 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 category (c1) if the Gross Receipts from the operation of such businesses (as opposed to the rentals paid for the rental, use or occupancy of the space) are required to be reported under another Percentage Rent category;

(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;

(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 an affiliate of Lessee or a subtenant) from such enterprise if Lessee (or an affiliate of Lessee or such subtenant) is the operator of such enterprise, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee (or an affiliate of Lessee or a subtenant) from such enterprise if a third party provider is the operator of such enterprise;

(g) SIX PERCENT (6%) of the Gross Receipts received by Lessee (or a subtenant) if Lessee (or a subtenant) is the operator of the enterprise, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee (or an affiliate of Lessee or a subtenant) if a third party provider is the operator of the enterprise, from commercial boating activities including, but not limited to, charter boat, bareboat charters and sport fishing boats;

(h) With respect to the installation or operation of coin-operated vending or service machines, including pay telephones, FIVE PERCENT (5%) of the Gross Receipts

received by Lessee (or an affiliate of Lessee or a subtenant) from such enterprise if Lessee (or an affiliate of Lessee or a subtenant) is the operator of such enterprise, or TWENTY-FIVE PERCENT (25%) of any commissions or fees collected by Lessee (or an affiliate of Lessee or a subtenant) from such enterprise if a third 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 category (j);

(j) THREE AND ONE-HALF PERCENT (3½%) of Gross Receipts from the operation of a restaurant, restaurant/cocktail lounge combination, coffee shop, beach or theater food facility, except that Gross Receipts from facilities established and operated as a take-out food operation shall be reported under category "(s)" below; 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 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 category (s) below;

(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 category, but instead shall be included in Percentage Rent under category (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 4.2.2; and

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

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.

Lessee may offer concierge services as an amenity for the occupants of the residential apartments, such as, but not limited to, services to obtain entertainment, sporting event or amusement park tickets, transportation services, merchandise, food or other services for such residential apartment occupants. If payment is received from a concierge patron that represents merely reimbursement of the cost for the subject ticket, merchandise, food or service obtained for the concierge patron, then such payment shall not be included in Gross Receipts to the extent that such reimbursement is remitted to the ticket, merchandise, food or service provider. However, if (i) any business other than merely providing concierge services is operated on or from the Premises (for example, but not limited to, the sale or brokering of the sale of entertainment, sporting event or amusement park tickets, merchandise, food or other services), then all receipts from such business shall be included in Gross Receipts, and Percentage Rent shall be paid with respect to such Gross Receipts in accordance with the applicable Percentage Rent category set forth above in this Subsection 4.2.2; (ii) if only concierge services are provided, but any payment or other compensation is received from the concierge patron in excess of the amount required to reimburse the cost of the ticket, merchandise, food or service obtained for the concierge patron (for example, but not limited to, a mark-up, service fee or other compensation), then the amount of such excess payment or other compensation shall be included in Gross Receipts, and Percentage Rent shall be paid with respect to such Gross Receipts in accordance with Percentage Rent category (f) above; and (iii) if any payment or other compensation is received from a ticket, merchandise, food or servicer provider or other party in the nature of a commission or other compensation relating to the services described in this paragraph, then such payment or other compensation shall be included in Gross Receipts, and Percentage Rent shall be paid with respect to such Gross Receipts in accordance with Percentage Rent category (f) above.

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 Payment of Percentage Rent/Accounting Records and Procedures. Within fifteen (15) days after the close of each and every calendar month of the Term hereof, Lessee shall file with County a report of Gross Receipts by category for such previous month, and the amount of Percentage Rent resulting therefrom. Lessee shall include with such report a payment to County of the amount by which the Percentage Rent for such previous month exceeds the Monthly Minimum Rent paid by Lessee for such previous month. Lessee agrees to and shall comply with, and shall cause all of Sublessees 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 Sublessees, 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 shall not include security deposits paid by a Sublessee to Lessee to be held by Lessee as security for Sublessee's obligations under its Sublease, license or permit, except to the extent Lessee allocates or applies any portion of such security deposit to unpaid rent or other amounts owed by such

Sublessee to Lessee, in which event the sum so allocated or applied shall be included in Gross Receipts as of the date of such allocation or application.

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

(5) In those instances where Gross Receipts are based on the sale of merchandise, food, beverages or services, 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. tips and gratuities paid to employees;

g. goods or meals provided to employees of the business operation at cost or less, and complimentary meals offered for promotional purposes; provided, however, that the amounts excluded under this paragraph (g) in connection with a particular business operation shall not exceed two percent (2%) of the Gross Receipts from such business operation in any year;

h. receipts from vending machines used solely by employees of the business operation;

i. fees or charges paid to credit card companies in connection with customer purchases made by use of a credit card; provided, however, that the amounts excluded under this paragraph (i) in connection with a particular business operation shall not exceed one percent (1%) of the Gross Receipts from such business operation in any year;

j. interest or other charges paid by customers of Sublessees for the extension of credit;

k. the sale of promotional merchandise by Sublessees at cost; and

l. 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.

(6) Gross Receipts shall not include payments received by Lessee from a Sublessee for the Cost of such Sublessee's submetered electricity, provided (A) 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; (B) the reimbursed sum is in an amount equal to the Cost of the Sublessee's electricity; and (C) the amount received is actually credited against the cost of the Sublessee's electricity. For the purpose of this paragraph (6), the "**Cost**" of a Sublessee's electricity shall mean the actual out-of-pocket 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. The terms and provisions of this paragraph 6 shall also be applicable to other submetered utility charges, such as water and gas, to the extent that it is customary for Sublessees to be responsible for such other utility charges.

4.2.2.4 Excess Payments Credit. If payments of Monthly Minimum Rent and Percentage Rent actually made by Lessee in a particular Lease Year exceed

the total Annual Minimum Rent and Percentage Rent that would have been due for such Lease Year if computed on an annual basis at the end of such Lease Year, Lessee shall be permitted to credit that excess amount ("**Excess Percentage Rent Payment**") against the succeeding monthly installments of Percentage Rent otherwise due under this 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 after County's verification of such overpayment, which County agrees to use its reasonable efforts to diligently complete after receipt by County of all information required for County to calculate the Excess Percentage Rent Payment and to resolve any audits of Percentage Rent.

4.2.2.5 Effect of Sublessee Doing Business. Except as specifically provided to the contrary in this Lease, where a Sublessee is conducting a business or engaged in any use or occupation or any combination thereof on Lessee's leasehold except for a business conducted under Item (1) of category (c1) of Subsection 4.2.2, for purposes of determining Percentage Rent Lessee shall report whichever of the following results in the greater Percentage Rent: (i) the Gross Receipts received by each Sublessee under one or more of categories (a) through (s1) of Subsection 4.2.2; or (ii) the Gross Receipts received by Lessee from such Sublessee under category (c) or (c1) of Subsection 4.2.2.

4.2.2.6 Interest, Service Fees or Late Charges. Interest, service fees 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 First Adjustment Date and every three (3) years thereafter until the first Renegotiation Date, 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 Section 4.3. The Annual Minimum Rent shall be adjusted as of each Adjustment Date to the amount which equals seventy five percent (75%) of the average of the total Annual Rent payable by Lessee to County each year under Section 4.2 of this Lease during the three (3) year period immediately preceding the Adjustment Date; provided,

however, that the Annual Minimum Rent shall be never be reduced to less than the Annual Minimum Rent in effect immediately prior to the then-applicable Adjustment Date.

4.4 Renegotiation of Annual Minimum and Percentage Rents. Effective as of the first January 1 following the tenth (10th) anniversary of the Effective Date, and the January 1 following each subsequent tenth (10th) anniversary of the Effective Date thereafter (each a "**Renegotiation Date**" and collectively, the "**Renegotiation Dates**"), the Annual Minimum Rent and Percentage Rent shall be readjusted to the Fair Market Rental Value (as defined below) of the Premises.

4.4.1 Fair Market Rental Value. As used herein, "**Fair Market Rental Value**" shall mean, as of each Renegotiation Date, the fair market rent, including an annual minimum rent and percentage rent, with the percentage rent expressed as the 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 connection with the readjustment of Annual Minimum Rent and Percentage Rent pursuant to this Section 4.4, (a) in no event shall the Annual Minimum Rent ever be reduced to an amount less than the Annual Minimum Rent in effect immediately prior to the Renegotiation Date, and (b) in no event shall any individual Percentage Rent category (i.e., each of categories (a) through (s1) in Subsection 4.2.2 above) ever be reduced below the percentage for such Percentage Rent category set forth in Subsection 4.2.2 above, and the requirement set forth in this sentence that no individual Percentage Rent category percentage shall be reduced below that set forth in Subsection 4.2.2 shall have no effect on the determination of the Fair Market Rental Value for any other Percentage Rent category in which the Fair Market Rental Value percentage might be greater than that set forth in Subsection 4.2.2.

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 for (a) the Annual Minimum Rent, and (b) a Gross Receipts percentage for each of the Percentage Rent categories set forth in Subsection 4.2.2. 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.

4.4.3 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 that documents the new Annual Minimum Rent and Percentage Rent 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.

4.4.4 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 the terms and provisions applicable to the calculation of the Fair Market Rental Value set forth in Subsection 4.4.1. 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 new Annual Minimum Rent and Percentage 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 pay or, at its election, 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 in effect as of the date that is six (6) months after the Renegotiation Date, and such interest shall accrue for the period from the date that is six (6) months after the Renegotiation Date until the date of payment.

No late fee shall be payable under Section 4.5 with respect to any underpayment of rent retroactively readjusted pursuant to this Subsection 4.4.5 as long as Lessee pays to County any such rent underpayment and accrued interest within the thirty (30) day period prescribed in this Subsection 4.4.5.

4.5 Payment and Late Fees. Monthly Minimum Rent shall be paid by Lessee in advance. Payments of Minimum Monthly Rent shall be received by County on or before the first day of each calendar month of the Term. Percentage Rent shall be paid by Lessee in arrears. Percentage Rent due, if any, for a given month of the Term shall be received by County on or before the fifteenth (15th) 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 that remains unpaid five (5) days after such amount was due and payable; provided, however, that no Late Fee shall be assessed in the case of the first late payment by Lessee during any Lease Year as long as such late payment is cured within one (1) business day after Lessee receives written notice from County. 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 are subject to County approval as provided in Article 11 of this Lease. Financing Events are not Changes of Ownership, but are subject to County approval as provided in Article 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, (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 interests in Lessee or a Major Sublessee, or (d) a Change of Control (as defined below) of Lessee or a Major Sublessee. For the purposes of this Lease, "**Change of Control**" shall refer to a transaction whereby the transferee

acquires a beneficial interest in Lessee or a Major Sublessee which brings its cumulative beneficial interest in Lessee or a Major Sublessee, as applicable, to greater than 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, shareholder or member of Lessee who is an individual;

4.6.2.2 a transfer to a spouse (or to a domestic partner if domestic partners are afforded property rights under then-existing Applicable Laws) in connection with a property settlement agreement or decree of dissolution of marriage or legal separation, as long as such transfer does not result in a Change of Control of Lessee or a change in the managing member or general partner 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 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, as long as there is no change in the actual beneficial ownership of this Lease, Lessee or a

Major Sublease, and such transfer does not involve an intent to avoid Lessee's obligations under this Lease with respect to a Change of Ownership;

4.6.2.6 any transfer resulting from a Condemnation by County; or

4.6.2.7 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 interests in Lessee or a Major Sublessee, as applicable) 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 of a Major Sublease in the case of an Aggregate Transfer involving a Major Sublessee, 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 Interest. As used in this Lease, "**beneficial 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 applicable, 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. Notwithstanding any contrary provision hereof, no limited partner, member or shareholder having a direct or indirect ownership interest in Lessee or a Major Sublease shall have any liability to County under this Lease.

4.6.4.2 Ownership of Multiple Assets. For purposes of determining the Gross Transfer Proceeds and Net Transfer Proceeds from a transaction or event that involves both a Change of Ownership and also the transfer of other assets or interests unrelated to this Lease, a Major Sublease or beneficial interests in Lessee or a Major

Sublessee (as applicable), the proceeds of such transaction or event shall be apportioned to this Lease, a Major Sublease and/or beneficial interests in Lessee or a Major Sublessee (as applicable), on the one hand, and to the other unrelated assets or interests, on the other hand, in proportion to the relative fair market values of the respective assets transferred.

4.6.5 Financing Events Regarding Multiple Assets. For purposes of determining the Net Proceeds Share and Net Refinancing Proceeds from a financing transaction that involves both a Financing Event under this Lease and a financing in which other assets or interests unrelated to this Lease, a Major Sublease or beneficial interests in Lessee or a Major Sublessee secure the financing, the principal amount of such financing transaction shall be apportioned to this Lease, a Major Sublease and/or beneficial interests in Lessee or a Major Sublessee (as applicable), on the one hand, and to the other unrelated assets or interests that also secure the financing, on the other hand, in proportion to the relative fair market values of the respective assets that secure the financing.

4.7 Calculation and Payment. A deposit of Fifteen Thousand Dollars ($15,000) toward the Administrative Charge shall be due and payable upon Lessee's notification to County of the proposed Change of Ownership (other than 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 (other than an Excluded Transfer) 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. At the time of Lessee's request for County approval of the proposed transaction (or in the case of a transaction, if any, as to which a Net Proceeds Share is payable but County's approval is not required, then at the time of Lessee's notice to County of the transaction, but in no event later than the consummation of the transaction), Lessee shall present (or cause to be presented) to County its calculation of the Net Proceeds Share (if any) anticipated to be derived therefrom, which shall include the adjustment to Improvement Costs, if any, which may result from the payment of such Net Proceeds Share ("**Calculation Notice**"). Each Calculation Notice shall contain such detail as may be reasonably requested by County to verify the calculation of the Net Proceeds Share. Within thirty (30) days after the receipt of the Calculation Notice and all information or data reasonably necessary for County to verify the calculations within the Calculation Notice, County shall notify the party giving the Calculation Notice as to County's agreement or disagreement with the amount of the Net Proceeds Share set forth therein or the related adjustment of Improvement Costs, if any. If County disagrees with the

amounts set forth in the Calculation Notice, County shall provide Lessee with the reason or reasons for such disagreement. Failing mutual agreement within thirty (30) days after the expiration of County's thirty (30) day review period, the dispute shall be resolved by arbitration as set forth in Article 16 of this Lease in the manner prescribed herein for the resolution of disputes concerning Fair Market Rental Value. In the event County approves a Change of Ownership or Financing Event but a dispute exists as to the Net Proceeds Share in respect thereof or the related adjustment, if any, in Improvement Costs, then the transaction may be consummated after County has disapproved Lessee's Calculation Notice; provided, however, that (i) Lessee shall remit to County as otherwise required hereunder the undisputed portion of the Net Proceeds Share and (ii) Lessee shall deposit the disputed portion of the Net Proceeds Share into an interest bearing escrow account at the closing of the transaction (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 or a Major Sublessee, 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 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, a Major Sublease or a Change of Ownership that included a transfer of the beneficial interest that is the subject of the current transfer, 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 obligation of Lessee, and in the case in which the identity of the Lessee changes with the transfer, shall be the joint and several obligation of both the Lessee entity prior to the transfer and the Lessee entity after the transfer. 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. In the event of a Change of Ownership, the "**Net Proceeds Share**" shall be the amount by which the greater of the following exceeds the Administrative Charge paid by Lessee to County in connection with such Change of Ownership: (a) the lesser of (i) the Net Transfer Proceeds from such Change of Ownership, or (ii) five percent (5%) of the Gross Transfer Proceeds from such Change of Ownership; or (b) twenty percent (20%) of the Net Transfer Proceeds from such Change of Ownership.

With respect to a Financing Event, the "**Net Proceeds Share**" shall be the amount (if any) 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. Notwithstanding the foregoing, in connection with any Financing Event used to fund the cost of the acquisition of an Ownership Interest in Lessee that constitutes an Excluded Transfer, if such Financing Event is secured by the Ownership Interest that is transferred, then the Net Refinancing Proceeds from such Financing Event shall not include the portion of the proceeds of such Financing Event used to fund the acquisition cost of such Ownership Interest.

"**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).

Notwithstanding any contrary provision of this Section 4.8, in the calculation of Net Transfer Proceeds and Net Refinancing Proceeds derived from a Change of Ownership or Financing Event, as applicable, pursuant to the remaining provisions of Section 4.8 below, there shall be no duplication of any amounts to be subtracted from Gross Transfer Proceeds or the gross principal amount of any Financing Event (as applicable), even if a particular amount qualifies for subtraction under more than one category.

4.8.1 Transaction by Original Lessee Under This Amended and Restated Lease Agreement. 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) Twenty-Three Million Dollars ($23,000,000.00), plus (b) the amount of the "Option Fee" and "Extension Fee" paid by Lessee under the Option Agreement, plus (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 Option Agreement and this Lease, plus (d) the Actual Costs reimbursed by Lessee to County in connection with the negotiation and consummation of the Option Agreement and this Lease (the sum of the amounts in (a), (b), (c) and (d) are referred to as the "**Base Value**"), plus (e) the final actual out-of-pocket design, engineering, permitting, entitlement and construction (including construction of the Promenade) costs paid by Lessee in connection with the Renovation Work or other physical capital Improvements or Alterations to the Premises after the Effective Date constructed by Lessee in compliance with Article 5 of this Lease (the amounts described in this clause (e) are referred to as "**Improvement Costs**"). Without limitation of the definition of Improvement Costs above, Improvement Costs shall include all actual out-of-pocket hard and soft construction costs paid to unaffiliated third parties (except that Lessee shall be entitled to include, to the extent actually incurred, construction management and/or development fees paid to an affiliate as long as the total amount of all construction management, development and similar fees paid to unaffiliated and affiliated parties does not exceed an aggregate of four percent (4%) of the hard construction costs), and actual construction period interest on Lessee's construction loan from an unaffiliated third party lender.

With respect to Improvement Costs pertaining to the Renovation Work, the Anchorage Improvements Replacement or the Subsequent Renovation, Lessee shall submit the Improvement Costs to Director on a progress basis at the end of each ninety (90) day period during construction of each such project, along with a final accounting of total Improvement Costs for the applicable project within ninety (90) days after the completion of the work. With respect to Improvement Costs for Alterations which are not part of the Renovation Work, the Anchorage Improvements Replacement or the Subsequent Renovation, Lessee shall submit such Improvement Costs to Director on an annual basis within ninety (90) days following the end of each Lease Year. Lessee shall accompany the final accounting of the Improvement Costs for each project with a written certification from Lessee and Lessee's construction lender (to the extent that such construction lender exists and the construction lender has funded such costs) that such costs are accurate. If by the date required for Lessee's submission of the Improvement Costs for a particular project the final amount of the Improvement Costs for such project 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 for such project (including a

description of the costs and the amounts under dispute). Lessee shall thereafter notify Director 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 for such project 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 Director, 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.

4.8.2 Transfer by Lessee's Successor. In the case of a transfer by a Lessee other than the original entity executing this Amended and Restated Lease Agreement, "**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 to the extent that such successor acquired its interest herein pursuant to an exchange of property or other non-monetary interests, then the fair market value of the property or other interests transferred by such successor as the consideration for such successor's acquisition of the interest hereunder acquired by such successor); 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 (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 (as applicable), 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 a beneficial interest in Lessee or a Major Sublessee), Subsections 4.8.1, 4.8.2 and 4.8.3 shall apply to such Change of Ownership (as applicable), as adjusted pursuant to the immediately following sentence. For purposes of the application of Sections 4.8.1 and 4.8.2 to a Change of Ownership under this Section 4.8.4, 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 (i.e., the percentage of the entire beneficial interest in Lessee that is then being transferred) of the Base Value and Improvement Costs (or with respect to a transfer of a beneficial interest in a Lessee that is not the original Lessee Entity that executed this Amended and Restated Lease Agreement, such cost shall in no event be deemed to be less than the pro rata share (i.e., the percentage of the entire beneficial interest in Lessee that is then being transferred) of the sum of Subsections 4.8.2.1 and 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 or a Major Sublessee upon a transfer of a comparable interest in this Lease or in a Major Sublease, as applicable.

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 (a) the greatest of (i) the Base Value plus the Improvement Costs incurred prior to the date of the current Financing Event as to which the amount of Net Refinancing Proceeds is then being calculated, (ii) the Prior Financing Event Principal Balance (as defined below), or (iii) in the case of a successor Lessee, the purchase price such successor paid to Lessee or such successor's seller for the interest acquired, (b) any portion of the proceeds of the Financing Event which shall be used for Improvement Costs to be incurred after the date of the Financing Event, (c) other Improvement Costs incurred by Lessee and not paid for or repaid with the proceeds of any Financing Event (but without duplication to the extent included in the amount determined under clause (a) above), and (d) Documented Transaction Costs with respect to such Financing Event. Notwithstanding the foregoing, there shall be no double counting of Improvement Costs in clauses (a), (b) and (c) 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.

For purposes of this Subsection 4.8.5, "**Prior Financing Event Principal Balance**" shall mean an amount equal to the original principal amount of a Financing Event consummated after the Effective Date but prior to the then-subject Financing Event, plus if such previous Financing Event was secondary financing, the original principal balance of any then-existing financing that was not repaid as part of such secondary financing; provided, however, if there were more than one such previous Financing Event after the Effective Date, then the calculation shall be performed for each such previous Financing Event after the Effective Date, and the higher or highest amount so determined shall be the Prior Financing Event Principal Balance.

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 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 at the Applicable Rate from the date due until paid; provided, however, 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) to secure payment thereof. 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. As part of the submission for approval of a Change of Ownership or Financing Event, and upon the request of County (which requests shall be no more frequent than once per year), Lessee shall provide County with an updated schedule listing the names and mailing addresses of (i) all shareholders, partners, members and other holders of equity or beneficial interests in Lessee, this Lease or the Major Sublessee under any Major Sublease, and (ii) all shareholders, partners, members and other holders of equity or beneficial interests in any of the constituent shareholders, partners, members or other holders of equity or beneficial interests in Lessee or any Major Sublessee under any Major Sublease, if such interest exceeds a five percent (5%) or greater beneficial interest in Lessee 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 Sublessee.

5. RENOVATION WORK; ALTERATIONS.

5.1 Renovation Work. Promptly following the Effective Date, Lessee shall renovate (a) all existing land-side Improvements located on the Premises, including without limitation all existing apartment buildings, including building exteriors, the interiors of all existing apartment units, building facades, interior common areas and roof; all exterior common areas, including landscaping and hardscape; the Promenade; parking areas (with all required parking to be provided on-site at the Premises) and other portions of the land-side Improvements ("**Landside Improvements Work**"); and (b) the renovation of two restrooms buildings and the boater laundry facilities located in front of the "B" building (the "**Waterside Buildings Work**"), all in accordance with the renovation plan attached to this Lease as Exhibit B (the "**Renovation Plan**"). The renovation work described in this Section 5.1 is referred to herein as the "**Renovation Work**." The Renovation Work shall be performed in accordance with the Renovation Plan and the Final Plans and Specifications for the Renovation Work (as established under the Option Agreement to the extent that the Final Plans and Specifications for the Renovation Work are approved by Director prior to the Effective Date, or as established under Subsection 5.3.3 of this Lease to the extent that the Final Plans and Specifications for the Renovation Work are not approved by Director until after the Effective Date).

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 required to perform the Renovation Work.

Lessee shall be solely responsible for all costs and expenses incurred in connection with the performance of the Renovation Work (including all design, entitlement and construction activities). Lessee shall expend on each of the two components of the Renovation Work (i.e., the Landside Improvements Work as one component and the Waterside Buildings Work as the second component) not less than the respective Required Cost Amounts (as defined below) for out-of-pocket hard costs paid to third parties (excluding the value or cost of land or water area, the existing leasehold or the existing Improvements), for the construction of such component of the Renovation Work (the "**Qualified Hard Costs**"). The immediately preceding sentence shall not be construed as a maximum amount that Lessee is required to expend for Qualified Hard Costs for a component of the Renovation Work, but only as a minimum amount, and Lessee shall be required to perform each component of the Renovation Work in accordance with the requirements and standards set forth in this Article 5 even if the Qualified Hard Costs necessary to do so exceed the Required Cost Amount. Without limitation of any other requirements for Qualified Hard Costs, Qualified Hard Costs shall not include the following (I) any costs incurred in connection with the preparation of the Renovation Plan prior to the Effective Date, (II) any costs related to the furnishings in the corporate or other furnished apartments, or (III) any soft costs relating to the Renovation Work. If in-house construction labor is used to perform the Renovation Work construction, then in addition to out-of-pocket hard costs paid to third parties, Qualified Hard Costs shall also include actual hard costs incurred by Lessee for utilization of in-house construction labor for actual services rendered at market rates for comparable services provided by third-party laborers (but not greater than the hourly rate actually paid by Lessee to such in-house laborers), as such costs are confirmed to and reasonably approved by Director. Qualified Hard Costs shall not include any costs incurred prior to the Effective Date, except that Lessee shall be permitted to include in the Qualified Hard Costs for the Landside Improvements Work up to $150,000 of out-of-pocket hard costs incurred by Lessee for the construction of the model apartment units.

The "**Minimum Required Cost Amount**" for the Landside Improvements Work means $19,647,500. The Required Cost Amount for the Landside Improvements Work shall be the Minimum Required Cost Amount for the Landside Improvements Work increased (but not decreased except as expressly set forth below) by the same percentage increase (if any) in the ENR Index during the period from June, 2012 to the month during which the construction contract for the Landside Improvements Work is executed (or if the ENR Index is not published on a monthly basis, then the reporting dates for the ENR Index closest in time to June, 2012 and the month during which the construction contract for the Landside Improvements Work is executed shall be used). If the ENR Index decreases for the foregoing period, then Lessee shall have the right to request Director to approve a reduction in the Required Cost Amount for the Landside Improvements Work from the Minimum Required Cost Amount set forth above if Lessee is able to perform the Landside Improvements Work for Qualified Hard Costs less than such Minimum Required Cost Amount. As a condition to such reduction, prior to the commencement of the Landside Improvements Work Lessee must notify Director in writing of the cost savings for the Landside Improvements Work and request Direct to reduce the Required Cost Amount for the Landside Improvements Work. Any reduction in such Required Cost Amount shall be only in an amount approved by Director and such reduction shall in no exceed the lesser of (i) the actual net savings in Qualified Hard Costs below the Minimum Required Cost Amount for the Landside Improvements Work, as confirmed by Director, (ii) the Minimum

Required Cost Amount for the Landside Improvements Work multiplied by the percentage decrease in the ENR Index for the period described above, or (iii) an amount equal to 7.5% of the Minimum Required Cost Amount for the Landside Improvements Work.

The "**Minimum Required Cost Amount**" for the Waterside Buildings Work means $135,000. The Required Cost Amount for the Waterside Buildings Work shall be the Minimum Required Cost Amount for the Waterside Buildings Work increased (but not decreased except as expressly set forth below) by the same percentage increase (if any) in the ENR Index during the period from June, 2012 to the month during which the construction contract for the Waterside Buildings Work is executed (or if the ENR Index is not published on a monthly basis, then the reporting dates for the ENR Index closest in time to June, 2012 and the month during which the construction contract for the Waterside Buildings Work is executed shall be used). If the ENR Index decreases for the foregoing period, then Lessee shall have the right to request Director to approve a reduction in the Required Cost Amount for the Waterside Buildings Work from the Minimum Required Cost Amount set forth above if Lessee is able to perform the Waterside Buildings Work for Qualified Hard Costs less than such Minimum Required Cost Amount. As a condition to such reduction, prior to the commencement of the Waterside Buildings Work Lessee must notify Director in writing of the cost savings for the Waterside Buildings Work and request Direct to reduce the Required Cost Amount for the Waterside Buildings Work. Any reduction in such Required Cost Amount shall be only in an amount approved by Director and such reduction shall in no exceed the lesser of (i) the actual net savings in Qualified Hard Costs below the Minimum Required Cost Amount for the Waterside Buildings Work, as confirmed by Director, (ii) the Minimum Required Cost Amount for the Waterside Buildings Work multiplied by the percentage decrease in the ENR Index for the period described above, or (iii) an amount equal to 7.5% of the Minimum Required Cost Amount for the Waterside Buildings Work.

Lessee shall accompany any request for a reduction in the Minimum Required Cost for the Landside Improvements Work or the Waterside Buildings Work with the following materials applicable to such portion of the Renovation Work: (x) the specific sources of the net reduction in the Qualified Hard Costs, including a line item revised budget that includes a detailed break-out of the specific increases or decreases in the various construction components resulting in the net cost savings; (y) a detailed list and description of any changes to the components or specifications of such Renovation Work that generate cost savings, and a description as to why each change does not adversely affect the quality of the Renovation Work, as a whole and as to each affected component thereof; and (z) a copy of Lessee's final construction contract and any other supporting back-up documentation requested by Director regarding the scope of construction and the cost components thereof. The Department shall have the right, but not the obligation, to hire an expert, at Lessee's expense, to review and analyze all associated plans and specifications, construction contract materials (including any change orders), construction cost documentation and other relevant information to confirm the sources of any construction cost changes, net cost savings, and the quality of the Renovation Work, as proposed by Lessee. If Director determines, in the exercise of the Director's reasonable discretion, that the Qualified Hard Costs for the applicable Renovation Work required to be performed by Lessee pursuant to the approved final plans and specifications is expected to be less than the Minimum Required Cost Amount for such Renovation Work and that there has been no adverse change to the quality of such Renovation Work, as a whole and as to each affected component thereof, then Director

shall permit Lessee to reduce the Minimum Required Cost Amount for such portion of the Renovation Work in compliance with the terms and provisions of this Section 5.1.

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 Renovation Work (subject to any extension set forth in Section 5.6 below for Force Majeure delay). Lessee's failure to do so shall, if not cured within the applicable cure period set forth in Subsection 13.1.3, constitute an Event of Default. Except to the extent Lessee is prevented from so doing by Force Majeure delay as provided in Section 5.6, Lessee shall (1) commence the construction of each of the Landside Improvements Work and the Waterside Buildings Work on or before the first anniversary of the Effective Date (the "**Renovation Work Required Commencement Date**"); (2) following commencement of construction of the Renovation Work diligently continue performance of the Renovation Work in accordance with the construction schedule submitted by Lessee to, and approved by, Director prior to the commencement of the Renovation Work; and (3) substantially complete all of the Renovation Work not later than the third (3rd) anniversary of the Effective Date (the "**Renovation Work Required Completion Date**"). Unless approved by Director prior to the Effective Date, Lessee shall submit to Director for Director's approval a construction schedule (including any applicable phasing plan) for the construction of the Renovation Work no later than thirty (30) days after the Effective Date. Notwithstanding any contrary provision of this Article 5 in no event shall the Renovation Work Required Commencement Date or the Renovation Work Required Completion Date be extended for more than one (1) year for any Force Majeure delay.

Lessee shall have the right to extend the Renovation Work Required Commencement Date for up to two periods of six (6) months each by written notice to Director not later than thirty (30) days prior to the then-existing Renovation Work Required Commencement Date and the concurrent delivery to County with such written notice of an extension fee equal to (A) Fifteen Thousand Dollars ($15,000.00) for the first 6-month extension and (B) Twenty-Five Thousand Dollars ($25,000.00) for the second 6-month extension. No extension of the Renovation Work Required Commencement Date under this paragraph shall extend the Renovation Work Required Completion Date. Lessee shall have a separate right to extend the Renovation Work Required Completion Date for up to two periods of six (6) months each by written notice to Director not later than thirty (30) days prior to the then-existing Renovation Work Required Completion Date and the concurrent delivery to County with such written notice of an extension fee equal to (A) Twenty-Five Thousand Dollars ($25,000.00) for the first 6-month extension and (B) Thirty-Five Thousand Dollars ($35,000.00) for the second 6-month extension.

Lessee acknowledges that the principal inducement to County to enter into this Lease, including the extension of the Term as provided herein, is the timely commencement, performance and completion by Lessee of the Renovation Work. In the event that Lessee fails to comply with its obligations under this Section 5.1 to commence or complete the Renovation Work by the applicable dates set forth in this Section 5.1 (as extended by Section 5.6, if applicable), then in addition to any other rights or remedies which County may have in connection with such failure (but subject to Section 12.12), at County's election by written notice to Lessee, this Lease shall be automatically amended such that the terms and provisions of this

Lease revert back to the terms and provisions of the Existing Lease (including, without limitation, the Existing Expiration Date), as modified by the "Non-Exercise Amendment" described in the Option Agreement (the "**Reversion Amendment**").

During the period from the Renovation Work Required Completion Date (as extended pursuant to this Section 5.1 and Section 5.6, if applicable) until the earlier of (a) the date of the substantial completion by Lessee of the Renovation Work or (b) the date that the Reversion Amendment takes effect at County's election, County shall have the right to increase the Annual Minimum Rent payable by Lessee pursuant to Article 4 of this Lease to an amount equal to the total Annual Rent (i.e., Annual Minimum Rent and Percentage Rent) that would have been payable by Lessee during such period if Lessee had completed the Renovation Work by the Renovation Work Required Completion Date (as extended pursuant to this Section 5.1 and Section 5.6, if applicable). The increased Annual Minimum Rent payable by Lessee pursuant to the immediately preceding sentence shall be calculated by County based on the good faith projection by Director of the Gross Receipts that would have been generated at the Premises if the Renovation Work had been completed as required under this Lease. Notwithstanding any contrary provision of this Lease, the remedy set forth in this paragraph shall not be deferred, delayed or otherwise affected by any tolling of obligations or tolling of dates under this Section 5.1 pursuant to Subsection 12.3.6 below, or by any cure periods or other rights, restrictions or other remedies of any Encumbrance Holder, including without limitation, the terms and provisions of Article 12 of this Lease, or by any notice or cure rights set forth in Section 13.1.3 of the Lease.

5.2 Application of Article 5 to Renovation Work. The remaining sections of this Article 5 after this Section 5.2 pertain to the construction of the Renovation Work and to any other Alterations (as defined below) which Lessee may be required or desire to make to the Premises during the Term, including without limitation, the Anchorage Improvements Replacement described in Section 5.11 below and the Subsequent Renovation described in Section 5.12 below. For purposes of this Lease, "**Alterations**" shall mean the construction of any alterations or modifications to the Improvements located on the Premises or the construction of any new Improvements. The Renovation Work, Anchorage Improvements Replacement and Subsequent Renovation shall be considered to be Alterations. Accordingly, except as expressly provided in this Article 5, all of the terms and provisions of Article 5 of this Lease after this Section 5.2 that are applicable to Alterations shall also be applicable to the Renovation Work, Anchorage Improvements Replacement and Subsequent Renovation.

5.3 Plans and Specifications for Alterations. Lessee shall make no Alterations without the prior written approval of the Director, which approval shall not be unreasonably withheld, conditioned or delayed. Prior and as a condition precedent to the construction of any Alterations, Lessee shall submit to Director, for Director's approval, the plans, specifications and other materials described in this Section 5.3 pertaining to such Alterations (except to the extent such submittals and approvals have been previously completed with respect to the Renovation Work pursuant to the Option Agreement). All Alterations must be consistent with the Permitted Uses set forth in Article 3 of this Lease.

5.3.1 Schematics and Narrative. Lessee shall submit to 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. After receipt of such plans, Director shall have sixty (60) days within which to approve or disapprove such submission in writing. 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 plans or Final Plans and Specifications) 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 with jurisdiction thereover, Lessee shall promptly advise Director in writing of such changes and Director shall not disapprove those changes that constitute Approved Governmental Changes.

5.3.2 Preliminary Plans and Specifications. As soon as reasonably practicable 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. The preliminary plans shall be of a detail and scope that is typically associated with design development drawings. Director shall have twenty-one (21) days from receipt 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 FROM THE MATERIALS PREVIOUSLY SUBMITTED TO YOU (OTHER THAN APPROVED GOVERNMENTAL CHANGES), 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. As soon as reasonably practicable after Director's approval of the preliminary plans, outline specifications and construction cost estimates, Lessee shall submit for approval by Director six (6) complete sets of final plans, detailed specifications and a construction cost estimate 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 after receipt 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 final plans and related 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 specifications and construction cost estimate contain substantial changes from the approved preliminary plans and specifications (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 specifications and construction cost estimate, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

"PURSUANT TO SUBSECTION 5.3.3 OF THE AMENDED AND RESTATED LEASE AGREEMENT, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES FROM THE MATERIALS PREVIOUSLY SUBMITTED TO YOU (OTHER THAN APPROVED GOVERNMENTAL CHANGES), 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, conditioned or delayed; 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 Plans and Specifications**") without the prior written approval of Director, which shall not be unreasonably withheld, conditioned or delayed.

5.4 Conditions Precedent to the Commencement of Construction. No Renovation Work, Anchorage Improvements Replacement, Subsequent Renovation or other Alterations shall be commenced until each and all of the following conditions have been satisfied:

5.4.1 Permits and Other Approvals. Lessee shall have received and furnished the Department with copies of all permits, licenses and other governmental approvals necessary for commencement of the Alterations; provided, however, that in the case of multiple phases of the Renovation Work, the permits, licenses and other governmental approvals necessary for each subsequent phase of the Renovation Work shall be furnished to the County prior to commencement of such phase.

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

5.4.3 Performance and Payment Bonds. Lessee shall, at its own cost and expense, have furnished County with the following separate corporate surety bonds (or with the substitute security set forth below) not less than ten (10) days prior to the commencement of construction, which bonds (or other security) 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 Alteration. 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 (and which may include an Encumbrance Holder as an additional 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 (and which may include an Encumbrance Holder as an additional obligee), in a sum equal to one hundred percent (100%) of the total construction cost anticipated to be incurred in connection with the approved work, guaranteeing payment for all materials, provisions, supplies and equipment used in, upon, for or about the performance of said construction work or for labor done thereon of any kind whatsoever and protecting County from any and all liability, loss or damages arising out of or in connection with any failure to make such payment (the "**Payment Bond**"). The Payment Bond shall be in form and content reasonably satisfactory to County.

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

5.4.4 Alternative Security. In lieu of providing the Payment and Performance Bonds, Lessee may provide any of the following alternative security: (i) a completion guaranty, in form and substance reasonably acceptable to Director, 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) a letter of credit, or (iv) a set aside letter from Lessee's construction lender. The security described in clause (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 law firm and in a form acceptable to County to the effect that the construction work does not constitute a public work of improvement requiring the delivery of the bonds described in Subsection 5.4.3 above. Director shall have the authority, in his 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 reasonably satisfactory to County of its having sufficient financial resources, as reasonably determined by Director, to complete the Renovation Work or other 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, as applicable, evidence of equity, documents creating and/or perfecting security interests, and all documents and exhibits referred to in any of the foregoing, together with any and all recorded documents affecting an interest in the Premises.

5.4.6 Work Schedule. With respect to the Renovation Work, Lessee shall have provided County with a construction schedule which will result in the commencement and completion of the Renovation Work on or before the respective required dates for such commencement and completion set forth in Section 5.1 above.

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 Renovation Work, the Anchorage Improvements Replacement and the Subsequent Renovation, 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 Sections 25536 and 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 Commencement and Completion of Renovation Work. Upon commencement of construction of the Renovation Work, Lessee shall thereafter diligently pursue the completion of such construction by the Renovation Work Required Completion Date (subject to Force Majeure as set forth below). If Lessee is delayed in the commencement of construction or completion of the Renovation Work due to Force Majeure, then the Renovation Work Required Commencement Date and the Renovation Work Required Completion Date, if and to the extent that the event actually causes a delay in the commencement and completion of construction (as

applicable) shall be extended by the period of the delay caused by such Force Majeure. Notwithstanding the foregoing, (a) any extension due to Force Majeure shall be limited to the period of the delay caused by the Force Majeure event and no such delay shall be considered to have commenced unless Lessee notifies Director in writing of the commencement of such delay within ten (10) business days after Lessee's discovery of the delay; and (b) in no event shall the Renovation Work Required Commencement Date be extended for more than an aggregate of one year due to Force Majeure; (c) in no event shall the Renovation Work Required Completion Date be extended beyond the fourth (4th) anniversary of the Effective Date. 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 written notice from Lessee of 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.

In the case of the Renovation Work, the Anchorage Improvements Replacement and the Subsequent Renovation, the definition of Force Majeure shall also include delays in the commencement and completion of the Renovation Work, the Anchorage Improvements Replacement or the Subsequent Renovation (as applicable) due to Unreasonable County Activity. For the purposes of this Lease, "**Unreasonable County Activity**" means any of the following that occurs after the Effective Date: (i) the Department's failure to provide required County joinder, if any, as fee title owner of the Premises, in Lessee's submittal to the applicable governmental agency of the Final Plans and Specifications for the Renovation Work, the Anchorage Improvements Replacement or the Subsequent Renovation (as applicable) that are approved by the Department; or (ii) the Department's failure to take such other actions, at no cost or expense to County, in its proprietary capacity, that are reasonably requested by Lessee and which are necessary for Lessee to proceed with the permitting and approval process for the Renovation Work, the Anchorage Improvements Replacement or the Subsequent Renovation (as applicable), or the taking by the Department of actions in its proprietary capacity, without Lessee's consent, which are in conflict with Lessee's rights and obligations under this Lease and actually delay the receipt of any remaining permits or approvals for the Renovation Work, the Anchorage Improvements Replacement or the Subsequent Renovation (as applicable); or (iii) the Department's failure to comply with the time periods imposed upon the Department under Section 5.3 above, except in the case (if any) where a failure of the Department 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 Section 5.5 above, this Section 5.6 or any other provisions of this Lease shall be construed as obliging the Department or the 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 or approval process. No action or inaction shall constitute Unreasonable County Activity unless and until all of the following procedures and requirements have been satisfied:

5.6.1 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 Section 5.6, in no event shall Lessee be entitled to any extension for any period of the delay under this Section 5.6 that occurred prior to the date of Lessee's notice described in this Subsection 5.6.1.

5.6.2 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 duration of the delay caused by such Unreasonable County Activity. If Director determines that Unreasonable County Activity has occurred and that County can and will take rectifying action, then the amount of delay under this Section 5.6 for the Unreasonable County Activity shall equal the actual amount of 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 the delay likely to be caused by the Unreasonable County Activity.

5.6.3 If, within fourteen (14) days following receipt of Lessee's notice alleging Unreasonable County Activity, Director and Lessee have not agreed in writing as to whether delay due to Unreasonable County Activity has occurred or the length of such delay, then the matter shall be referred to the Board of Supervisors of the County for such determination.

5.7 Manner of Construction.

5.7.1 General Construction Standards. All construction, alteration, modification or repairs permitted herein shall be accomplished by Lessee with due diligence. Lessee shall take all commercially 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, its employees, contractors or agents. Dust, noise and other effects of such work shall be controlled using accepted measures customarily utilized in order to control materially adverse effects associated with construction projects in well populated and developed areas of Southern California.

5.7.2 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 material interference with the provision of such services to the Premises and other persons.

5.7.3 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.

5.7.4 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 Laws. 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.

5.7.5 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. In the case of damage to a County-owned improvement that does not involve risk of personal injury, risk of damage to other improvements, risk of curtailment or diminishment of service or access, or any other emergency situation, the references to "five (5) business days" in this Subsection 5.7.5 shall be changed to "thirty (30) days."

5.7.6 Rights of Access. Representatives of the Department 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 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.

5.7.7 Notice of Completion; As-Built Drawings. Upon completion of the Renovation Work or any other Alterations, Lessee shall file or cause to be filed in the Official Records of the County of Los Angeles a Notice of Completion (the "**Notice of Completion**") with respect to the Improvements and Lessee shall deliver to County, at no cost to County, two (2) sets of Conoflex or Mylar final as-built plans and specifications of the Improvements (or such portions thereof as affected by the work and as to which plans would customarily be prepared (e.g., excluding those components of interior renovations as to which plans are not applicable)).

5.7.8 Final Completion Certificate. Promptly after completion of the Renovation Work, the Anchorage Improvements Replacement or the Subsequent Renovation, 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.

5.8 Use of Plans. Contracts between Lessee and any architect, design professional or licensed contractor in connection with 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 for such Alterations, 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 5.8 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.

5.9 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 materially 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.

5.10 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.

5.10.1 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.

5.10.2 Prompt Payment. Lessee shall make, or cause to be made, prompt payment (subject to reasonable dispute) 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.

5.10.3 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 twenty (20) 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.

5.11 Anchorage Improvements Replacement. For purposes of this Lease, the "**Anchorage Improvements Replacement**" means the demolition and removal of all docks,

gangways, anchorage slips, end-ties and related anchorage Improvements, excluding the waterside buildings (collectively, "**Anchorage Improvements**") located on the Premises, and the replacement thereof with new Anchorage Improvements, including without limitation, new concrete docks, including ADA access, a pump-out station, and upon request by County, a guest dock/water taxi dock. The new Anchorage Improvements shall have approximately the same number and configuration of slips, as modified if and as required to comply with then-current Applicable Laws. The Anchorage Improvements Replacement shall be of a first-class, then-current state of the art quality and design, that is at least commensurate in quality and design to the then-current state of the art Bellingham-type or equivalent quality facilities constructed on or about 2012, as such Bellingham-type quality and design may evolve during the period prior to the submission by Lessee to Director of the preliminary plans and specifications for the construction of the Anchorage Improvements Replacement pursuant to Section 5.3 of this Lease, provided that for this purpose such date of submission shall in no event be prior to one (1) year before the Anchorage Improvements Replacement Required Commencement Date. For avoidance of doubt, the phrase "then-current" used in the immediately preceding sentence shall mean current as of the time of the submission by Lessee to Director of the preliminary plans and specifications for the construction of the Anchorage Improvements Replacement pursuant to Section 5.3 of this Lease (but not prior to one (1) before the Anchorage Improvements Replacement Required Commencement Date).

On or before each anniversary of the Effective Date, Lessee shall deliver to Director on an annual basis an evaluation, prepared by an independent marine engineer engaged by Lessee and approved by Director, of the physical condition and estimated date of expiration of the remaining useful life (if any) of the existing Anchorage Improvements (each, an "**Anchorage Improvements Report**"). Director shall have the authority (but not the obligation) to waive the requirement that Lessee deliver an Anchorage Improvements Report for a particular year if in the judgment of Director an Anchorage Improvements Report for such year is not necessary. Lessee shall commence the construction of the Anchorage Improvements Replacement on or before the date (the "**Anchorage Improvements Replacement Required Commencement Date**") that is the earliest of (a) one (1) year following the date of any then-current Anchorage Improvements Report reasonably approved by Director in writing that discloses that the remaining useful life of the Anchorage Improvements has expired or is expected to expire within one year following the date of the Anchorage Improvements Report, (b) the earliest estimated date of expiration of the remaining useful life of the existing Anchorage Improvements set forth in any previous Anchorage Improvements Report reasonably approved by Director in writing, or (c) January 1, 2029; provided, however, that Lessee shall not commence the construction of the Anchorage Improvements Replacement (and the Anchorage Improvements Replacement Required Commencement Date shall not occur) prior to January 1, 2021 unless otherwise directed in writing by Director.

Lessee shall substantially complete the construction of the Anchorage Improvements Replacement on or before the date (the "**Anchorage Improvements Replacement Required Completion Date**") that is three (3) years following the earlier of the date of the commencement of the Anchorage Improvements Replacement or the Anchorage Improvements Replacement Required Commencement Date. The Anchorage Improvements Replacement Required Commencement Date and the Anchorage Improvements Replacement Required Completion Date shall be subject to extension for delays in the commencement or substantial completion (as

applicable) of the Anchorage Improvements Replacement due to Force Majeure. For purposes of this Section 5.11, in addition to the other matters included in the definition of "**Force Majeure**" under this Lease, "**Force Majeure**" shall include (a) delays in the receipt of required governmental approvals for the Anchorage Improvements Replacement that are unreasonable and unforeseeable, provided that Lessee filed all applications for any required governmental permits for the Anchorage Improvements Replacement on a timely basis not later than the date(s) normally required for receipt of such governmental permits by the Anchorage Improvements Replacement Required Commencement Date and diligently processed such applications until receipt of the required governmental permits; and (b) delays caused by any change in Applicable Law subsequent to the date of the Option Agreement (including a change to County's water quality management program and the imposition of additional seasonal or other time limitations or other limitations, restrictions or requirements on the performance of the Anchorage Improvements Replacement) that legally prevents or delays the timely performance of the Anchorage Improvements Replacement; provided, however, that the imposition of seasonal or other time limitations or other limitations, restrictions or requirements on the performance of the Anchorage Improvements Replacement shall not excuse Lessee from the performance of the Anchorage Improvements Replacement, and Lessee shall take such limitations, restrictions and requirements into consideration in planning the project schedule and method of work performance for the Anchorage Improvements Replacement and shall, to the extent possible, and notwithstanding any increase in cost incurred to comply with Applicable Law, complete the Anchorage Improvements Replacement within the time period set forth in this Section 5.11 or, if it is not possible to complete the Anchorage Improvements Replacement within such time period as a result of such change in Applicable Law, then Lessee shall complete any portion of the Anchorage Improvements Replacement work that is not capable of being performed within the time period set forth in this Section 5.11 as soon thereafter as possible. Notwithstanding any contrary provision of this Section 5.11, (A) any extension due to Force Majeure shall be limited to the period of the delay caused by the Force Majeure event and no such delay shall be considered to have commenced unless Lessee notifies Director in writing of the commencement of such delay within ten (10) business days after Lessee's discovery of the delay; and (B) in no event shall either the Anchorage Improvements Replacement Required Commencement Date or the Anchorage Improvements Replacement Required Completion Date be extended for more than an aggregate of one year (for each such date).

If Lessee fails to substantially complete the Anchorage Improvements Replacement by the Anchorage Improvements Replacement Required Completion Date, then County shall have the right, in addition to any other rights or remedies that County may have in connection with Lessee's failure to substantially complete the Anchorage Improvements Replacement as required under this Section 5.11, to increase the then-current Percentage Rent rate under category "(a)" of Subsection 4.2.2 by one percent (1%) for each 3-month period (or partial 3-month period) that Lessee fails to cause the substantial completion of the Anchorage Improvements Replacement by the Anchorage Improvements Replacement Required Completion Date. Upon any increase in the Percentage Rent rate under category "(a)" of Subsection 4.2.2 pursuant to this paragraph, such adjusted Percentage Rent rate shall not thereafter be reduced during the remaining Term of the Lease.

The Anchorage Improvements Replacement shall be performed at Lessee's sole cost and expense. Without in any manner limiting the amount of costs and expenses that Lessee might

incur in connection with the performance of the Anchorage Improvements Replacement (including all design, entitlement and construction activities), Lessee shall be required to expend on the Anchorage Improvements Replacement not less than the AIR Required Cost Amount (as defined below) for out-of-pocket hard costs paid to third parties (excluding the value or cost of land or water area, the existing leasehold or the existing Improvements) for the construction of the Anchorage Improvements Replacement (the "**AIR Qualified Hard Costs**"). Without limitation of any other requirements for AIR Qualified Hard Costs, AIR Qualified Hard Costs shall not include any soft costs relating to the Anchorage Improvements Replacement. If in-house construction labor is used to perform the Anchorage Improvements Replacement construction work, then in addition to out-of-pocket hard costs paid to third parties, AIR Qualified Hard Costs shall also include actual hard costs incurred by Lessee for utilization of in-house construction labor for actual services rendered at market rates for comparable services provided by third-party laborers (but not greater than the hourly rate actually paid by Lessee to such in-house laborers), as such costs are confirmed to and reasonably approved by Director. Lessee expressly acknowledges that given the significant period of time between the date of this Lease and the performance of the Anchorage Improvements Replacement and given the required quality and design standard of the Anchorage Improvements Replacement set forth in the first paragraph of this Section 5.11, the cost of the Anchorage Improvements Replacement might be significantly greater than the AIR Required Cost Amount, and the AIR Required Cost Amount shall not be interpreted in any manner as a maximum cost amount that Lessee might be required to incur to perform the Anchorage Improvements Replacement.

The "**Minimum AIR Required Cost Amount**" for the Anchorage Improvements Replacement means $6,860,000. The "**AIR Required Cost Amount**" means the Minimum AIR Required Cost Amount, as increased (but not decreased except as expressly set forth below) by the same percentage increase (if any) in the ENR Index during the period from June, 2012 to the month during which the construction contract for the Anchorage Improvements Replacement is executed (or if the ENR Index is not published on a monthly basis, then the reporting dates for the ENR Index closest in time to June, 2012 and the month during which the construction contract for the Anchorage Improvements Replacement is executed shall be used). If the ENR Index decreases for the foregoing period, then Lessee shall have the right to request Director to approve a reduction in the AIR Required Cost Amount for the Anchorage Improvements Replacement from the Minimum AIR Required Cost Amount set forth above if Lessee is able to perform the Anchorage Improvements Replacement for AIR Qualified Hard Costs less than such Minimum AIR Required Cost Amount. As a condition to such reduction, prior to the commencement of the Anchorage Improvements Replacement Lessee must notify Director in writing of the cost savings for the Anchorage Improvements Replacement and request Direct to reduce the AIR Required Cost Amount for the Anchorage Improvements Replacement. Any reduction in such AIR Required Cost Amount shall be only in an amount approved by Director and such reduction shall in no exceed the lesser of (i) the actual net savings in AIR Qualified Hard Costs below the Minimum AIR Required Cost Amount for the Anchorage Improvements Replacement, as confirmed by Director, (ii) the Minimum AIR Required Cost Amount for the Anchorage Improvements Replacement multiplied by the percentage decrease in the ENR Index for the period described above, or (iii) an amount equal to 7.5% of the Minimum AIR Required Cost Amount for the Anchorage Improvements Replacement.

5.12 Subsequent Renovation. In addition to the Renovation Work and Anchorage Improvements Replacement to be performed by Lessee pursuant to Sections 5.1 and 5.11, Lessee shall be required to complete an additional renovation of the Improvements (excluding the Anchorage Improvements) in accordance with the terms and provisions of this Section 5.12 (the "**Subsequent Renovation**"). The construction of the Subsequent Renovation shall be commenced by Lessee by such date as will reasonably permit the completion of the Subsequent Renovation by not later than the twenty-second (22nd) anniversary of the Effective Date; provided, however, that Lessee shall not commence the Subsequent Renovation prior to the nineteenth (19th) anniversary of the Effective Date. Lessee shall substantially complete the Subsequent Renovation by not later than the twenty-second (22nd) anniversary of the Effective Date. The Subsequent Renovation shall consist of such renovation and construction work as necessary to revitalize and upgrade the exterior, the common areas (both exterior and interior) and the landscaping of the Improvements (excluding the Anchorage 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 construction of the Subsequent Renovation, Lessee shall submit to Director a renovation plan for the Subsequent Renovation (the "**Subsequent Renovation Plan**"), which renovation plan shall (a) describe the proposed renovation work in such detail as reasonably requested by Director, (b) include a design, governmental approval and construction schedule for the work described therein, (c) include a budget for all work costs, and (d) address such other matters as Director reasonably requests. The Subsequent Renovation Plan shall be submitted by Lessee to County not later than such date as, taking into consideration the approval periods described in this Section 5.12 and Section 5.3 above, and the estimated time required to obtain all necessary governmental approvals and permits, will reasonably be expected to permit the completion by Lessee of the Subsequent Renovation by the date required under this Section 5.12. Director shall have sixty (60) days after receipt of the Subsequent Renovation Plan 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 Director's reasonable judgment. Failure of Director to notify Lessee in writing of Director's 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 Renovation 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 Subsequent Renovation Plan and/or to meet the construction commencement and completion deadlines pertaining to the Subsequent Renovation set forth in this Section 5.12 (except to the extent due to Force Majuere delay as set forth in Section 5.6) shall, if not cured within the cure period set forth in Subsection 13.1.3, 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 5.12, then the required dates for the commencement and 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 dates for the commencement and completion of the Subsequent Renovation shall not be extended beyond the dates reasonably required for the commencement and completion by Lessee of the Subsequent Renovation.

5.13 Subsequent Renovation Fund. Commencing with the month following the month that contains the fifth (5th) anniversary of the earlier of the date of the substantial completion of the Renovation Work for the Landside Improvements or the Renovation Work Required Completion Date, and continuing on an annual basis the same month each year thereafter until the completion of the Subsequent Renovation (each, an "**Annual Funding Month**"), Lessee shall establish and maintain a reserve fund (the "**Subsequent Renovation Fund**") in accordance with the provisions of this Section 5.13 for the purpose of funding the cost of the Subsequent Renovation; provided, however, that Lessee's obligation to perform the Subsequent Renovation shall not be limited to the funds available in the Subsequent Renovation Fund. The Subsequent Renovation Fund shall be held in an account established with a reputable financial institution reasonably acceptable to Director (which shall include Lessee's Encumbrance Holder) into which deposits shall be made by Lessee on an annual basis pursuant to this Section 5.13. On or before the fifteenth (15th) day of each Annual Funding Month during the period during which the Subsequent Renovation Fund is required to be maintained by Lessee hereunder, Lessee shall make a deposit to the Subsequent Renovation Fund in an amount equal to the greater of (a) one and one-half percent (1.5%) of total Gross Receipts for the immediately preceding year from the Improvements other than the Anchorage Improvements; or (b) $650.00 per residential unit increased (but not decreased) by the percentage increase (if any) in the Consumer Price Index from June, 2012 to the month three (3) months prior to that particular Annual Funding Month. All interest and earnings on the Subsequent Renovation Fund shall be added to the Subsequent Renovation Fund, but shall not be treated as a credit against the Subsequent Renovation Fund deposits required to be made by Lessee pursuant to this Section 5.13. In lieu of the annual deposits to the Subsequent Renovation Fund required under this Section 5.13, Lessee and Director may mutually agree upon substitute arrangements satisfactory to Director for the establishment of an adequate security source for the performance of the Subsequent Renovation, such as a bonding mechanism or a letter of credit.

Disbursements shall be made from the Subsequent Renovation Fund only for costs for the design, permitting, entitlements and construction of the Subsequent Renovation which have been reasonably approved by Director; provided, however, if funds remain in the Subsequent Renovation Fund after the Subsequent Renovation has been completed and all costs for the Subsequent Renovation paid in full, then any such excess funds shall be released promptly to Lessee. Prior to the disbursement of any amounts from the Subsequent 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 Subsequent Renovation Fund. Director shall have no obligation to approve the disbursement of amounts from the Subsequent 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 (taking into

consideration the Subsequent Renovation Fund) to pay for all costs of such Subsequent Renovation.

5.14 Capital Improvement Fund. Lessee shall establish and maintain a reserve fund (the "**Capital Improvement Fund**") in accordance with the provisions of this Section 5.14 for the cost of Permitted Capital Expenditures (as defined below) for the Premises. Deposits to the Capital Improvement Fund shall be segregated into the following two sub-funds: (1) a sub-fund for all of the Improvements other than the Anchorage Improvements, and (2) a sub-fund for the Anchorage Improvements. All Capital Improvement Fund deposits attributable to Gross Receipts derived from the Improvements other than the Anchorage Improvements shall be deposited into the sub-fund for the Improvements other than the Anchorage Improvements, and amounts shall be dispersed from such sub-fund only for Permitted Capital Expenditures (as defined below) for the Improvements other than the Anchorage Improvements. All Capital Improvement Fund deposits attributable to Gross Receipts derived from the Anchorage Improvements shall be deposited into the Anchorage Improvements sub-fund, and amounts shall be dispersed from such sub-fund only for Permitted Capital Expenditures for the Anchorage Improvements. All interest and earnings on each sub-fund of the Capital Improvement Fund shall be added to such sub-fund, but shall not be treated as a credit against the Capital Improvement Fund deposits required to be made by Lessee pursuant to this Section 5.14. The deposits to the sub-fund for the Improvements other than the Anchorage Improvements shall commence with the month following the month during which the Renovation Work is substantially completed and shall continue during the remaining Term of this Lease. The deposits to the sub-find for the Anchorage Improvements shall commence with the month following the Effective Date of this Lease and continue during the remaining Term of this Lease.

On or before the fifteenth (15th) day of each month during the applicable period described in the first paragraph of this Section 5.14, Lessee shall make a monthly deposit to each sub-fund of the Capital Improvement Fund in the following amounts:

Sub-Fund for Improvements other than Anchorage Improvements The greater of (i) 1.5% of Gross Receipts derived from the Improvements other than the Anchorage Improvements for the immediately preceding month, or (ii) $54.16 per residential unit increased (but not decreased) by the percentage increase (if any) in the Consumer Price Index from June, 2012 to the most recent month of June that precedes the month in which the Capital Improvement Fund deposit is required to be made.
Sub-Fund for Anchorage Improvements 1.5% of Gross Receipts derived from the Anchorage Improvements for the immediately preceding month.

Lessee and County agree and acknowledge that the purpose of the Capital Improvement Fund shall be to provide funds for the costs of additions, replacements, renovations or significant upgrades of or to the Improvements on the Premises, including building exteriors and major building systems (such as HVAC, mechanical, electrical, plumbing, vertical transportation,

security, communications, structural or roof) that significantly increase the capacity, efficiency, useful life or economy of operation of the Improvements or their major systems, after the completion of the Renovation Work ("**Permitted Capital Expenditures**"). Without limitation of the permitted uses set forth in the immediately preceding sentence, Capital Improvement Fund amounts deposited in the Anchorage Improvements sub-fund prior to the completion of the Anchorage Improvements Replacement may be used for approved costs incurred for the Anchorage Improvements Replacement described in Section 5.11 above; provided, however, that Capital Improvement Fund amounts required to be deposited into the Anchorage Improvements sub-fund after the earlier of the date of the substantial completion of the Anchorage Improvements Replacement or the Anchorage Improvements Required Replacement Completion Date shall not be used for costs of the Anchorage Improvements Replacement. Notwithstanding any contrary provision of this Lease, the Capital Improvement Fund shall not be used to fund any portion of the cost of the Renovation Work or the Subsequent Renovation. In addition, the Capital Improvement Fund shall not be used for building additions, new project amenities (e.g., barbeques or fitness equipment) or new common area furniture. Permitted Capital Expenditures shall not include the cost of periodic, recurring or ordinary expenditures, repairs or replacements that keep the Improvements or their major systems in a good, operating condition, but that do not significantly add to their value or appreciably prolong their useful life. Permitted Capital Expenditures must constitute capital replacements, improvements or equipment under generally accepted accounting principles consistently applied. Furthermore, 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. By way of example, set forth on Exhibit D attached to this Lease are examples of categories of Permitted Capital Expenditures that qualify as proper costs to be funded from the Capital Improvement Fund. All specific purposes and costs for which Lessee desires to utilize amounts from the Capital Improvement Fund shall be subject to Director's approval, which approval shall not be unreasonably withheld, conditioned or delayed.

The Capital Improvement Fund shall be held in an account established with a reputable financial institution (including Lessee's Encumbrance Holder) reasonably acceptable to Director into which deposits shall be made by Lessee (and/or into which Lessee' Encumbrance Holder shall provide funds) pursuant to this Section 5.14. 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, and administered in accordance with, the requirements of this Section 5.14, including allocation of deposits and disbursements between the two sub-funds as described herein.

Except for disbursements from the Anchorage Improvements sub-fund, no disbursements shall be made from the Capital Improvement Fund until after the tenth (10th) anniversary of the date of the substantial completion of the Renovation Work. In addition, no disbursements shall be made from the Capital Improvement Fund after the tenth (10th) anniversary of the date of the substantial completion of the Renovation Work to cure deficiencies arising from the failure of Lessee to maintain and repair the Improvements (other than the Anchorage Improvements) in accordance with the requirements of this Lease during such ten (10) year period. Subject to the foregoing limitations, disbursements shall be made from the Capital Improvement Fund for costs reasonably approved by Director which have been incurred and that satisfy the requirements of

this Section 5.14. Capital Improvement Funds shall be used only after all other sources such as warranty proceeds and product insurance funds are exhausted (or determined to be unavailable). For the purpose of obtaining Director's prior approval of any Capital Improvement Fund disbursements, Lessee shall submit to Director on an annual calendar year basis a capital expenditure plan for the upcoming year that details the amount and purpose of anticipated Capital Improvement Fund expenditures for which Lessee requests Director's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Any anticipated expenditure set forth in such capital expenditure plan which is approved by Director as an acceptable Capital Improvement Fund disbursement shall be considered pre-approved by Director (but only up to the amount of such expenditure set forth in the annual capital expenditure plan) for the duration of the upcoming year. Lessee shall have the right during the course of each year to submit to Director for Director's approval revisions to the then-current capital expenditure plan in effect for such year, or individual expenditures not noted on the previously submitted capital expenditure plan. Prior to the disbursement of any amounts from the Capital Improvement Fund, Lessee shall furnish to Director applicable invoices, evidence of payment and other back-up materials reasonably acceptable to Director concerning the use of amounts from the Capital Improvement Fund.

All amounts then existing in the Capital Improvement Fund shall be expended for Permitted Capital Expenditures not later than seven (7) years prior to the expiration of the Term of the Lease. Capital Improvement Fund deposits made after such date shall continue to be used for Permitted Capital Expenditure purposes under this Section 5.14; provided, however, if County elects to require Lessee to remove the Improvements at the end of the Term and requires Lessee to provide security to secure its obligation to perform such removal obligations in accordance with Subsection 2.3.2 of this Lease, then Lessee shall have the right to contribute the deposits thereafter required to be made by Lessee under this Section 5.14 towards Lessee's obligations to fund the security requirements in Subsection 2.3.2, but only if and to the extent that there are sufficient funds made available in the Capital Improvement Fund for any needed Permitted Capital Expenditures, as determined by Director in Director's reasonable discretion.

6. CONDEMNATION.

6.1 Definitions.

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

6.1.2 Date of Taking. "**Date of Taking**" means the earliest of (a) the date that the Condemnor has the right of occupancy pursuant to an order for possession issued by a court asserting jurisdiction over the Premises; (b) the date that the final order of Condemnation is issued in the event of a transfer by power of eminent domain; or (c) title is transferred to any Condemnor through voluntary sale or transfer, either under threat of Condemnation or while legal proceedings for Condemnation are pending.

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 Condemnation 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, Lessee's business on the Premises could not be operated at a commercially reasonable economic level taking into consideration the amount of funds, if any, in excess of the Award, necessary to continue such operation. Lessee must exercise its right to terminate by giving County written notice of its election within ninety (90) days after the Date of Taking. 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 Condemnation 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 Condemnation, taking into account, however, any necessary reduction in size or other change resulting from the Condemnation; provided, however, that in case of a Condemnation for temporary use, Lessee shall not be required to effect restoration until such Condemnation is terminated.

6.5 Effect of Partial Taking on Rent. If any portion of the Premises is taken by Condemnation and this Lease remains in full force and effect as to the portion of the Premises not so taken (a "**Partial Taking**"), the Annual Minimum Rent shall be reduced as of the date of the Partial Taking to an amount equal to the Annual Minimum Rent multiplied by the ratio of the fair market value of the portion of the Premises not so taken to the fair market value of the entire Premises immediately prior to the Partial Taking, but without regard to any diminution in value resulting from the imminent taking. Upon the next Adjustment Date, as described in Section 4.3 above, if any, for the purposes of adjusting the Annual Minimum Rent, all Annual Rent paid by Lessee to County prior to the Date of 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 Partial Taking bears to the fair market value of the entire Premises immediately prior to the Partial 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 Condemnation, 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 Condemnation, other than a total Condemnation 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 monthly installments equal to the sum set forth in Lessee's written request for payment submitted to County together with supporting invoices and documentation demonstrating that the requested sums are for payments to contractors, consultants, architects, engineers, counsel, or materialmen engaged in the restoration of the Premises and any Improvements. Such requested sums shall be paid by County to Lessee or its designee(s) within thirty (30) days after County has received such request in writing reasonably supported by accompanying invoices and documentation. In the event that County disputes any sum requested by Lessee pursuant to the preceding sentence, County shall promptly pay the undisputed portion and provide Lessee with a written notice detailing the reasons for County's dispute. Thereafter, Director and Lessee shall promptly meet and negotiate in good faith to resolve any dispute; provided, however, that any dispute not resolved within thirty (30) days after Lessee has received notice from County of its dispute shall be submitted to arbitration pursuant to Article 16. 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 6.7 shall be predicated upon the Income Approach. Notwithstanding the foregoing, if County is the condemning authority and the Condemnation 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 Condemnation described in this Subsection 6.7.1, 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 Condemnation and Partial Taking with Termination. Net Awards and Payments received on account of a total Condemnation 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 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 Condemnation or a Partial Taking that results in the termination of the Lease, and such total Condemnation or Partial Taking pertains to only Lessee's interest, then Lessee shall be entitled to the entire amount of any Net Awards and Payments.

In the event of a total Condemnation or a Partial Taking that results in the termination of this Lease, County shall promptly pay or authorize the payment of, as

applicable, to Lessee all sums held by County or third parties as the Capital Improvement Fund, the Subsequent Renovation Fund, the Security Deposit, and, upon completion by Lessee of its obligations under Section 2.3 of this Lease with respect to any portion of the Premises not taken in the Condemnation, the remaining Demolition Security.

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

7. SECURITY DEPOSIT.

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

7.2 Replacement. In the event that some or all of the Security Deposit is drawn against by County and applied against any delinquent rent not paid by Lessee within any applicable notice or cure period, or against other Events of Default of Lessee hereunder, Lessee shall, within 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 any letter of credit to reinstate the letter of credit to its full face amount, so that at all times that this Lease is in effect (other than between the date of the application of funds by County and the expiration of said 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 13.1.2, 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, or (c) the failure of Lessee, its agents, officers, employees, licensees, concessionaires, permittees or Sublessees to observe and abide by any of the terms or conditions of this Lease or any applicable law, ordinance, rule, or regulation. The obligation of Lessee to so relieve, indemnify, protect, and save harmless County and each of its respective Boards, officers, agents, consultants, counsel, employees and volunteers, shall continue during any periods of occupancy or of holding over by Lessee, its agents, officers, employees, licensees, concessionaires, permittees or Sublessees, beyond the expiration of the Term or other termination of this Lease. 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 Two Million Dollars ($2,000,000) per occurrence, Two Million Dollars ($2,000,000) 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 Subsection 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 Renovation 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 on the Premises, including the Renovation Work, any other Alterations or restoration of the Improvements, 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) or equivalent. 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, 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 Renovation Work or other Alterations. The products/completed operations coverage shall continue to be maintained for the following periods: (a) in the case of the Renovation Work, three (3) years after the date the Renovation Work is completed and accepted by the Lessee, or (b) in the case of Alterations after the completion of the Renovation 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 Renovation Work or other 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 Renovation 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 Renovation 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 or subcontractor's Automobile Liability Insurance. Contractor shall maintain limits as reasonably required by the County for the Renovation Work or other 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.

9.1.7 If use of the Premises or Improvements involves a marina operation, berthing, docking, and/or launching of boats and/or pleasure crafts, and/or use of floating docks, piers and/or ramps, Lessee shall carry Marina Operator's Liability insurance with limits of not less than Five Million Dollars ($5,000,000) per occurrence, and Ten Million Dollars ($10,000,000) aggregate. If written on a "claims made" form, the coverage shall also provide an extended two (2) year reporting period commencing upon the expiration or earlier termination of the Lease, or replacement coverage shall be maintained until such time.

9.2 Provisions Pertaining to Property Insurance. The insurance coverage required in Subsections 9.1.4 and 9.1.5.1 shall name County as an additional insured and any Encumbrance Holder as loss payee. Subject to Section 12.6, 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, except as expressly provided to the contrary in this Lease, Lessee shall be obligated to use the insurance proceeds received by Lessee 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 10 hereof. Subject to Section 12.6, 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 Subsection 9.1.5 shall be required to be delivered by Lessee prior to the commencement of any Renovation Work or other 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 Subsections 9.1.1, 9.1.2, 9.1.3 and 9.1.7 shall be subject to adjustment as of each fifth (5th) anniversary of the Effective Date (each, an "**Insurance Renegotiation Date**"), consistent with the amounts of such liability insurance then being required by County under similar ground leases for comparable developments and uses in the Marina del Rey Small Craft Harbor, including any adjustments then being approved by County (if any), based on differences in size, scope, uses or risks between the Premises and such other developments. 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 such reasonable rules and regulations regarding the use and occupancy of residential and anchorage projects in Marina del Rey (such as the Premises) as may be promulgated by County from time to time for general applicability on a non-discriminatory basis, as revised from time to time. Without limiting the foregoing, at Lessee's sole cost and expense, but subject to the terms and conditions of this Lease, Lessee shall keep and maintain the Premises (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 (except that during periods of construction of the Renovation Work or other Alterations or reconstruction of damaged or destroyed Improvements, Lessee's obligations as to the areas of the Premises under construction shall be controlled by Article 5 of this Lease). 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 (other than the Excluded Conditions and the Seawall) 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 reasonably satisfactory to Director. Lessee specifically agrees to provide proper containers for trash and garbage which are screened from public view, to keep the Premises free and clear of rubbish and litter. County in its proprietary capacity shall have the right with reasonable notice 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, Sublessees 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 Improvements. Lessee shall at all times during the Term keep all Anchorage Improvements in good repair and condition in accordance with the

requirements of the Minimum Standards (except that during periods of construction or Alterations of the Anchorage Improvements or reconstruction of damaged or destroyed Anchorage Improvements, Lessee's obligations as to the areas of the Premises under construction shall be controlled by Article 5 of this Lease). During the Term Lessee shall also complete float repair and replacement on an as-needed basis. Any requirement for repair of the Anchorage Improvements 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 and Tree Trimming. 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 Improvements Replacement and the Subsequent Renovation. 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 Director.

During the remaining Term of the Lease, Lessee shall cause all trees located on the Premises to be trimmed and otherwise maintained in compliance with Policy No. 23 and Policy No. 34 of the Marina del Rey Land Use Plan dated February 8, 2012, as such policies are updated, modified or replaced from time to time by County.

10.4 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 Sections 10.1 through 10.3 above, then Lessee shall promptly commence the cure thereof and shall complete such cure within the time period for such cure set forth in the County's deficiency notice, which cure period shall not be less than thirty (30) days except if the deficiency pertains to a condition that is a threat to health or safety or otherwise constitutes an emergency situation, in which case County shall have the right to immediately require Lessee to take all appropriate steps to avoid damage or injury. If Lessee fails to cure any such deficiency within the cure period set forth in County's written 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. Notwithstanding the foregoing, 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 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 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 exercise Director's reasonable discretion in considering Lessee's contest. If Lessee's contest is made on a reasonable and good faith basis, then, in cases that do not include health, safety or any emergency condition, 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 Director accepts or denies Lessee's contest. If Director denies Lessee's contest, Lessee may request arbitration pursuant to Article 16. 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 fifteen (15) 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, Sublessees 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 giving of the notice required under Subsection 10.5.1, Lessee delivers to County a quitclaim deed to the Premises in recordable form, in form and content satisfactory to County and/or with such other documentation as may be reasonably requested by County or any title company on behalf of County, terminating Lessee's interest in the Premises and reconveying such interest to County free and clear of any and all Encumbrances and Subleases.

10.5.4 Within fifteen (15) days following County's receipt of the notice referred to in Subsection 10.5.1, County has not received both (a) written notice from any Encumbrance Holder objecting to such termination and (b) 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 damage affecting the Premises or the Improvements 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 the Improvements, or a right to use the Premises or a portion thereof, which is conveyed or granted by Lessee to a third party, and which constitutes less than the unrestricted conveyance of the entire Lessee's interest under this Lease. "**Sublessee**" shall be the person or entity to whom such right to use is conveyed by a Sublease. A Sublease which grants or conveys to the Sublessee the right to possess or use all or substantially all of the Premises is 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 or

conditioned. To the extent practical, Director shall approve or disapprove said proposed Sublease, amendment or assignment within thirty (30) days after receipt thereof. In no event, however, shall any such Sublease, amendment or assignment be made or become effective without the prior approval of Director. Each such Sublease shall specifically provide that the Sublessee shall comply with all of the terms, covenants, and conditions of this Lease applicable to the portion of the Premises subject to the Sublease. If Director disapproves a Sublease, Director shall notify Lessee in writing of the reason or reasons for such disapproval.

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 and anchorage 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 forty-five (45) 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 (excluding an Approved Apartment/Slip Lease, but including without limitation the right to manage or otherwise operate the Improvements located from time to time on the Premises), or enter into a Major Sublease affecting the Premises, or license the use of all or substantially all of the Premises. 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 (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. 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 unreasonably withhold, condition or delay its consent to any proposed assignment. If County withholds its consent to an assignment, County shall notify Lessee in writing of the reason or reasons for such disapproval.

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

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

11.2.3.1 Prior to entering into any agreement requiring the approval of County pursuant to this Sections 11.1 or 11.2, Lessee (or the entity seeking approval of such assignment) shall notify County and deliver to County all information reasonably 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 discuss an assignment with any proposed assignee without providing Lessee the right to be present at any such discussion.

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 any 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 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 non-confidential 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 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 reasonably approved or supplied by County. Ten (10) copies of each must be submitted to County, of which five (5) shall be signed originals and properly acknowledged.

11.2.4 County Right to Recapture. If Lessee proposes to assign its interest in this Lease, proposes to enter into any Major Sublease affecting the Premises or proposes to transfer a Controlling Interest in Lessee, in each case excluding any Excluded Transfer (with any such proposed transaction herein referred to as a "**Proposed Transfer**"), it shall provide County with written notice of such desire, which notice shall include the sale price ("**Lessee Sale Price**") at which it is willing to consummate the Proposed Transfer. For purposes hereof, a "**Controlling Interest**" in Lessee shall mean fifty percent (50%) or more of the direct or indirect beneficial interest in Lessee. Within thirty (30) days thereafter, 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 market the interest subject to the Proposed Transfer, provided that such interest is offered subject to County's rights as provided in this Subsection 11.2.4. 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. At Lessee's request, any third party granted access to the Premises or Lessee's books and records pursuant to this Subsection 11.2.4 shall be required to execute a right-of-entry and confidentiality agreement on commercially reasonable terms. 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) (which twelve (12) month period shall be extended to the extent the closing is delayed due to a delay by County in approving the transaction within sixty (60) days after County has received a notice from Lessee requesting County's approval of such transaction and all information required by County under this Lease to permit County to evaluate the transaction). In the event of a proposed Major Sublease, 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 (I) Financing Events, or (II) 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 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. County hereby approves the continued engagement by Lessee of the Lessee-affiliated company that performed the property management services for the Premises immediately prior to the Effective Date or any other future company that is owned or controlled by the owner(s) of such Lessee-affiliated company. Any other 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). Following an assignment of the Lease, the execution of a Major Sublease or a Change of Ownership of the Lessee executing this Lease, 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).

11.5 Transfers Prior to Completion of Anchorage Improvements Replacement. Lessee acknowledges that the identity of the entity executing this Lease as of the Effective Date is of material importance to County with respect to the performance of the Anchorage Improvements Replacement and the terms and provisions of this Lease that have been negotiated by County and Lessee pertaining to the Anchorage Improvements Replacement. Notwithstanding any contrary provision of this Lease, prior to the substantial completion of the Anchorage Improvements Replacement, there shall be no assignment of this Lease by Lessee, no Change of Ownership (that is not an Excluded Transfer), and no Sublease of the Anchorage Improvements or any portion thereof (other than an Approved Apartment/Slip Lease), without the prior written consent of County in accordance with the terms and provisions of this Article 12; provided, however, that without limitation of the Assignment Standards set forth on Exhibit C County shall have the right to require that the assignee, sublessee and/or holder of management control of such assignee, sublessee or Lessee (in the case of a Change of Ownership) possess, in County's reasonable judgment, significant experience in the performance of anchorage replacement work of a nature and scope commensurate with the Anchorage Improvements Replacement.

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 Renovation 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 Renovation 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 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 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 Subsection 12.3.7 below, following any Foreclosure Transfer which is a transfer of Ownership Interests, the foregoing rights under this Subsection 12.3.3 shall also inure to the benefit of the Lessee.

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

12.3.5 No Foreclosure Transfer, and no single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall trigger (i) any obligation to pay an Administrative Charge nor any Net Proceeds Share, (ii) any acceleration of any 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 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 and renovation work described in Sections 5.1, 5.11 or 5.12 above (other than any obligations to make deposits into the Subsequent Renovation Fund) shall be tolled for a period of time, not to exceed twelve months, until such Institutional Lender completes a subsequent transfer of its foreclosed interest in the Lease or Ownership Interests, provided that such Institutional Lender is making commercially reasonable and diligent efforts to market and sell its foreclosed interest. Nothing in this Subsection 12.3.6 shall be construed as a limit or outside date on any cure periods provided to Encumbrance Holders under this Lease.

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

12.4 No Subordination. County's rights in the Premises and this Lease, including without limitation County's right to receive Annual Minimum Rent and Percentage Rent, shall not be subordinated to the rights of any Encumbrance Holder. Notwithstanding the foregoing, an Encumbrance Holder shall have all of the rights set forth in the security instrument creating the Encumbrance, as approved by County in accordance with Subsection 12.1.2, to the extent that such rights are not inconsistent with the terms of this Lease, including the right to commence an action against Lessee for the appointment of a receiver and to obtain possession of the Premises under and in accordance with the terms of said Encumbrance, provided that all obligations of Lessee hereunder shall be kept current, including but not limited to the payment of rent and curing of all defaults or Events of Default hereunder (other than Excluded Defaults or as otherwise provided herein).

12.5 Modification or Termination of Lease. This Lease shall not be modified or amended without the prior written consent in its sole discretion of each then existing Encumbrance Holder with respect to Lessee's entire leasehold interest in this Lease or all of the Ownership Interests in Lessee. Further, this Lease may not be surrendered or terminated (other than in accordance with the provisions of this Article 12) without the prior written consent of each such Encumbrance Holder in its sole discretion. No such modification, amendment,

surrender or termination without the prior written consent of each such then existing Encumbrance Holder shall be binding on any such Encumbrance Holder or any other person who acquires title to its foreclosed interest pursuant to a Foreclosure Transfer.

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

12.6.1 Right to Cure. Each Encumbrance Holder and Major Sublessee shall have the right, at any time during the term of its Encumbrance or Major Sublease, as applicable, and in accordance with the provisions of this Article 12, to do any act or thing required of Lessee in order to prevent termination of Lessee's rights hereunder, and all such acts or things so done hereunder shall be treated by County the same as if performed by Lessee.

12.6.2 Notice of Default. County shall not exercise any remedy available to it upon the occurrence of an Event of Default (other than exercising County's self-help remedies pursuant to Section 13.5 or imposing the daily payment set forth in Section 10.4), 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 Subsequent Renovation Fund and the Capital Improvement 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 amendment of this Lease described in Section 5.1 whereby the terms and conditions of this Lease are automatically amended in accordance with the Reversion Amendment described in such Section 5.1, and the "**Reversion Condition**" refers to the condition that causes the Reversion, namely the failure of Lessee to comply with its obligations under Section 5.1 to commence and complete the Renovation Work by the applicable dates set forth in Section 5.1 (as extended by Section 5.6, if applicable). Notwithstanding anything in Section 5.1 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 IN ACCORDANCE WITH THE REVERSION AMENDMENT 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).

13. DEFAULT.

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

13.1.1 Monetary Defaults. The failure of Lessee to pay the rentals due, or make any other monetary payments required under this Lease (including, without limitation, deposits to the Subsequent Renovation Fund and/or Capital Improvement 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, 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 ten (10) 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 Renovation Work Required Commencement Date, Renovation Work Required Completion Date, Anchorage Improvements Replacement Required Commencement Date or Anchorage Improvements Replacement Required Completion Date set forth in Sections 5.1 or 5.11 above (as such dates may extended pursuant to Sections 5.1, 5.6 or 5.11, and subject to Section 12.12).

13.1.4 Non-Use 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 County, 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. Except with respect to breaches or defaults with respect to the payment of money, Lessee shall not be considered in default as to any provision of this Lease (and no late fees or interest will be incurred) to the extent such default is the result of or pursuant to, any process, order, or decree of any court or regulatory body with jurisdiction, or any other circumstances which are physically or legally 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 of 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 a Sublessee's, as applicable) 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 residential or anchorage tenants that are individual persons (but not corporate tenants) is not accrued, (B) expenses are accrued on an approximate basis 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 Director in advance of installation for his approval, which approval shall not be unreasonably withheld, conditioned or delayed.

Lessee's obligations set forth in this Section 14.2 include Lessee's obligation to insure that Lessee's Sublessees (including 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 Percentage Rent 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) 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 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 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 or other person or entity to comply with this Section 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 or other person or entity, 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 or other person or entity, to the extent Lessee does not have a direct right of enforcement against such Sublessee or other person or entity.

14.10 Inadequacy of Records. In the event that Lessee or its Sublessees (including licensees or concessionaires) fail 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.

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 1961. 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 Monthly Minimum Rent and Percentage Rent rates 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, except as expressly provided in Subsection 2.3.2 with respect to any Post Term Removal Period.

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 ground lessee (or subtenant) 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 date of delivery or attempted delivery in the case of registered or certified mail, as evidenced by the mail receipt (but in any case not later than the date of actual receipt).

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:	Villa Del Mar Properties, Ltd. _____ _____ Attn: _____ Phone: _____ Fax: _____
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. Subject to Section 16.13, no amendment 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. If Director disapproves a matter that requires its approval under this Lease, then Director shall notify Lessee in writing of the reason or reasons for such disapproval.

15.16 Time For County Action. Notwithstanding anything to the contrary contained in this Lease, wherever Director determines that a County action required hereunder necessitates approval from or a vote of one or more of County's boards or commissions or County's Board of Supervisors, 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 Encumbrance Holders 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. The Renovation Work includes the development (or as applicable, renovation) by Lessee of a continuous pedestrian walkway with landscaping, lighting, seating, fencing and other improvements (the "**Promenade**") as described in the Renovation Plan and in accordance with the Final Plans and Specifications for such work described in 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 similar activities) as may be established by County from time to time, all in accordance with such rules and regulations as are promulgated from time to time by County regulating such public use. Such public easement shall also include the public use of any restrooms that are designated on the Renovation Plan or Final Plans and Specifications as public restrooms. 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 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 Subsection 5.7.7 of this Lease. At the request of either party, such legal description shall be recorded in the Official Records of Los Angeles County as a supplement to this Lease.

15.20 Management of Anchorage Improvements/Dockmaster. During the Term of the Lease, Lessee shall maintain a dockmaster program, and engage an experienced, professional marina management firm, reasonably acceptable to Director for the day to day full-time management and operation of the Anchorage Improvements. Director hereby confirms that the marina management firm engaged by Lessee as of the Effective Date satisfies the immediately preceding sentence. 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, conditioned or delayed. If during the Term in the reasonable judgment of Director the then current management firm is performing in an unsatisfactory manner, then at the request of Director Lessee shall replace such management firm with a new management firm reasonably acceptable to 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, conditioned or delayed.

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: (a) the name, address and telephone

number of the registered owner (and slip tenant, if other than the registered owner) for each vessel; (b) the state registration or federal document number, and name (if any), of the vessel; (c) whether the vessel is a power vessel, sailing vessel or floating home; and (d) 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 after such slip rental. Thereafter, 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 Director's sole discretion, shall be ineligible for continued slip tenancy on the 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. If pump-out facilities are currently located on the Premises as of the Effective Date, and in any case on and after the completion of the Anchorage Improvements Replacement, Lessee shall operate in-dock pump-out facilities on the Premises 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 4.4.1. Written Appraisal Evidence in connection with disputes arising out of Article 6 of this Lease shall predicate any valuation conclusions contained therein on the Income Approach.

Written Appraisal Evidence shall in all other respects be in material conformity and subject to the requirements of the Code of Professional Ethics and the Standards of Professional Practice of The Appraisal Institute or any successor entity.

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

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

16.10 Awards of Arbitrators.

16.10.1 Monetary Issues. With respect to monetary disputes (including without limitation disputes regarding Percentage Rent, Fair Market Rental Value and the amount of coverage under the policies of insurance required pursuant to Article 9 of this Lease), the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position. The arbitrator shall instead select whichever of the two Statements of Position is the closest to the monetary or numerical amount that the arbitrator determines to be the appropriate determination of the rent, expense, claim, cost, delay, coverage or other matter in dispute and shall render an award consistent with such Statement of Position. For purposes of this Section 16.10, each dispute regarding Annual Minimum Rent, each category of Percentage Rent and the amount of required insurance coverage shall be considered separate disputes (a "**Separate Dispute**"). While the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position concerning a Separate Dispute, the arbitrator shall have the right, if the arbitrator so chooses, to choose one party's Statement of Position on one or more of the Separate Disputes, while selecting the other party's Statement of Position on the remaining Separate Disputes. For example, if the parties are unable to agree on the Annual Minimum Rent and three Percentage Rent categories to be renegotiated pursuant to Section 4.4 and the amount of liability insurance coverage to be renegotiated pursuant to Section 9.6, 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 ten (10) days after the issuance of any award by the arbitrator becomes final, if the award involves the adjustment of the rent, insurance levels or other matters under the Lease, County will draft a proposed amendment to the Lease setting forth the relevant terms of such award and transmit such proposed amendment to Lessee and any Encumbrance Holder(s) as to which County has been provided written notice, for their review. Within ten (10) days after delivery of the proposed amendment to Lessee and such Encumbrance Holder(s) for their review, Lessee or any such Encumbrance Holder(s) shall have the right to notify County in writing of any deficiencies or errors in the proposed amendment. If County does not receive notice of a deficiency or error within such ten (10) day period, then Lessee shall execute the amendment within seven (7) days after the end of such ten (10) day period and such amendment shall be binding on Lessee and all Encumbrance Holders. If the parties (including an Encumbrance Holder) shall, in good faith, disagree upon the form of any such amendment, such disagreement shall be submitted to the arbitrator for resolution. Upon execution by Lessee, any amendment described in this Section 16.13 shall thereafter be executed by County as soon as reasonably practicable.

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

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

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

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

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 or an express response period is specifically provided herein, whenever the consent of County or Lessee is required under this Lease, such consent shall not be unreasonably withheld, conditioned or delayed, 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 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. This Section 17.10 shall be applicable only if in connection with the Anchorage Improvements Replacement under Section 5.11 of this Lease County requests Lessee to construct a guest and/or water taxi docking slip, and in such case only after the completion by Lessee of the Anchorage Improvements Replacement. 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 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 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 Improvements from time to time.

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

THE COUNTY OF LOS ANGELES

By: _____
Chairman, Board of Supervisors

VILLA DEL MAR PROPERTIES, LTD.,
a California limited partnership

By: Richard W. Silver 1988 Living Trust as amended and restated August 23, 1997, General Partner

By: _____
Richard W. Silver, Trustee

By: Aspen Marina, Inc., General Partner

By: _____
Richard W. Silver, President

By: _____
Richard A. Franklin, Secretary/Treasurer

ATTEST:

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

By: _____
Deputy

APPROVED AS TO FORM:

JOHN F. KRATTLI,
COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

Parcels 150 to 182 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said county.

Reserving and excepting unto the County of Los Angeles a right of way for drainage purposes in and across that portion of above described parcel of land which lies within the southerly 4 feet of the easterly 12 feet of the westerly 40 feet of said Lot 180.

Also reserving and excepting unto the County of Los Angeles rights of way for sanitary sewer, fire access and harbor utility purposes in and across those portions designated on said map as easements to be reserved by said county for such purposes.

Also subject to the public easement reserved by County in Section 15.19 of this Lease.

EXHIBIT B

RENOVATION PLAN

EXHIBIT C

ASSIGNMENT STANDARDS

These standards are to apply to proposed transactions requiring County's consent pursuant to Section 11.2 of the Lease. These standards and conditions are not to apply to (a) an assignment for the purpose of securing leasehold financing from 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 Encumbrance Holder, 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 year). A letter of credit, cash deposit, guarantee from a parent entity or participating individual(s) having sufficient net worth (as set forth in the preceding sentence) or similar security satisfactory to 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 County. Changes in the providers of such services and changes to the contractual arrangements must be approved by the County. All such approvals of County will not be unreasonably withheld, conditioned or delayed.

3. The individual or individuals who will acquire Lessee's interest in this Lease or the Premises, or who own the entity which will so acquire Lessee's interest, irrespective of the tier at which such individual ownership is held, must be of good character and reputation and, in any event, shall have neither a history of, nor a reputation for: (1) discriminatory employment practices which violate any federal, state or local law; or (2) non-compliance with environmental laws, or any other legal requirements or formally adopted ordinances or policies of County.

4. The price to be paid for the acquired interest shall not result in a financing obligation of the proposed transferee which jeopardizes the Lessee's ability to meet its rental obligations to 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 transferee must agree that) 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

EXAMPLES OF PERMITTED CAPITAL EXPENDITURES

Subject to the terms and provisions of Section 5.14 of the Lease, 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 Improvement 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.

Painting of the building exterior*

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

Windows replacement*

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

Elevators (replacement or addition)

HVAC replacement

Light fixtures replacement* (interior and exterior)

Irrigation system* (replacement or major addition)

* To qualify, these expenditures need to incorporate replacement or renovating of at least seventy percent (70%) of the items or facilities in question.

AMENDED AND RESTATED LEASE AGREEMENT

by and between

COUNTY OF LOS ANGELES

and

VILLA DEL MAR PROPERTIES, LTD.

(Parcel 13R -- Lease No. _____)

Dated as of _____, ____

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Community Services

24. Recommendation: Consider the Mitigated Negative Declaration (MND) for the Villa del Mar Apartments and Dock lease extension and renovation project (Project), Parcel 13R located at 13999 Marquesas Way in Marina del Rey (4), for the renovation of 198 apartment units and complete redevelopment of the 186-slip and 23-end (and side)-tie marina, together with any comments received during the public review process; adopt and find that the MND reflects the independent judgment and analysis of the Board; also adopt the Mitigation Monitoring Program (MMP), finding that it is adequately designed to ensure compliance with the mitigation measures during Project implementation; also find on the basis of the whole record before the Board that there is no substantial evidence that the Project will have a significant effect on the environment; and approve the following related actions:
(Department of Beaches and Harbors) 4-VOTES

Approve and authorize the Chairman to sign an Option to Amend Lease Agreement granting to the current lessee, Villa del Mar Properties, Ltd., (Lessee), upon fulfillment of stated conditions, an option to extend the term of its existing ground lease on Parcel 13R by 39 years; and

Approve and authorize the Chairman to sign an amended and restated lease agreement, upon confirmation by the Director of Beaches and Harbors that the Lessee has fulfilled the Option conditions. (14-0524)

On motion of Supervisor Knabe, seconded by Supervisor Molina, this item was adopted.

Ayes: 5 - Supervisor Molina, Supervisor Ridley-Thomas, Supervisor Yaroslavsky, Supervisor Antonovich and Supervisor Knabe

Attachments: Board Letter

Agreement No. 78120