"To enrich lives through effective and caring service"

Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

April 19, 2011

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
30 MAY 17, 2011
SACHI A. HAMAI
EXECUTIVE OFFICER

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

Dear Supervisors:

APPROVAL OF OPTION AGREEMENT REGARDING LEASEHOLD INTEREST TO FACILITATE RENOVATION – MARINA DEL REY HOTEL AND ANCHORAGE (PARCELS 42 AND 43 at 13534 BALI WAY) MARINA DEL REY (4th DISTRICT-- 4 VOTES)

SUBJECT

Request to adopt the Mitigated Negative Declaration for the renovation of the existing hotel and anchorage and to approve separate options for a 39-year lease extension of each of the hotel and marina components of the existing leasehold on Parcels 42 and 43 and amended and restated leases to facilitate the renovation of the existing hotel and the replacement of the current marina improvements, as outlined in the attached Summary of Terms, including the bifurcation of the existing leasehold into two separate leaseholds: one for a renovated hotel and associated landside areas, and a second for a re-developed marina. The redeveloped marina would also include the addition to the marina leasehold of additional water area located to the west of the existing leasehold and a upgraded public space in the form of public promenade. Exercise of each option is contingent upon the lessees receipt of entitlements and fulfillment of other conditions required therein. The option for the marina leasehold is not permitted to be exercised unless the option for the hotel leasehold is exercised.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Consider the Mitigated Negative Declaration for the Marina del Rey Hotel and anchorage lease extensions and renovation projects, together with any comments received during the public review period; find that the Mitigated Negative Declaration reflects the independent judgment and analysis of the Board and 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, as revised and implemented in accordance with the Mitigated Negative Declaration and Mitigation Monitoring Program, will have a significant effect on the environment; and adopt the Mitigated Negative Declaration prepared in support of the project.
2. Approve and authorize the Mayor of the Board to sign the Option Agreement Regarding Leasehold Interest (the "Option Agreement") granting to the current lessee, upon fulfillment of stated conditions, an option regarding Parcel 42 and an option regarding an expanded Parcel 43 that, conditioned upon exercise of the option pertaining to Parcel 42, would result in (a) the bifurcation and redivision of the existing Parcels 42 and 43 premises into two separate leaseholds consisting of a modified Parcel 42 premises and an expanded Parcel 43 premises; (b) the recordation of a reciprocal easement agreement to address access and other easement rights and related matters associated with the redivided leaseholds; (c) the division of the existing lease into two separate amended and restated leases, one pertaining to the modified Parcel 42 premises and one pertaining to the modified Parcel 43 premises (with the form of the second lease dependent upon whether the option regarding the expansion, term extension and redevelopment of Parcel 43 is exercised concurrent with the option pertaining to Parcel 42); (d) the grant to lessee of the right to assign the leasehold and option rights pertaining to the modified Parcel 43 premises to Pacific Marina Development, Inc. or an affiliate of Pacific Marina Development, Inc. approved by County; (e) the extension of the term of the lease for the modified Parcel 42 premises from the existing expiration date of February 28, 2022 to February 28, 2061; (f) the renovation of the existing Marina del Rey Hotel and associated landside improvements located on the modified Parcel 42 premises; and (g) upon exercise of the option pertaining to Parcel 43, the expansion of the Parcel 43 premises to include additional water area located to the west of the existing Parcel 43 premises, extension of the term of the lease for the expanded Parcel 43 premises from February 28, 2022 to February 28, 2061, the complete replacement of the anchorage improvements located on Parcel 43 and the refurbishment of the restrooms and boat store located on the expanded Parcel 43 premises.

3. Approve and authorize the Mayor of the Board to sign the applicable Amended and Restated Lease Agreements, the replacement Option Agreement Regarding Leasehold Interest (Parcel 43) (if applicable) (the "Replacement Parcel 43 Option Agreement"), the Reciprocal Easement Agreement, and any other documents required to be signed by County under the terms of the Option Agreement or the Replacement Option Agreement (as applicable) in substantially similar form as attached as exhibits to the Option Agreement and Replacement Parcel 43 Option Agreement (as applicable), and all other associated documentation relating thereto (such as but not limited to memoranda of lease), upon confirmation by the Director of the Department of Beaches and Harbors that the lessee has fulfilled all conditions to the exercise of the applicable option and has exercised such option.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On May 9, 2006, your Board approved the assignment of the Marina del Rey Hotel and marina leasehold (Parcels 42/43) to the current lessee, IWF MDR Hotel, L.P. ("Lessee"). The Lessee is a single-purpose entity, whose parent company, Pacifica Hotel Investors, LLC, has significant experience in acquiring, developing, refurbishing and managing hotels, including the Marina International Hotel (on Parcel 145) and the Jamaica Bay Inn (on Parcel 27).

Lessee thereafter entered into negotiations with the Chief Executive Officer and the Department of Beaches and Harbors (DBH) to divide the existing Parcels 42/43 lease into two leaseholds, one relating to the hotel development and the other relating to the anchorage improvements. The reason for the leasehold bifurcation is to allow Lessee to concentrate on its area of expertise, hotel

development, and to assign the anchorage leasehold to an entity experienced in the redevelopment and operation of marinas. Following the bifurcation, it is the right, but not the obligation, of the Lessee to either assign the waterside lease and/or complete the improvements to the newly created leasehold on Parcel 43.

The first leasehold would encompass a revised Parcel 42, comprised of only the landside portion of the existing leasehold. The second leasehold would be a modified Parcel 43 leasehold consisting of the waterside (docks) areas of the existing leasehold, certain limited land areas associated with boater amenities and shall terminate on February 28, 2022. Separate options would be granted to extend the term of each of the newly defined leaseholds for an additional 39 years beyond the current February 28, 2022 lease expiration date to February 28, 2061. The lease extension options and the renovation/redevelopment proposed for both parcels would be contingent on a bifurcation of the existing leasehold, with cross easements acceptable to the County to address access, parking, boater amenity and related issues in accordance with a reciprocal easement agreement ("REA") satisfactory to the County. The extension option for waterside Parcel 43 (marina) would not be exercisable without the concurrent or prior exercise of the extension option for landside Parcel 42 (hotel). It is contemplated that the existing Lessee will assign the marina lease and associated extension option to an acceptable marina developer, currently planned to be Pacific Marina Development, Inc. The proposed assignee is currently developing Parcels 52/GG as a dry stack storage facility and possesses a strong background in marina development and management.

PARCEL 42 – MARINA DEL REY HOTEL

The Lessee seeks an extended lease to completely renovate the existing 154-room hotel to include: a) room interiors (including bathrooms, windows, and doors); b) building façades; c) interior and exterior common areas including a public promenade; d) landscaping and hardscape; and e) the replacement of all building systems (HVAC, electrical, plumbing, and elevators, etc.) in accordance with a renovation plan to be attached to a new amended and restated lease for the hotel leasehold.

The hotel extension option would not be exercisable until the satisfaction by Lessee of all hotel option conditions, including the receipt of all planning, zoning, environmental and other entitlement approvals required for construction of the renovation project. Additionally, Lessee would be required to provide County with satisfactory evidence of acceptable project financing for the renovation of the hotel in order to exercise the hotel extension option as well as the recordation of a reciprocal easement agreement to address access and other easement rights and related matters associated with the redivided leaseholds. Lessee would pay a hotel option fee of $100,000 upon Lessee's execution of the Option Agreement and, if the hotel extension option is exercised, would be required to spend no less than $14.3 million (in 2007 dollars) in renovations on the hotel improvements. Lessee would be required to obtain all regulatory approvals and financing and exercise the hotel extension option within 12 months following the grant of the hotel extension option, subject to extension for up to six months if, in the reasonable judgment of the DBH Director, Lessee is delayed in the receipt of regulatory approvals or financing due to reasons beyond its control set forth in the Option Agreement. The option period is subject to extension due to litigation (but not beyond four years after the grant of the option). If Lessee exercises the hotel extension option, then Lessee has agreed to pay the County an extension fee of $300,000. The $100,000 option fee is credited against the extension fee, with the remaining $200,000 balance to be paid in ten equal annual principal installments of $20,000 each, plus interest on the unpaid balance at the prime rate, with the first payment due and payable when the hotel extension option is exercised.

Upon stabilization of the hotel property following the renovation, rental payments to the County under the hotel ground lease are projected to be $727,000 per year, a projected increase of approximately $315,471 per year over 2009-10 rents of $411,529.

Commencing ten years after the date of the Amended and Restated Lease for Parcel 42, Lessee will make contributions of 2% of gross receipts to establish a renovation fund. The renovation fund must be fully expended to physically reposition the project to then-current market requirements not earlier than March 1, 2035 and not later than February 28, 2038. Thereafter, no renovation fund shall be required.

Lessee will establish a capital improvement fund that shall commence upon receipt of the Certificate of Occupancy (CO). The fund shall receive deposits equal to 2% of all gross receipts. The capital improvement fund must be fully expended by a date that is ten years prior to the expiration of the lease.

Lessee will establish a FF&E fund to pay for enhancements to the hotel's furniture, fixtures, and equipment not covered by the previous two funds. The fund will commence upon award of the Certificate of Occupancy and be funded in an amount equal to 1% of gross receipts during the first year, 2% during the second year, and 3% annually thereafter.

If County requires Lessee to demolish the improvements at the end of the term, Lessee will also be required to establish an improvement removal reserve to fund the cost of such demolition. Annual contributions to the capital improvement fund and FF&E fund during the last ten years of the term that are not required for those purposes may be credited to the improvement removal fund.

Lessee has agreed to pay the County percentage rent based on the following percentages of gross receipts: 1) 7.5% for hotel stays; 2) 3.5% for food and beverage; 3) 10% for bar/lounge; 4) 5% for Lessee-operated parking; 5) 20% for commissioned parking revenue; 6) 5% for Lessee-operated vending; 7) 25% for commissioned vending; 8) 5% for gift shop/retail sales; 9) 10% for filming; 10) 20% for lockers; 11) 20% for third-party services; 12) 20% for commercial boating; 13) 11% for office space; and 14) 5% for other miscellaneous uses. During the construction period, minimum rent is payable based on 75% of the average annual percentage rent that was payable under the existing lease with respect to the landside improvements during the three- year period prior to the date of the Amended and Restated Lease. During the first three years after the construction period, minimum rent is payable based on 75% of the projected average annual percentage rent payable for the first three years after the completion of construction. Thereafter, minimum rent is adjusted every three years to equal 75% of the average annual percentage rent that was payable during the immediately preceding three years, provided that the minimum rent is never reduced. Minimum rent and percentage rents are subject to renegotiation to a fair market rent ten years after the earlier of the actual or required hotel completion date, and every ten years thereafter, but under no circumstances will minimum rent ever be reduced or the percentage rates reduced below the percentages set forth above.

A detailed "Summary of Terms" for the lease extension for Parcel 42 is set forth in Attachment A.

PARCEL 43 – ANCHORAGE

The Lessee seeks an option for an extended lease to completely replace the existing 349-slip and 16 end-tie marina with no fewer than 277 new slips, 13 end-ties, and one side-tie in a configuration and design according to current marina standards and as approved by the DBH Director, in accordance with a redevelopment plan to be attached to a new restated lease for the marina leasehold. Parking and boater amenities (dockmaster's office, restrooms, showers, and laundry facilities) for Parcel 43 are to be provided on the landside in accordance with terms of the REA and/or leasehold arrangements acceptable to County. The exercise of the marina extension option would be contingent upon the prior or simultaneous exercise of the hotel extension option. The bifurcation of the hotel and marina leaseholds would proceed as described above, and upon exercise of the extension option for the marina leasehold, the marina leased premises would be expanded to include additional water area located to the west of the current project. Upon exercise of the hotel extension option, the marina leasehold and marina extension option would be assignable to Pacific Marina Development, Inc., or another acceptable marina operator approved by the County.

The marina extension option would not be exercisable until the satisfaction of all conditions to the exercise of both the hotel and the marina extension options, and the prior or concurrent exercise of the hotel extension option. The option conditions for the marina extension option would include the receipt of all planning, zoning, environmental and other entitlement approvals, including California Coastal Commission approval, required for replacement of the marina improvements. Additionally, the marina extension option conditions would include delivery to County of satisfactory evidence of project financing for the marina replacement project. If the marina extension option is exercised, the lessee would be required to spend no less than $6.0 million (in 2006 dollars) in renovations on the marina improvements.

Upon exercise of the marina extension option, the marina replacement would be performed on a phased basis of approximately 20% of the slips per year, with all slips to be completed within five years from the date of the exercise of the Parcel 43 option, subject to force majeure not to exceed one year. If the marina lessee fails to complete the redevelopment work in accordance with the required schedule, then County shall have the right to increase the percentage rate payable to County for Parcel 43 to equal the projected percentage rent that would have been payable to County if the marina redevelopment work had been completed on a timely basis.

The marina lessee shall make one end-tie available for WaterBus docking operations at a location to be determined by County, during those time periods in which the WaterBus program is in effect. The marina lessee shall also make one side-tie available for transient boat hourly/day uses at a location to be approved by County.

Upon stabilization of the marina property following replacement of the improvements, rental payments to the County under the marina ground lease are projected to be $916,000 per year, a projected increase of approximately $411,309 per year over 2009-2010 rents of $504,691.

It is contemplated that the entitlement approvals for the marina will be processed as part of a master Coastal Development Permit (CDP) application by the County and seven other marine operators to be filed with the Coastal Commission for various anchorage redevelopment projects. If the DBH Director determines not to include Parcel 43 in the master CDP application, then the marina lessee will process a separate CDP application for only Parcel 43. In the case of a master CDP application process, the marina lessee would be required to obtain all other regulatory approvals and financing, and exercise the marina extension option, within six months following the approval of the master

CDP, subject to an extension for up to six months if, in the reasonable judgment of the DBH Director, Lessee is delayed in the receipt of regulatory approvals due to reasons beyond its control. In the case of the marina lessee processing a separate CDP application, the marina lessee would be required to obtain all regulatory approvals and financing, and exercise the marina extension option, within 12 months following request by the DBH Director to proceed with the separate CDP application process, subject to extension until not later than three years after the grant of the option if, in the reasonable judgment of the DBH Director, the marina lessee is delayed in the receipt of regulatory approvals due to reasons beyond its control. In either case, the option period is subject to extension due to industry-wide financial force majeure (but not beyond three years after the grant of the option) and/or to litigation (but not beyond four years after the grant of the option). If the marina extension option is exercised, then the marina lessee would be required to pay the County an extension fee of $300,000. The $100,000 option fee would be credited against the extension fee, with the remaining $200,000 balance to be paid in full at the time of exercise of the option. Notwithstanding the information above, the marina lessee is not obligated to exercise the marina option and if the Option Agreement is not exercised, portions of the amended lease would remain in full force and effect.

During the term of the restated marina lease, the marina lessee is required to make annual capital improvement fund deposits equal to 1.5% of the total annual gross revenues from the marina leasehold. Deposits to the fund are required to commence with the completion of the dock replacement program but no later than the required completion date. This fund must be fully expended for permitted capital expenditures no later than ten years prior to the expiration date of the restated marina lease.

During the period from the 30th anniversary of the date of completion of the first phase of the marina replacement through the 45th anniversary of such completion date, County shall have the right to have the condition of the anchorage facilities periodically inspected by an independent marine engineering consultant with fees shared equally by County and lessee. If in County's opinion the anchorage facilities are either (i) unsafe, unsightly, or at the end of their useful lives or (ii) of a lesser overall quality than the majority of the other anchorage facilities operated in Marina del Rey at the time of inspection, then the County may require the replacement of the anchorage facilities with new anchorage facilities. In all events, all of the anchorage facilities shall be replaced not later than the 45th anniversary date of the completion date of the first phase of the marina replacement.

If County requires the marina lessee to demolish the improvements at the end of the term, the marina lessee will also be required to establish an improvement removal reserve to fund the cost of such demolition. Annual contributions to the capital improvement fund during the last ten years of the term that are not required for that purpose may be credited to the improvement removal fund.

The marina lessee shall pay to the County percentage rent based on gross revenue according to the following schedule: 1) 25% for anchorage; 2) 5% for lessee-operated vending; 3) 25% for commissioned vending; 4) 20% for third-party services; 5) 5% for lessee-operated laundry; 6) 20% for commissioned laundry; 7) 20% for dry storage/lockers; 8) 7.5% for lessee-operated parking; 9) 20% for commissioned parking; and 10) 5% for miscellaneous income. During the construction period, minimum rent is payable based on 75% of the average annual percentage rent that was payable with respect to the anchorage improvements during the three-year period prior to the commencement of construction. During the first three years after the construction period, minimum rent is payable based on 75% of the projected average annual percentage rent payable for the first three years after the completion of construction. Thereafter, minimum rent is adjusted every three years to equal 75% of the average annual percentage rent that was payable during the immediately

preceding three years, provided that the minimum rent is never reduced. Minimum rent and percentage rents are subject to renegotiation to a fair market rent ten years after the earlier of the actual or required marina completion date, and every ten years thereafter, but under no circumstances will minimum rent ever be reduced or the percentage rates reduced below the percentages set forth above.

A detailed “Summary of Terms” for the lease extension for Parcel 43 is set forth in Attachment A.

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 DBH, recommends your Board's adoption of the Mitigated Negative Declaration (“MND”) and Mitigation Monitoring Program (Attachment B).

DBH has obtained an appraisal that confirms the returns to the County from the lease extensions for Parcels 42 and 43 are equivalent to, or greater than, fair market value.

Implementation of Strategic Plan Goals

The recommended action will allow Lessee and/or its assignee to continue its effort towards the proactive redevelopment of the parcel(s), which will result in fulfillment of Strategic Plan Goal No. 1, “Operational Effectiveness”, Strategy No. 1, “Fiscal Sustainability”, through an increase in one-time and annual lease revenues from the parcel(s), and Goal No. 3, “Community and Municipal Services”, Strategy No. 1, “Cultural and Recreational Enrichment”, through improvement of public access to the Marina by creating more attractive overnight visitor accommodations and anchorage facilities.

FISCAL IMPACT/FINANCING

The Amended and Restated Lease Agreements for the renovation/redevelopment of Parcels 42 and 43 reflect the County’s current market rate percentage rents for all relevant categories. The transactions will produce the following fiscal benefits to the County: 1) an option fee for each of the two options; and 2) if the option(s) are exercised, an extension fee for each of the two options; and 3) if the option(s) are exercised, revenue increases due to renovation of the hotel and replacement of the anchorage. Each component is discussed below.

Option Fee – Parcel 42
Lessee shall pay a non-refundable (except in the case of a default by County) fee of $100,000 for the Parcel 42 option, due upon execution of the Option Agreement.

Option Fee – Parcel 43
Lessee shall pay a separate non-refundable (except in the case of a default by County) fee of $100,000 for the Parcel 43 option, due upon execution of the Option Agreement.

Extension Fee – Parcel 42 Option
Lessee shall pay an extension fee of $300,000 upon the exercise of the option. The option fee of $100,000 shall be credited against the extension fee and the $200,000 balance shall be due and payable in ten equal annual installments of $20,000 annually.

Extension Fee – Parcel 43 Option
Lessee or assignee shall pay an extension fee of $300,000 upon the exercise of the option. The option fee of $100,000 shall be credited against the extension fee and the $200,000 balance shall be

due and payable upon the exercise of the option.

Revenue Increase Due to Project Redevelopment
The total revenue derived from Parcels 42 and 43 during 2009-10 was approximately $916,000. After construction and stabilization, our economic consultant has estimated that the total County rent will rise to approximately $1,643,000 annually, an increase of approximately $727,000.

OPERATING BUDGET IMPACT

Upon your Board's approval of the Option Agreement, the Department of Beaches and Harbors' Marina operating budget will receive one-time fees of $200,000 as stated above. This revenue will be accounted for as current-year one-time over realized revenues.

During the renovation period for the hotel redevelopement estimated to require 12 to 16 months, DBH is projecting no appreciable reduction in rental income to the County of approximately as a result of available rooms being taken out of service during the construction period. It is anticipated that the operator will stage the renovation and group the normally vacant rooms for construction during each phase of the renovation.

During the renovation period for the anchorage replacement, estimated to require 60 months, DBH is projecting no appreciable reduction in rental income to the County as a result of available slips being taken out of service during the construction period.

Costs of the County's consultants involved in the negotiation and development of the Option Agreement, the Amended and Restated Lease Agreements and other associated documents are being reimbursed by Lessee.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The existing 60-year lease for Parcels 42 and 43 expires on December 31, 2022. The current improvements on Parcels 42 and 43 include a 154-room hotel and an anchorage containing 349 slips and 16 end-ties.

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 options.

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

At its meeting on March 9, 2011, the Small Craft Harbor Commission considered the recommendations to approve the Option Agreement and the Amended and Restated Lease Agreements for Parcels 42 and 43 in the form attached and voted to recommend the project and the MND. 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 items of “Less than significant impact with project mitigation” relative to flood, noise, water quality, air quality, biota, traffic, environmental safety, and nesting birds. Prior to the release of the proposed MND and Initial Study for public review, revisions in the project were made or agreed to which would avoid significant impacts or mitigate potential impacts to a point where there would exist less than significant impacts as mitigated. The Initial Study and project revisions showed that, in light of the whole record before the County, the project as revised will not have a significant effect on the environment. Based on the Initial Study and project revisions, 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 from September 28, 2010 through October 28, 2010 to the appropriate government agencies. Public Notice was mailed to all residents located within 500 feet of the subject property and was then published in the Argonaut on November 18, 2010, pursuant to Public Resources Code section 21092 and notice was posted at the office of the County Clerk, pursuant to section 21092.3. During the 30-day comment period from November 19, 2010 through December 20, 2010, one written comment was received from the public.

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 Maral Tashjian in the Department of Regional Planning.

The project is not exempt from payment of a fee to the California Department of Fish and Game (“DFG”), pursuant to section 711.4 of the Fish and Game Code, to defray the costs of fish and wildlife protection and management incurred by DFG. Upon your Board's adoption of the MND, the Department of Regional Planning will file a Notice of Determination with the Registrar-Recorder/County Clerk in accordance with section 21152(a) of the Public Resources Code, along with Lessee's payment of the DFG-required filing and processing fees in the amount of $2,044.00, plus a $75.00 County Clerk processing fee.

CONTRACTING PROCESS

Lessee acquired the leasehold interest to Parcels 42 and 43 as a result of its assumption of the assigned lease as of May 9, 2006. Lessee thereafter entered into negotiations with DBH to bifurcate and extend the lease term for Parcels 42 and 43. The Amended and Restated Lease Agreement for Parcel 42 will be available to Lessee only upon the exercise of the option pertaining to Parcel 42. Upon Lessee’s demonstration that it has satisfied the conditions for exercise of the Parcel 42 option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for construction of the renovation project associated with the Parcel 42 option and the recordation of a reciprocal easement agreement to address access and other easement rights and related matters associated with the redivided leaseholds, we will present to the Executive Officer, Board of Supervisors final confirmation that the conditions and approvals for exercise of the Parcel 42 option contained in the Option Agreement have been satisfied and will request execution of the Amended and Restated Lease Agreement for Parcel 42 in substantially similar form attached as an exhibit to the Option Agreement (Attachment C). If the Parcel 43 option is exercised with the Parcel 42 option, then an Amended and Restated Lease Agreement for the extension, expansion and redevelopment of Parcel 43 will be executed as provided in the

immediately following paragraph. If the Parcel 43 option is not exercised with the Parcel 42 option, then a replacement Amended and Restated Lease Agreement for Parcel 43 (with no extension, expansion or redevelopment of the Parcel 43 premises) and the Replacement Option Agreement (to continue the Parcel 43 option in favor of the Parcel 43 lessee) in the form attached as exhibits to the Option Agreement will be presented to the Executive Officer, Board of Supervisors for execution at that time.

The Amended and Restated Lease Agreement for the extension, expansion and redevelopment of Parcel 43 will be available to the marina lessee only upon the prior or concurrent exercise of the Parcel 42 option and the exercise of the Parcel 43 option. Subject to the foregoing, upon demonstration by the marina lessee that it has satisfied the conditions for exercise of the Parcel 43 option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the replacement of the anchorage improvements and performance of the other redevelopment work associated with the Parcel 43 option, we will present to the Executive Officer, Board of Supervisors final confirmation that the conditions and approvals for exercise of the Parcel 43 option have been satisfied and will request execution of the Amended and Restated Lease Agreement for the extension, expansion and redevelopment of Parcel 43 in substantially similar form attached as an exhibit to the Option Agreement.

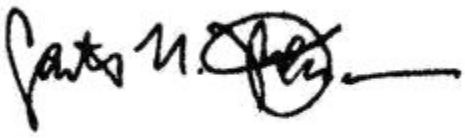
IMPACT ON CURRENT SERVICES (OR PROJECTS)

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 adopt-stamped Board letter to the Department of Beaches and Harbors.

Respectfully submitted,



SANTOS H. KREIMANN
Director

SK:mk:gj

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

ATTACHMENT “A”

Summary of Terms

PARCEL 42 – MARINA DEL REY HOTEL
Summary of Terms

- **Lessee**: IWF Marina View Hotel, L.P.

- **Project**: Completely renovate the 154-room hotel and bungalows to include: renovation of room interiors, building façades, interior and exterior common areas, landscaping and hardscape; and, replacement of building systems (for example, HVAC, electrical, plumbing, and elevators) to the extent required by the County

- **Term**: 39-year extension
  Current: Expires 2/28/2022
  Extended: Expires 2/28/2061

- **Option Fee**: $100,000 upon Lessees execution of Option Agreement.

- Extension Fee: $300,000 with the Option Fee of $100,000 credited against the Extension Fee. Fee to be paid in ten equal annual principal installments of $20,000 per year plus interest on the unpaid balance at the Prime Rate.

- **Development Cost**: Not less than $14,300,000 (2007 dollars).

- **Minimum Rent (during construction period)**: 75% of the previous three years' average annual rent paid to the County.

- **Minimum Rent (upon operation)**: During the first three years after the construction period, minimum rent is payable based on 75% of the projected average annual percentage rent payable for the first three years after the completion of construction. Thereafter, minimum rent is adjusted every 3 years to equal 75% of the average annual percentage rent that was payable during the immediately preceding three years, provided that the minimum rent is never reduced.

- **Percentage Rent**:
  - 1) 7.5% for hotel stays;
  - 2) 3.5% for food and beverage;
  - 3) 10% for bar/lounge;
  - 4) 5% for Lessee-operated parking;
  - 5) 20% for commissioned parking revenue;
  - 6) 5% for Lessee-operated vending;
  - 7) 25% for commissioned vending;
  - 8) 5% for gift shop/retail sales;
  - 9) 10% for filming;
  - 10) 20% for lockers;
  - 11) 20% for third party services;
  - 12) 20% for commercial boating;
  - 13) 11% for office space;
  - 14) 5% for other miscellaneous uses.

- **Percentage Rent Adjustment**: Subject to renegotiation to a fair market rent ten years after the earlier of the completion date or the required completion date, and every ten years thereafter, but under no circumstances will the percentage rent rates be reduced below those set forth above.

- **County Participation in Sales**: Following the 10th anniversary of the last day of the construction period, County participation in sales shall be the greater of: 20% of Net Proceeds, or lesser of 5% of Gross Proceeds or the amount by which Gross Proceeds exceed stipulated basis (subject to exclusions and reductions during the first ten years after the completion of renovation).

- **County Participation in a Refinance**: 20% of net loan proceeds not reinvested in leasehold.

PARCEL 43 – MARINA DEL REY HOTEL ANCHORAGE
Summary of Terms

- **Lessee**: IWF Marina View Hotel, L.P.

- **Project**: Completely replace the existing 349-slip and 16 end-tie marina with no fewer than 277 new slips, 13 end-ties, and one side-tie in a configuration and design according to current marina standards.

- **Term**: 39-year extension
  Current: Expires 2/28/2022
  Extended: Expires 2/28/2061

- **Option Fee**: $100,000 upon Lessees execution of Option Agreement.

- Extension Fee: $300,000 with the Option Fee of $100,000 credited against the Extension Fee. Fee to be paid upon the exercise of the Option.

- **Development Cost**: Not less than $6,000,000 (2006 dollars).

- **Minimum Rent (during construction period)**: 75% of the previous three years' average annual rent paid to the County.

- **Minimum Rent (upon operation)**: During the first three years after the construction period, minimum rent is payable based on 75% of the projected average annual percentage rent payable for the first three years after the completion of construction. Thereafter, minimum rent is adjusted every 3 years to equal 75% of the average annual percentage rent that was payable during the immediately preceding three years, provided that the minimum rent is never reduced.

- **Percentage Rent**:
  - 1) 25% for anchorage;
  - 2) 5% for Lessee-operated vending;
  - 3) 25% for commissioned vending;
  - 4) 20% for third party services;
  - 5) 5% for Lessee-operated laundry;
  - 6) 20% for commissioned laundry;
  - 7) 20% for dry storage/lockers;
  - 8) 7.5% for Lessee-operated parking;
  - 9) 20% for commissioned parking;
  - 10) 5% for other miscellaneous uses.

- **Percentage Rent Adjustment**: Subject to renegotiation to a fair market rent ten years after the earlier of the completion date or the required completion date, and every ten years thereafter, but under no circumstances will the percentage rent rates be reduced below those set forth above.

- **County Participation in Sales**: Greater of: 20% of Net Proceeds, or lesser of 5% of Gross Proceeds or the amount by which Gross Proceeds exceed stipulated basis (subject to exclusions and reductions during the first ten years after the completion of renovation).

- **County Participation in a Refinance**: 20% of net loan proceeds not reinvested in leasehold.

ATTACHMENT “B”

Mitigated Negative Declaration

COUNTY OF LOS ANGELES
DEPARTMENT OF REGIONAL PLANNING
320 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

MITIGATED NEGATIVE DECLARATION

PROJECT NUMBER: *R2010-00669-(4) / RENV201000022*

1. DESCRIPTION:

The applicant proposes the rehabilitation of the existing 154-room Marina del Rey Hotel, and the hotel's private boat anchorage. Landside rehabilitation activities would include replacement and upgrades to all exterior and interior surfaces, fixtures, appurtenances, enhancement of landscaping, resurfacing and reconfiguration of the parking lot, and resurfacing the public promenade and installing pedestrian amenities. Waterside-related rehabilitation activities would include demolition and redevelopment of the private boat anchorage, renovation of the dock master facility and marina restrooms, and installation of a single sewer waste pump out station. This rehabilitation would not expand the floor area or increase the number of rooms of the existing Marina del Rey Hotel or result in a significant re-working of the interior uses of the existing Marina del Rey Hotel.

2. LOCATION:

13534 Bali Way, Marina del Rey

3. PROPONENT:

IWF MDR Hotel, LP and MDR Marina, LP

4. FINDINGS OF NO SIGNIFICANT EFFECT:

BASED ON THE ATTACHED INITIAL STUDY, IT HAS BEEN DETERMINED THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT WITH MODIFICATION AS IDENTIFIED ON THE PROJECT CHANGES/CONDITIONS FORM INCLUDED AS PART OF THE INITIAL STUDY.

5. LOCATION AND CUSTODIAN OF RECORD OF PROCEEDINGS:

THE LOCATION AND CUSTODIAN OF THE RECORD OF PROCEEDINGS ON WHICH ADOPTION OF THIS MITAGATED NEGATIVE DECLARATION IS BASED IS: DEPARTMENT OF REGIONAL PLANNING, 320 WEST TEMPLE STREET, LOS ANGELES, CA 90012

PREPARED BY: *Maral Tashjian*
DATE: *November 10, 2010*

PROJECT NUMBER: R2010-00669-(4)
CASES: RENV201000022

* * * INITIAL STUDY * * *

COUNTY OF LOS ANGELES
DEPARTMENT OF REGIONAL PLANNING

GENERAL INFORMATION

I.A. Map Date: *N/A* **Staff Member:** *Maral Tashjian*

Thomas Guide: *2007 Edition pg. 672 A-7 and B-7* **USGS Quad:** *Venice USGS Quad (Grid 83)*

Location:

13534 Bali Way, Marina del Rey, CA 90292 and portions of Basins F, G, and main channel (Assessor Parcel Number 4224-008-900; Lease Parcel Numbers 42 and 43).

Project Description:

The proposed project consists of the 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 (referred throughout the document as "Parcels 42/43 Boat Anchorage"). Landside improvements are anticipated to commence the first week of April 2011 and would last approximately 45 weeks, until approximately the first week of February 2012. Water-side improvements are anticipated to commence in the first week of November 2011 and would continue over a 5-year period (the water-side construction would occur in 5-phases with each phase lasting approximately 5 months) ending in the first week of October 2016. The initial 15–week construction period of the new boat anchorage could occur simultaneously with the end of the rehabilitation of the Marina del Rey Hotel and surface parking lot.

The following is a description of the land-side rehabilitation work and water-side demolition and construction activities that would occur on the Marina del Rey Hotel parcels and adjacent Parcels 42/43 Boat Anchorage during this time period:

The Marina del Rey Hotel

The Marina del Rey Hotel would undergo a complete rehabilitation, wherein all interior and exterior surfaces, fixtures, appurtenances and non-structural elements would be replaced, resurfaced and/or upgraded. Renovation activities would include new paint and carpet, rehabilitation of the existing fire sprinkler system, elevator cab and equipment upgrades, replacement of windows and glass-doors, deck waterproofing, new spa, the refurbishment of poolside cabanas, resurfacing of the pool interior, new irrigation and landscaping, and the refurbishment of the entry porte-cochere. This rehabilitation would not expand the floor area or increase the number of rooms of the existing Marina del Rey Hotel or result in a significant re-working of the interior uses of the existing Marina del Rey Hotel.

The rehabilitation would be conducted in three phases, generally one wing of the hotel at a time over an approximately 45-week period (the hotel has three wings: The North Wing, The South Wing, and The East Wing), but no more than 24 months. The hotel may remain partially operational during the rehabilitation.

The Marina del Rey Hotel Surface Parking Lot

The existing design of the surface parking lot associated with the Marina del Rey Hotel and Parcels 42/43 Boat Anchorage operations would be reconfigured to optimize its functionality and comply with required fire lane accessibility. Approximately 2,300 cubic yards of soil, concrete, and debris would be cut and exported from the project site for site drainage and surface parking/promenade improvements. The parking lot surface would be enhanced with upgraded decorative paving along the main entrance (the main driveway entrance at the termination of Bali Way) and an improved landscape treatment would enhance the exterior appearance upon guest arrival. In order to improve vehicular circulation, fire equipment access, parking and drive aisle orientation/layout, the parking spaces on the surface parking lot would be reduced from 380 to 322. The proposed parking lot would include 61 compact spaces. The bulk of the parking space reduction during rehabilitation would result from the elimination of 33 existing, unpermitted, substandard parallel vehicle parking spaces along portions of the waterfront public promenade.

The Waterfront Public Promenade

The public promenade, to be located on the waterfront perimeter of the Marina del Rey Hotel, would be provided with decorative paving treatment, upgraded lighting, a waterfront overlook and walkway amenities such as water fountains, shaded benches, trash receptacles and landscape elements. The upgrade of the waterfront pedestrian promenade around the hotel would take place within the existing width of the promenade. As noted above, the existing use of the promenade area by automobiles for access or parking would be eliminated with its rehabilitation. Along the Basin F side of the existing parking lot, a five-foot wide pedestrian walkway would be added to extend the public walkway to the property boundary. The limited five-foot width of the walkway in this area is necessary to retain the functionality of the required driveway circulation pattern as well as the capacity of the existing surface parking lot.

The Parcels 42/43 Boat Anchorage

The existing Parcels 42/43 Boat Anchorage has been in use for the past 50 years without any extensive upgrading or renovation. The proposed replacement of the existing boat slips would create a modern boat anchorage. The redevelopment includes the replacement of the existing 349 slip anchorage in five phases over a period of five years. Each phase would take an estimated five months to complete. Upon completion of the anchorage replacement, the new facility would include 277 slips. Boat slips would range between 30 feet in length to 70 feet in length.

A significant portion of the new slips (71 slips) would be provided along a new gangway, increasing the anchorage footprint along the main Marina del Rey Channel. The new concrete dock system would address current Department of Boating and Waterways (DBAW) standards for walkway and fairway dimensions, provide updated utility hookups, and incorporate Americans with Disability Act (ADA) compatible access for each gangway. One end tie space would be reserved for the marina-wide water taxi service and one side tie space would be reserved as a transient dock for temporary mooring. A single sewer waste pump out station with an estimated average disposal of approximately 300 gallons per week is proposed. In addition to the landside improvements discussed above (i.e., the rehabilitation of the Marina del Rey Hotel, hotel parking lot, and hotel waterfront public pedestrian promenade), the anchorage improvements would include the renovation of the landside Dock Master Facility and Marina Restrooms located in the parking lot of the Marina del Rey Hotel. The building footprints would remain

unchanged.

The project also includes an Option to Amend Lease Agreement for the subject Parcels 42 and 43, to be approved by the County Board of Supervisors prior to initiation of the proposed work at the site, and necessary discretionary and non-discretionary approvals, such as the issuance of a coastal development permit (for the proposed waterside work) and required construction (demolition or building) permits.

Gross Acres: *Parcel 42 has 3.84 landside acres and 5.92 waterside acres. Parcel 43 has 2.39 landside acres and 2.98 waterside acres.*

Environmental Setting:

The proposed project is located in the community of Marina del Rey in unincorporated County of Los Angeles, near the community of Venice within the City of Los Angeles and the City of Santa Monica, as shown in ***Figure 1, Regional Location****. Regional access to the project site includes the Marina Freeway (Highway 90), the San Diego Freeway (Highway 405) and the Santa Monica Freeway (Interstate 10). The proposed project is located at the west terminus of Bali Way on Lease Parcel Number 42 and Lease Parcel Number 43, as shown in* ***Figure 2, Proposed Project Location****. Local access to the project site includes Lincoln Boulevard, Admiralty Way and Bali Way. The project site is a flat, developed area that is surrounded on its northern boundary by Basin "F" of the Marina del Rey small craft harbor; on its eastern boundary by the terminus of Bali Way; on its southern boundary by Basin "G" of the Marina del Rey small craft harbor; and on its west by the main channel of the Marina del Rey small craft harbor. The project site is currently developed with surface parking lots, the Marina del Rey Hotel, the Parcels 42/43 Boat Anchorage, and the Dock Master facility and boater restrooms associated with the anchorage operations. The Marina del Rey Hotel is an existing 3-story tall building (a maximum height of 40 feet), approximately 88,041 square feet in size, with north, east, and south wings. The Marina del Rey Hotel has 154 guest rooms and includes such amenities as an indoor and outdoor restaurant (the Waterfront Bar and Grill), a spa and exercise room, office spaces (for private tenants), and 10,000 square feet of banquet and meeting facilities. The spa, exercise room, office spaces, and banquet and meeting facilities are located adjacent to and attached to the east wing of the Hotel, in the Conference Center Building which is approximately 20,680 square feet. The Marina del Rey Hotel also has an outside promenade between the hotel and waterfront, offering pedestrians access to views of the Marina del Rey small craft harbor and offering access to the hotel's private boat anchorage (Parcels 42/43 Boat Anchorage). The paved surface parking lot is located on the eastern portion of the Marina del Rey Hotel property and consists of 380 parking spaces, internal circulation areas, and vegetated medians and landscaped areas. The Marina del Rey Hotel property is surrounded on its northern, western and southern boundary by wet-slips associated with the Marina del Rey Hotel's boat anchorage. The hotel's boat anchorage has been in use for the past 50 years and consists of 349 boat slips along 16 gangway platforms and docks. Boat slips range between 25 feet in length to 91 feet in length allowing for a mixture of boat sizes to moor at the hotel's anchorage facility. Landside amenities associated with the anchorage, including the Dock Master Facility Building and Boater Restrooms Building, currently exist on the Marina del Rey Hotel property.*

As discussed above, the majority of the project site is surrounded by the Marina del Rey small craft harbor. The closest sensitive uses to the proposed project site is the Dolphin Marina Apartment Complex located approximately 971 feet to the west of the project site, across the main channel. Furthermore, the project site is located

approximately 761 feet to the north of Burton W. Chace Park, a community park within Marina del Rey that is used by residents and visitors to the community of Marina del Rey.

Zoning: *Specific Plan (SP)*

General Plan: *N/A*

Community/Area wide Plan: *Marina Del Rey Land Use Plan (Parcel 42: Hotel, Water, Waterfront Overlay Zone; Parcel 43: Visitor-Serving/Convenience Commercial, Water, Waterfront Overlay Zone)*

Major projects in area:

PROJECT NUMBER	DESCRIPTION & STATUS
R2006-03647/ CDP200600008	*Parcel 10R (APN No. 4224-003-900): Pending 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).*
Project R2006-03652/ CDP200600009	*Parcel FF (APN No. 4224-003-900): Pending Coastal Development Permit to authorize the demolition of an existing parking lot and the development of a 126 unit apartment complex.*
Project 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.*
Project R2006-03643/ CDP200600006	*Parcel 9U, Southern Portion (APN No. 4224-002-900): Pending Coastal Development Permit to authorize the development of a public wetland and upland park.*
Project R2007-01480/ CDP200700001	*Parcels 55, 56 & W (APN No. 4224-011-901): Pending Coastal Development 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.*
Project 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. (Under Construction)*
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)*
Project R2009-00924	*Parcel 145R (APN No. 4224-006-900): Pending Interior and exterior renovation of the existing 132-room Marina International Hotel*
Project R2009-00752 PP201000954	*Parcel 64 (APN No. 4224-011-901): Interior and exterior renovation of the existing 224-unit Villa Venetia apartment complex*
Project R2008-02340/ CDP200800007	*Parcels 52R & GG (APN No. 4224-003-900): Pending 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.*

NOTE: For EIRs, above projects are not sufficient for cumulative analysis.

REVIEWING AGENCIES

Responsible Agencies

- ☐ None
- ☒ LA Regional Water Quality Control Board
- ☐ Lahontan Regional Water Quality Control Board
- ☒ Culver City
- ☒ Coastal Commission
- ☒ Army Corps of Engineers
- ☐ Los Angeles City Bureau of Sanitation
- ☒ Los Angeles City

Trustee Agencies

- ☐ None
- ☒ State Fish and Game
- ☐ State Parks

Special Reviewing Agencies

- ☐ None
- ☐ National Parks
- ☐ National Forest
- ☐ Santa Monica Mountains Conservancy
- ☐ Edwards Air Force Base
- ☐ Elementary / High School District
- ☒ Local Native American Tribal Council
- ☐ Water District
- ☐ California Department of Toxic Substance Control
- ☐ Town Council

Regional Significance

- ☐ None
- ☐ SCAG
- ☒ Air Quality Management District

County Reviewing Agencies

- ☒ Department of Public Works (DPW):
  - -Land Development Division (Grading & Drainage)
  - -Geotechnical & Materials Engineering Division
  - -Watershed Management Division (NPDES)
  - -Traffic and Lighting
  - -Environmental Programs Division
  - -Sewer Maintenance Division
  - -Waterworks Division
- ☒ Public Health: Environmental Hygiene (Noise)
- ☒ Fire Department
  - Forestry, Environmental Division
  - Planning Division
- ☒ Sheriff Department
- ☒ Beaches & Harbors Department
- ☒ Sanitation District

IMPACT ANALYSIS MATRIX		**ANALYSIS SUMMARY (See individual pages for details)**				
			Less than Significant Impact/No Impact			
				Less than Significant Impact with Project Mitigation		
					Potentially Significant Impact	
CATEGORY	**FACTOR**	Pg				Potential Concern
HAZARDS	1. Geotechnical	8	☒	☐	☐	*Liquefaction*
	2. Flood	10	☐	☒	☐	*Drainage*
	3. Fire	12	☒	☐	☐	
	4. Noise	14	☐	☒	☐	*Construction noise*
RESOURCES	1. Water Quality	18	☐	☒	☐	*Stormwater runoff*
	2. Air Quality	20	☐	☒	☐	*Construction-related*
	3. Biota	22	☐	☒	☐	*Nesting birds*
	4. Cultural Resources	26	☒	☐	☐	
	5. Mineral Resources	28	☒	☐	☐	
	6. Agriculture Resources	29	☒	☐	☐	
	7. Visual Qualities	30	☒	☐	☐	
	8. Greenhouse Gas Em.		☒	☐	☐	
SERVICES	1. Traffic/Access	33	☐	☒	☐	*Construction-related vehicle traffic*
	2. Sewage Disposal	36	☒	☐	☐	
	3. Education	37	☒	☐	☐	
	4. Fire/Sheriff	38	☒	☐	☐	
	5. Utilities	40	☒	☐	☐	*Construction-related waste disposal*
OTHER	1. General	42	☒	☐	☐	
	2. Environmental Safety	43	☐	☒	☐	*Proximity to landfill(s)*
	3. Land Use	46	☒	☐	☐	
	4. Pop/Hous./Emp./Rec.	47	☒	☐	☐	
	5. Mandatory Findings	49	☐	☒	☐	*Nesting birds*

Environmental Finding:

FINAL DETERMINATION: On the basis of this Initial Study, the Department of Regional Planning finds that this project qualifies for the following environmental document:

☐ NEGATIVE DECLARATION, inasmuch as the proposed project would not have a significant effect on the environment.

An Initial Study was prepared on this project in compliance with the State CEQA Guidelines and the environmental reporting procedures of the County of Los Angeles. It was determined that this project would not exceed the established threshold criteria for any environmental/service factor and, as a result, would not have a significant effect on the physical environment.

☒ MITIGATED NEGATIVE DECLARATION, in as much as the changes required for the project would reduce impacts to insignificant levels (see attached discussion and/or conditions).

An Initial Study was prepared on this project in compliance with the State CEQA Guidelines and the environmental reporting procedures of the County of Los Angeles. It was originally determined that the proposed project may exceed established threshold criteria. The applicant has agreed to modification of the project so that it can now be determined that the project would not have a significant effect on the physical environment. The modification to mitigate this impact(s) is identified on the Project Changes/Conditions Form included as part of this Initial Study.

☐ ENVIRONMENTAL IMPACT REPORT*, inasmuch as there is substantial evidence that the project may have a significant impact due to factors listed above as "significant".

☐ At least one factor has been adequately analyzed in an earlier document pursuant to legal standards, and has been addressed by mitigation measures based on the earlier analysis as described on the attached sheets (see attached Form DRP/IA 101). The EIR is required to analyze only the factors not previously addressed.

Reviewed by: *Maral Tashjian* Date: *November 10, 2010*

Approved by: *Samuel Dea* Date: *November 10, 2010*

☐ Determination appealed – see attached sheet.

*NOTE: Findings for Environmental Impact Reports would be prepared as a separate document following the public hearing on the project.

☐ This proposed project is exempt from Fish and Game CEQA filling fees. There is no substantial evidence that the proposed project would have potential for an adverse effect on wildlife or the habitat upon which the wildlife depends. (Fish & Game Code 753.5).

HAZARDS - 1. Geotechnical

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Is the project located in an active or potentially active fault zone, Seismic Hazards Zone, or Alquist-Priolo Earthquake Fault Zone?** *The proposed project site is located in southern California, which is considered an active seismic area. The proposed project is not located in an active or potentially active fault zone, Seismic Hazards Zone, or Alquist-Priolo Earthquake Fault Zone.[1] However, the Charnock Fault and Overland Fault, which lie respectively 2.75 miles and 5.5 miles to the east of Marina del Rey, are part of the major Newport-Inglewood Fault Zone.[2] Furthermore, the Malibu Coast Fault lies approximately 7 miles to the northwest of Marina del Rey and is considered a potentially active fault. Both of these faults are capable of producing earthquakes up to a magnitude of 7.0. Since the proposed project is not located in an active or potentially active fault zone, Seismic Hazards Zone, or Alquist-Priolo Earthquake Fault Zone, impacts would be less than significant, and no further analysis would be required.*
b.	☐	☒	☐	**Is the project site located in an area containing a major landslide(s)?** *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.*
c.	☐	☒	☐	**Is the project site located in an area having high slope instability?** *As discussed above, the proposed project site is located on land that is topographically flat. There are no hills, mounds, or mountains on the project site which could result in the project site having high slope instability. Therefore, there would be no impacts, and no further analysis on this topic would be required.*
d.	☒	☐	☐	**Is the project site subject to high subsidence, high groundwater level, liquefaction, or hydrocompaction?** *The proposed project site is located in an area that has been designated as a liquefiable area.[3] Furthermore, the proposed project is located within an area having a high groundwater level.[4] As noted, the proposed project involves the rehabilitation of an existing hotel structure and appurtenant landside facilities and the redevelopment of a private boat anchorage. If required by the Los Angeles County Department of Public Works (DPW), 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.*
e.	☐	☒	☐	**Is the proposed project considered a sensitive use (school, hospital, public assembly site) located in close proximity to a significant geotechnical hazard?** *The proposed project is not considered a sensitive use and is not located in close proximity to a significant geotechnical hazard. There would be no impacts and no further analysis on this topic would be required.*
f.	☐	☒	☐	**Would the project entail substantial grading and/or alteration of topography including slopes of over 25%?**

1 County of Los Angeles, Department of Regional Planning, Marina Del Rey Land Use Plan, February 9, 1996, pg. 10-1.

2 County of Los Angeles, Department of Regional Planning, Marina Del Rey Land Use Plan, February 9, 1996, pg. 10-1.

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

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

There would be export of approximately 2,300 cubic yards of concrete, underlying soil and demolition debris from the project site in conjunction with the proposed rehabilitation work and related improvements to the surface parking lot, promenade, and site drainage . No substantial alteration of topography is involved due to the fact that all existing buildings would remain on-site; only minor excavation in conjunction with drainage improvements and trenching for storm water management would occur. Therefore, no impacts would occur and no further analysis on this topic would be required.

g. ☐ ☐ ☒ **Would the project be located on expansive soil, as defined in Table 18-1-B of Uniform Building Code (1994), creating substantial risks to life or property?**

The proposed project is located on an area of land that is currently developed with an existing hotel and private boat anchorage. The possibility does exist that the proposed project is located on an area of expansive soils due to the proposed project site being located in a liquefaction area per the Los Angeles County General Plan. However, the proposed project includes only the rehabilitation of the existing hotel, surface parking lot, and redevelopment of the private boat anchorage. The proposed project would not disturb the existing soils that are beneath the project site; apart from the above-noted surface demolition and minor site drainage improvements and storm water management trenching work, there would be no additional excavation or grading associated with rehabilitation activities. The applicant would submit expansive soil data as part of any Geotechnical Report that may be required by DPW.

h. ☐ ☒ ☐ **Other factors (tsunamis and seiches)?**

The proposed project is 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.[5] Tsunamis generated from local earthquakes may be larger than distant earthquakes but ar e less likely to occur. Furthermore, the proposed project has been developed with a finished pad and street elevation between 10 and 20 feet above mean sea level. 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 in an EIR. The proposed project is not located near a closed body of water where a seiche could occur due to geological hazards. A seiche could occur within the Marina adjacent to the proposed project; however, the proposed project has been developed between 10 and 20 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. No further analysis on this topic would be required.

STANDARD CODE REQUIREMENTS

☒ Building Ordinance No. 2225 – Sections 308B, 309, 310, and 311 and Chapters 29 and 70

☐ **MITIGATION MEASURES /** ☒ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design ☒ Approval of Geotechnical Report by DPW

The applicant would consult with DPW Geotechnical and Materials Engineering Division for the review and approval of a geotechnical report, if required.

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on, or be impacted by, **geotechnical** factors?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No Impact

5 County of Los Angeles, Department of Regional Planning, Marina del Rey Land Use Plan, February 9, 1996, pg. 10-4.

HAZARDS - 2. Flood

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Is there a major drainage course, as identified on USGS quad sheets by a dashed line, located on the project site?** *The proposed project site does not contain a major drainage course as identified by the United States Geological Survey. The closest drainage course to the proposed project site is the Ballona Creek Watershed Area located approximately 1,650 feet to the southeast of the proposed project site. Since the proposed project site does not contain a major drainage course on site there would be no impacts. Further analysis on this topic would not be required.*
b.	☒	☐	☐	**Is the project site located within or does it contain a floodway, floodplain, or designated flood hazard zone?** *The proposed project would include the rehabilitation of the existing Marina del Rey Hotel and surface parking lot and the redevelopment of a private boat anchorage. No new buildings or add-ons to the existing Marina del Rey Hotel would occur; therefore, construction techniques that have been used in the past for flood hazard protection on the project site would remain similar upon completion of the proposed project. 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. Further analysis on this topic would not be required.*
c.	☐	☒	☐	**Is the project site located in or subject to high mudflow conditions?** *The proposed project site is located in a developed area of Marina del Rey. The project site is flat and does not contain any topographical changes in elevation. Furthermore, the proposed project site is located in an area of Marina del Rey that is topographically flat and is not near or adjacent to any hills or mountains where heavy rains can cause high mudflow conditions to occur on the project site. 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.*
d.	☐	☐	☒	**Could the project contribute or be subject to high erosion and debris deposition from run-off?** *The proposed project is currently developed with a surface parking lot, the Marina del Rey Hotel and a private boat anchorage surrounding the project site on its north, south and western boundaries. An adequate drainage system currently exists on the project site; since the proposed project site is currently developed with non-permeable surfaces and would remain so developed after the proposed rehabilitation project, the project site would not be subject to high erosion. Furthermore, debris deposition would be similar to existing conditions and would be limited due to the adequate drainage system that currently exists on site. If required by DPW, the project applicant would submit a drainage concept to DPW prior to the issuance of a building permit, to ensure that the site drainage system would continue to be adequate upon build-out of the proposed project. No impacts would occur and further analysis on this topic would not be required.*
e.	☐	☐	☒	**Would the project substantially alter the existing drainage pattern of the site or area?** *The proposed project site contains an existing drainage system that is adequate in terms of capacity but requires 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 run-off quantities of the project site would remain substantially the same size as under current conditions with the addition of a belt of bio-retentive grasscrete and gravel sub base for proper treatment of stormwater runoff. Runoff would continue to outlet through the sea wall 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.

f. ☐ ☒ ☐ **Other factors (e.g., dam failure)?**

The proposed project site is not adjacent to or near an enclosed body of water that contains a dam which could have the potential to fail. The proposed project site is located adjacent to the Marina del Rey small craft harbor on its northern, southern, and western boundaries. The possibility for ocean water to inundate the proposed project site due to waves or high tides is low since the proposed project site is developed on a pad that is between 10 to 20 feet above the mean sea level. No impacts would occur and further analysis on this topic would not be required.

STANDARD CODE REQUIREMENTS

☐ Building Code, Title 26 – Section 110.1 (Flood Hazard)
☐ Health and Safety Code, Title 11 – Chapter 11.60 (Floodways)

☒ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design ☒ Approval of Drainage Concept by DPW

The applicant would consult with DPW Land Development Division (Grading and Drainage) for the review and approval of a Drainage Concept, if required.

MITIGATION MEASURES:

FLOOD HAZARD 1. *Prior to issuance of building permits, applicant shall submit a Drainage Concept to the Los Angeles County Department of Public Works for review and approval, if required by and to the satisfaction of said Department.*

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on, or be impacted by **flood (hydrological)** factors?

☐ Potentially significant ☒ Less than significant with project mitigation ☐ Less than significant/No impact

HAZARDS - 3. Fire

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Is the project site located in a Very High Fire Hazard Severity Zone (VHFHSZ-Fire Zone 4)?** *The proposed project site is not located within a Very High Fire Hazard Severity Zone as mapped by the California Department of Forestry and Fire Protection.[6] Since the proposed project is located in a highly urbanized area adjacent to the Marina del Rey main channel, and since the proposed project is not located in a Very High Fire Hazard Severity Zone, there would be no impacts. Further analysis regarding this topic would not be needed.*
b.	☐	☒	☐	**Is the project site in a high fire hazard area and served by inadequate access due to lengths, width, surface materials, turnarounds or grade?** *As described above, the proposed project is not located in an area that is designated as a high fire hazard area. The proposed project includes the rehabilitation of the existing Marina del Rey Hotel and the redevelopment of a private boat anchorage on the waterside portion of the parcels. Access to the project site is via Bali Way, which terminates at the driveway and parking lot entrance to the existing Marina del Rey Hotel. Fire emergency vehicle access would be improved at the site by the rehabilitation through the applicant's removal of existing non-permitted parking spaces that are located along the waterfront promenade (which spaces currently constrain fire vehicle access around the site). The Los Angeles County Fire Department (Fire Department) would enter the property via Bali Way, travel toward the hotel entrance, and continuing following the access road around the rear of the Hotel, and finally exit back out on to Bali Way. The Fire Department staff has reviewed and conceptually approved the proposed fire vehicle access plan for the site. Therefore, no impacts would occur and no further analysis would be needed on this topic.*
c.	☐	☒	☐	**Does the project site have more than 75 dwelling units on a single access in a high fire hazard area?** *The proposed project includes the rehabilitation of the existing Marina del Rey Hotel and redevelopment of a private boat anchorage. The hotel consists of 154 guest rooms and accommodates a transient population of hotel guests. The proposed project does not include residential units that contain a permanent population, nor is the proposed project site located within a high fire hazard as mapped by the California Department of Forestry and Fire Protection. No impacts would occur and further analysis on this topic would not be required.*
d.	☐	☐	☒	**Is the project site located in an area having inadequate water and pressure to meet fire flow standards?** *The proposed project site is currently served by an existing water conveyance system that provides the project site with adequate fire flow pressure from existing piping and fire hydrants. The proposed project would not include the addition of floors or area to the existing Marina del Rey Hotel; therefore, an increase 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.	☐	☒	☐	**Is the project located in close proximity to potential dangerous fire hazard conditions/uses (such as refineries, flammables, explosives manufacturing)?** The proposed project site is located within a highly urbanized area in the community of Marina del Rey. There are no land uses (i.e. refineries, flammables, or explosives manufacturing uses) adjacent to or near the proposed project site that would be

6 California Department of Forestry and Fire Protection, Fire Hazard Severity Zone Re-Mapping Project, Los Angeles County, http://frap.cdf.ca.gov/webdata/maps/los_angeles/fhszs_map.19.jpg. Accessed January 5 2010.

designated as having potential dangerous fire hazard conditions. There would be no impacts and further analysis regarding this topic would not be required

f. ☐ ☒ ☐ **Does the proposed use constitute a potentially dangerous fire hazard?**

Rehabilitation of the existing hotel would not constitute a potentially dangerous fire hazard. The proposed project would include the renovation of the fire sprinkler system within the structure along with fire-rated doors to slow the spread of a conflagration. Similar to existing conditions, upon completion, the renovated components of the project site could contain areas where flammable cleaning solvents could be stored. However, existing techniques would be used to ensure that these flammable cleaning solvents would be stored in an adequate manner to prevent a fire. No impacts would occur and further analysis regarding this topic would not be required.

g. ☐ ☒ ☐ **Other factors?**

There are no other foreseeable factors that would affect fire impacts due to implementation of the proposed project. Therefore, no impacts would occur and further analysis regarding this topic would not be required.

STANDARD CODE REQUIREMENTS

☒ Utilities Code, Title 20 – Section 20.16.060 (Fire Flow & Fire Hydrants Requirements)
☒ Fire Code, Title 32 – Sections 902.2.1 & 902.2.2.1 (Access and Dimensions)
☐ Fire Code, Title 32 – Sections 1117.2.1 (Fuel Modification Plan, Landscape Plan & Irrigation Plan)

☐ **MITIGATION MEASURES /** ☒ **OTHER CONSIDERATIONS**

☐ Project Design ☐ Compatible Use

The Los Angeles County Fire Department was consulted for fire flow and fire hydrant requirements. The applicant would comply with all fire code standards as outlined in the letter from the Fire Department dated October 27, 2010, to the satisfaction of said department.

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on, or be impacted by **fire hazard** factors?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

HAZARDS - 4. Noise

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Is the project site located near a high noise source (airports, railroads, freeways, industry)?** *The proposed project site is located in a highly urbanized area within the community of Marina del Rey. The proposed project is not adjacent or near an airport, railroad, freeway, or industrial use that generate high levels of ambient noise. As described in the Noise Report prepared by Impact Sciences, Inc. for this project, noise monitoring was conducted at three different locations around the proposed project site. The highest ambient noise level that was recorded during the noise monitoring was 53.0 dB (A) L_{eq} in front of the proposed project site at the termination of Bali Way. Since the proposed project is not located near uses that generate high noise sources, the proposed project would not be affected by such high noise levels. There would be no impacts and further analysis on this topic would not be required.*
b.	☒	☐	☐	**Is the proposed use considered sensitive (school, hospital, senior citizen facility) or are there other sensitive uses in close proximity?** *The proposed project is not considered a sensitive use such as would be if the proposed project site was developed with a school, hospital or senior citizen facility. The closest school to the proposed project site is the Kid's Pointe Pre School located approximately 0.30 miles (1,575 feet) north of the proposed project site. The closest hospital is the Marina del Rey Hospital located approximately 0.33 miles (1,762 feet) to the west of the proposed project site. Furthermore, the closest sensitive residential uses are located at the Dolphin Marina Apartment Complex approximately 971 feet to the west of the project site. Burton W. Chace Park is approximately 761 feet south of the landside portion of the project site and as close as 400 feet to the current private boat anchorage. The proposed project does not include a sensitive land use. After application of the mitigation measures, no impacts would occur and further analysis would not be required on this topic.*
c.	☐	☒	☐	**Could the project substantially increase ambient noise levels including those associated with special equipment (such as amplified sound systems) or parking areas associated with the project?** *The proposed project would not increase the intensity of the land uses on the project site when compared to existing conditions. Rehabilitation of the Marina del Rey Hotel would occur along with renovation to the surface parking lot (deletion of 33-existing parking spaces from the existing parking lot, resurfacing and re-alignment of the lanes in the parking lot). Reconstruction of the existing private boat anchorage would occur with the reduction in the number of wet-slips when compared to existing conditions. Ambient noise level upon completion of the rehabilitation of the Marina del Rey Hotel, surface parking lot and redevelopment of the private anchorage would not be increased during the project site's operation. In fact, with the renovation of the interior of the Marina del Rey Hotel, the deletion of 33-parking spaces in the surface parking lot, and the deletion of approximately 55-wet-slips in the private anchorage, the intensity of the land uses would be reduced on the project site, which would lead to a decrease in the ambient noise level generated from the proposed project site upon its completion and during its operation. This is mainly due to the new interior materials that would be used in the renovation of the hotel, the decrease in boat and mooring activity in the private anchorage, and the reduction of vehicles and motorists parking in the surface parking lot. The proposed project site would not include the development of an amplified sound system. There would be no impacts and further analysis on this topic would not be required.*
d.	☐	☐	☒	**Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels without the project?**

The proposed project site is located in an area of Marina del Rey that has an average ambient noise level of 52.0 dB (A) L_{eq} for a 24-hour period[7]. This was determined based on noise monitoring that was conducted over a 24-hour period at three different locations around the project site, and a 15-minute period noise monitoring that was conducted on January 5, 2010 to January 6, 2010. Rehabilitation and redevelopment of the Marina del Rey Hotel, surface parking lot and private anchorage would cause temporary increases in ambient noise levels in the area due to the renovation and redevelopment equipment that would be used during the 45-week renovation of the Hotel and surface parking lot, and the 5-year period of the redevelopment of the private anchorage. The County of Los Angeles has developed a standard for construction noise for residential uses and businesses, where these types of uses should not be exposed to noise louder than 80.0 dB (A) L_{eq} and 85.0 dB (A) L_{eq} during construction activities, respectively. A Noise and Vibration Study has been completed by Impact Sciences, Inc. to determine the noise levels that two different sensitive uses around the project site (the Dolphin Marina Apartment Complex, and Burton W. Chace Park), and the Marina del Rey Hotel would be exposed to during the landside and waterside rehabilitation and redevelopment phases.

The loudest expected noise level that residents living at the Dolphin Marina Apartment Complex would experience during the landside renovation phases and the waterside renovations phases would be 77 dB (A) L_{eq}, which is below the standard of 80.0 dB (A) L_{eq} for multi-family residential uses. The loudest expected noise level that people visiting Burton W. Chace Park would experience during the landside rehabilitation phases and the waterside anchorage construction phases would be 83 dB (A) L_{eq}. The County of Los Angeles does not have a noise standard to regulate noise levels as experienced by people visiting and using a park or recreation area. However, Burton W. Chace Park is a sensitive noise receptor, and mitigation measures would be required to reduce the construction noise level. The loudest expected noise level that people staying at the Marina del Rey Hotel could experience during the waterside renovation phases would be 95 dB (A) L_{eq}. However, hotels are constructed to attenuate noise when windows are open by 17 dB (A) L_{eq} and when windows are closed by 25 dB L_{eq}, thus reducing the noise level experienced by hotel patrons to 78.0 dB (A) if windows are open or 70.0 dB (A) L_{eq} if windows are closed. Therefore, noise levels expected to be experienced by patrons of the Marina del Rey Hotel would not exceed the 85.0 dB (A) L_{eq} standard for businesses. Impacts will be less than significant.

It is expected that pile driving activity during the waterside anchorage construction would be the single loudest noise source, reaching as high as 105 dBA at 50 feet from the pile as each pile is struck; however, the pile driving would be temporary and intermittent in nature during the anchorage construction and would not occur continuously throughout the day or throughout the year. Moreover, the applicant would be required to install noise shrouds that would reduce noise levels about 20dBA below the above 105 dBA level. Noise shrouds, together with the short duration of this impact, result in this impact being considered less than significant.

e. ☐ ☒ ☐ **Other factors? (Construction and Operational Vibration Impacts)**

Analysis was conducted, as described above, for the three different phases during the landside rehabilitation, the overlapping Phase 3 landside rehabilitation with Phase 1 waterside redevelopment, and the five phases during the waterside redevelopment to determine if the vibration generated by the renovation and redevelopment equipment would exceed the vibration threshold of 0.1 inches per second RMS for human perspectives and 98.0 VdB for structural integrity of buildings. The highest vibration that a person

7 Noise Study For Marina del Rey Hotel and Anchorage Renovation and Redevelopment Project In Los Angeles County, California, prepared by Impact Sciences, Inc., January 2010

would experience while living at the Dolphin Marina Apartment Complex would be 0.0016 inches per second RMS and the highest vibration the building of the Dolphin Marina Apartment Complex would experience would be 66.3 VdB, which are both lower than the standards developed by the FTA. The highest vibration a person would experience while visiting Burton W. Chace Park would be 0.006 inches per second RMS, which is below the threshold developed by the FTA for human response to vibrations. Finally, the highest vibration a person would experience while at the Marina del Rey Hotel would be 0.047 inches per second RMS and the highest vibration the building of the Marina del Rey Hotel would be exposed to is 93.4 VdB, which are both below the standard developed by the FTA.

STANDARD CODE REQUIREMENTS

☒ Environmental Protection Code, Title 12 – Chapter 12.08 (Noise Control)

☐ Building Code, Title 26 – Sections 1208A (Interior Environment – Noise)

☒ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design ☐ Compatible Use

The Los Angeles County Department of Public Health, Environmental Health Division was consulted and expressed that noise generated from construction activities should be mitigated with the measures outlined in the above mentioned noise study and conducted in accordance with County Environmental Protection Ordinance (12.08 Noise Control).

Construction activities would be subject to the County Environmental Protection Ordinance (12.08 Noise Control and 12.12 Building Construction Noise). Noise Study For Marina del Rey Hotel and Anchorage Renovation and Redevelopment Project In Los Angeles County, California, prepared by Impact Sciences, Inc., January 2010 on file.

MITIGATION MEASURES:

NOISE 1: *All construction equipment, fixed or mobile that is utilized on the site 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 sensitive uses, temporary portable noise structures shall be built.*

These barriers shall be located between the piece of equipment and sensitive land uses that preclude all sight-lines from the equipment to said sensitive land use(s).

NOISE 2: *Construction activities shall be restricted to between the hours of 7:30 a.m. to 6:00 p.m., and shall be prohibited on Saturdays, Sundays, and legal holidays, in order to reduce noise disturbance to multi-family residences located westerly of the project site.*

NOISE 3: *Pile driving shall be limited to the hours between 8:00 a.m. and 4:30 p.m. Monday through Friday, and shall be prohibited on Saturdays, Sundays and legal holidays. Noise impacts of the pile driving activities associated with the anchorage construction shall be mitigated with the use of noise shrouds, where practicable.*

NOISE 4: *Construction crews shall turn off trucks or heavy equipment if the expected duration of engine idling exceeds five (5) minutes in order to reduce noise disturbance to adjacent multi-family residences.*

NOISE 5: *The applicant shall post a notice at the construction site indicating the type of project duration of construction activities, and a phone number where questions and complaints can be registered.*

NOISE 6: *Staging and delivery areas shall be located as far away as feasible from the existing multi-family residences located westerly of the subject parcel. Construction-related deliveries and hauling activities shall be scheduled between 8:00 a.m. and 4:00 p.m., except on Saturdays, Sundays, and legal holidays, to minimize disturbance to surrounding residents.*

NOISE 7: *The contractor shall ensure that all construction equipment, fixed and mobile, is regularly maintained and in proper operating condition and fitted with standard silencing devices. Proper engineering noise controls shall be implemented when necessary on fixed equipment.*

NOISE 8: *The applicant shall notify residents in the surrounding area (within 1,000 feet of construction activity) by postcard of the anticipated duration of construction and anticipated activities prior to the start of construction. The notice will provide a phone number where neighbors can register questions and complaints. A log of questions and complaints will be maintained and reasonable efforts shall be made to respond to questions and address complaints.*

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on, or be adversely impacted by **noise**?

☐ Potentially significant ☒ Less than significant with project mitigation ☐ Less than significant/No impact

RESOURCES - 1. Water Quality

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Is the project site located in an area having known water quality problems and proposing the use of individual water wells?**

The proposed project site is located in an area of Marina del Rey that is currently served by the Los Angeles County Marina del Rey Water System, which is regulated by the California Regional Water Quality Control Board (CRWQCB) to ensure water quality is acceptable for consumption by consumers. The proposed project is not in an area where drinking water is contaminated or where the water quality makes the water non-consumable. Furthermore, the proposed project would not include the development or use of individual water wells. There would be no impacts and further analysis on this topic would not be required.

The proposed project also includes the redevelopment of a private anchorage within the waters of the Marina del Rey small craft harbor. Water quality in Marina del Rey is determined by both oceanographic conditions prevailing in the adjacent open coastal waters and the factors superimposed on those conditions by the rainfall, urban runoff and general uses of the marina waters. Marina del Rey has been rated as Class C (impaired) by the State Water Resources Control Board (SWRCB). Implementation of the water-side redevelopment of the private anchorage could introduce pollutants into the general area of the waters of Marina del Rey. However, best management practices (BMPs; see mitigation measures below) would be applied during water-side redevelopment activities to ensure any pollutants associated with the redevelopment is not introduced into the waters of the Marina. Land-side crane operations used in the pounding of the anchorages of the dock system into the sea floor would be used to ensure that contamination of the water of the Marina does not occur during redevelopment procedures. With BMPs in place during renovation and redevelopment activities, water quality within the Marina del Rey small craft harbor would remain similar as is under existing conditions, and the proposed project would not introduce pollutants into the Marina. Impacts would be less than significant and further analysis on this topic would not be required.

b.	☐	☒	☐	**Would the proposed project require the use of a private sewage disposal system?**

The proposed project, similar to existing conditions, would tie into the existing sewage disposal system upon project build-out. The proposed project would not include the use of a private sewage disposal system such as septic tanks. The proposed project, upon its build-out, would not substantially increase the amount of wastewater that would be generated on site, compared to existing conditions. A single sewer waste pump out station with an estimated average disposal of approximately 300 gallons per week is proposed. Since the proposed project would tie into the existing sewage disposal infrastructure system upon completion, there would be no impacts. Further analysis on this topic would not be required.

	☐	☒	☐	**If the answer is yes, is the project site located in an area having known septic tank limitations due to high groundwater or other geotechnical limitations *or* is the project proposing on-site systems located in close proximity to a drainage course?**
c.	☐	☐	☒	**Could the project's associated construction activities significantly impact the quality of groundwater and/or storm water runoff to the storm water conveyance system and/or receiving water bodies?**

Renovation of the existing Marina del Rey Hotel, surface parking lot, and redevelopment of the existing private anchorage could introduce pollutants from construction activities into the storm water flow that empties into Marina del Rey small craft harbor. As discussed above, the applicants of the proposed project would use BMPs during the renovation and redevelopment process to ensure that a minimal amount of pollutants are discarded into the storm water flow from off the proposed project site. Furthermore, land-side construction equipment would be used to redevelop the private anchorage, to reduce the

potential for pollutants running off of equipment and contaminating the waters of Marina del Rey. The project applicant would also 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 would be less than significant and no further analysis on this topic would be required.

d. ☐ ☐ ☒ **Could the project's post-development activities potentially degrade the quality of storm water runoff and/or could post-development non-storm water discharges contribute potential pollutants to the storm water conveyance system and/or receiving bodies?**

Upon completion, the proposed project would consist of similar uses on the project site as were occurring on the project site prior to completion of the proposed project. Storm water runoff characteristics would continue to be similar during post-development when compared to existing conditions on the project site. This is mainly due to the fact that the proposed project would only include the rehabilitation of the existing Marina del Rey Hotel, renovation of the existing parking lot, and redevelopment of the existing private anchorage. Furthermore, the proposed project, upon completion, would still comply with water runoff standards as enforced by the California Regional Water Quality Control Board and the County National Pollutant Discharge Elimination System (NPDES) permit discharge requirements. Impacts would be less than significant and further analysis on this topic would not be required.

e. ☐ ☒ ☐ **Other factors?**

There are no other foreseeable factors that would affect water quality impacts due to implementation of the proposed project.

STANDARD CODE REQUIREMENTS

☐ Health & Safety Code, Title 11 – Chapter 11.38 (Water & Sewers)
☒ Environmental Protection, Title 12 – Chapter 12.80 (Storm-water & Runoff Pollution Control)
☐ Plumbing Code, Title 28 – Chapter 7; Appendices G (a), J & K (Sewers and Septic Systems)

☒ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design ☐ Compatible Use
☒ Industrial Waste Permit ☒ National Pollutant Discharge Elimination System (NPDES) Permit

Applicant would comply with all pertinent NPDES and CRWQCB requirements.

MITIGATION MEASURES:

WATER 1: Hammers and other hydraulic attachments shall be placed on plywood and covered with plastic or a comparable material prior to the onset of rain to prevent run-on and run-off.
WATER 2: Sandbag barriers shall be placed around the staging areas to control sediment and prevent runoff.
WATER 3: All debris and trash shall be disposed of in appropriate waste containers by the end of each construction day.
WATER 4: Discharge of hazardous materials into the project site shall be prohibited.

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on, or be adversely impacted by, **water quality** problems?

☐ Potentially significant ☒ Less than significant with project mitigation ☐ Less than significant/No impact

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Would the proposed project exceed the State's criteria for regional significance (generally (a) 500 dwelling units for residential users or (b) 40 gross acres, 650,000 square feet of floor area or 1,000 employees for non-residential uses)?** *The proposed project is a rehabilitation of an existing hotel facility and redevelopment of an existing private anchorage. The project does not meet the State's criteria for regional significance.*
b.	☐	☒	☐	**Is the proposal considered a sensitive use (schools, hospitals, parks) and located near a freeway or heavy industrial use?** *The proposed project is not considered a sensitive use and is not located near a freeway or heavy industrial use. The surrounding similar residential and commercial land uses are not expected to emit criteria pollutants that would have a significant impact on the proposed project.*
c.	☐	☒	☐	**Would the project increase local emissions to a significant extent due to increased traffic congestion or use of a parking structure or exceed AQMD thresholds of potential significance per Screening Tables of the CEQA Air Quality Handbook?** *The proposed project would not result in an increase in hotel units and land use intensity at the project site. 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. The proposed project would not change the land use of the project site and would therefore not have a significant impact with respect to this criterion.*
d.	☐	☐	☒	**Would the project generate or is the site in close proximity to sources that create obnoxious odors, dust, and/or hazardous emissions?** *The hotel land uses associated with the proposed project are not expected to be a source of persistent odors, dust, and/or hazardous emissions. Construction of the project is temporary and dust and odors associated with construction are not expected to have a significant impact on air quality[8]. Refuse associated with operation of the project would be disposed of in accordance with all applicable regulations. Hazardous substances are regulated by the state under the California Accidental Release Prevention Program, and residential uses do not emit hazardous emissions that are significant. No significant impacts are expected with respect to these criteria.*
e.	☐	☒	☐	**Would the project conflict with or obstruct implementation of the applicable air quality plan?** *The project would comply with the South Coast Air Quality Management District's (SCAQMD) CEQA Air Quality Handbook and other guidance provided by SCAQMD. Compliance would reduce potentially significant impacts to less than significant levels.*
f.	☐	☒	☐	**Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?** *The proposed project would comply with SCAQMD's Air Quality Handbook and other guidance provided by SCAQMD and emissions from construction and operation would not*

8 Marina del Rey Hotel and Anchorage Project Air Quality Assessment, prepared by Impact Sciences Inc., February 2010

exceed the emission thresholds for criteria pollutants. In addition, emissions would not exceed the localized ambient concentration thresholds established in the SCAQMD's LST Methodology. Therefore, the project is not expected to violate any air quality standards or contribute substantially to an existing or projected air quality violation.

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

The proposed project would comply with SCAQMD's Air Quality Handbook and other guidance provided by SCAQMD and is not expected to have a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment.

h. ☐ ☒ ☐ **Other factors?**

The proposed project would use energy conserving appliances and would therefore reduce carbon dioxide emissions compared to existing emissions. Therefore, the project emissions are less than significant with respect to this criterion. (Source: Marina del Rey Hotel and Anchorage Project Air Quality Assessment, Impact Sciences Inc., February 2010, page 7).

STANDARD CODE REQUIREMENTS

☐ State of California Health and Safety Code – Section 40506 (Air Quality Management District Permit)

☒ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Project Design ☒ Air Quality Report

The Los Angeles County Department of Public Health, Environmental Health Division was consulted and expressed that construction activities should adhere to mitigation measures outlined in the above mentioned air quality study.

Demolition and renovation activities are subject to AQMD Rule 1403. Marina del Rey Hotel and Anchorage Project Air Quality Assessment, prepared by Impact Sciences Inc., February 2010 on file.

MITIGATION MEASURES:

AIR 1: To reduce emissions during construction, the applicant shall implement the following actions and Best Management Practices (BMP's):

- *Construction parking shall be configured to minimize traffic interference.*
- *Construction activities that affect traffic flow on the arterial system shall be scheduled at off‐peak hours, as permitted.*
- *Truck deliveries shall be consolidated, as practically feasible and scheduled during off-peak hours.*
- *Equipment and vehicle engines shall be maintained in good condition and in proper tune according to manufacturers' specifications and SCAQMD regulations, to minimize exhaust emissions.*
- *Construction equipment use shall be suspended during second stage smog alerts.*
- *Electricity shall be acquired from power poles rather than temporary diesel‐ or gasoline‐powered generators, as feasible.*
- *Methanol‐ or natural gas‐powered mobile equipment shall be utilized instead of diesel, if readily available at competitive prices.*
- *Propane‐ or butane‐powered on‐site mobile equipment shall be utilized instead of gasoline, if readily available at competitive prices.*

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on, or be adversely impacted by, **air quality**?

☐ Potentially significant ☒ Less than significant with project mitigation ☐ Less than significant/No impact

RESOURCES - 3. Biota

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Is the project site located within Significant Ecological Area (SEA), SEA Buffer, or coastal Sensitive Environmental Resource (ESHA, etc.), or is the site relatively undisturbed and natural?**

The proposed project site is currently occupied by the Marina del Rey Hotel, surface parking lots, and a private anchorage. The proposed landside project site is urbanized and does not contain any natural habitat areas. The proposed project is located within the State-designated Coastal Zone and is located directly south of Basin "F" of the Marina del Rey small craft harbor, directly east of the Main Channel of the Marina del Rey small craft harbor, and directly north of Basin "G" of the Marina del Rey small craft harbor. The proposed boat anchorage replacement would be located within the small craft harbor. The closest SEA to the proposed project site is the Ballona Creek SEA, located approximately 1,650 feet to the proposed project site's southeast. Since the proposed project is not located within or adjacent to an SEA or coastal Sensitive Environmental Resource area no impacts would occur from implementation of the proposed project. Therefore, no further analysis would be required on this topic.

b.	☐	☐	☒	**Would grading activities, fire clearance, or flood related improvements remove substantial natural habitat areas?**

As discussed above, the proposed project site does not have a natural habitat area within the landside boundaries. However, the small craft harbor is a natural biological resource and the proposed boat anchorage replacement would occur within the harbor. The proposed project site is currently urbanized with an existing surface parking lot and the existing Marina del Rey Hotel. As discussed in Geotechnical Hazards section "f" above, the proposed rehabilitation of the landside facilities would include removal and export of approximately 2,300 cubic yards of soil, concrete, and debris in conjunction with surface parking lot, promenade and site drainage improvements; however, construction of the new private anchorage would not include excavation, fire clearance, or substantial flood related improvements. Since the proposed project does not have a natural habitat area that can be affected by fire clearance or flood related improvements, there would be no impacts. Therefore, no additional analysis would be required on this topic.

c.	☐	☒	☐	**Is a major drainage course, as identified on USGS quad sheets by a blue dashed line, located on the project site?**

A major drainage course does not occur on the proposed project site as identified on Venice USGS Quad sheet. The closest major drainage courses are the Main Channel of the Marina del Rey small crafts harbor located directly west of the project site, and the Ballona Channel located approximately 3,300 feet south of the project site. No watercourse would be eliminated by the project.

d.	☐	☐	☒	**Does the project site contain a major riparian or other sensitive habitat (e.g. coastal sage scrub, oak woodland, sycamore riparian, woodland, wetland, etc.)?**

The proposed project site is located in an area of Marina del Rey that is highly urbanized. The proposed project site is developed with a surface parking lot, the Marina del Rey Hotel on its landside and a private anchorage on its waterside. The landside portion of the proposed project site does not contain a major riparian or sensitive habitat such as coastal sage scrub, oak woodlands, sycamore riparian, woodlands or wetlands. However, the water-side portion of the proposed project site is located in the Marina del Rey small craft harbor, which is a sensitive marine environment that contains marine biological resources. Specifically, redevelopment of the private anchorage would occur within the main channel, Basin F and Basin G of the Marina Del Rey small craft harbor. Prior marine biological resources studies have been completed in the area of the proposed project site and have concluded that marine biological resources such as benthic infauna, benthic macrofauna-

hardscape, fishes (such as the Tidewater Goby (Eucyclogobius newberryi) and California halibut (Paralichthys californicus), and birds (such as the California least tern (Sterna antillarum browni) and the California brown pelican (Pelecanus occidentalis californicus) are located around the proposed project site. A Marine Biology Report for the proposed project has been prepared by Coastal Resources Management, which report is appended hereto.

Demolition and construction activities associated with the redevelopment of the private anchorage could potentially lead to an increase of pollutant runoff into the Marina del Rey small craft harbor and sedimentation upset due to removal and replacement of anchorages from the marina floor. Potential short-term effects on water quality and biology related to the demolition and subsequent re-construction of the Marina del Rey Hotel and Parcels 42/43 Boat Anchorage include:

- *Sediment resuspension in the immediate demolition and construction zone*
- *Release of heavy metals and chlorinated pesticides into the water column*
- *Temporary degradation in water quality (decreased dissolved oxygen, higher biological oxygen demand due to the resuspension of fine, organically-enriched sediments), and increase turbidity resulting from pile removal and pile emplacement activity.*
- *Mortality of benthic invertebrates in the immediate area of piling and algae and invertebrates attached to the pilings and docks during removal process.*
- *Movement of fishes out of the immediate demolition and construction zone due to increase turbidity and potential increase of underwater noise.*
- *Attraction of fishes to the general project vicinity to forage on algae and invertebrates dislodged from the docks and pilings as they are removed; and,*
- *Temporary reduction of seabird foraging habitat in the immediate demolition and construction area. However, since the majority of least terns (90 to 95 percent) forage within one mile of the Venice Beach breeding site in open coastal waters and those that forage within Marina del Rey Harbor concentrate within the Entrance Channel, the potential for adverse effects on least tern foraging is minimal. Likewise, the brown pelicans may incidentally forage in the main channel, Basin F and Basin G, but their primary food sources (anchovy) is found more often in waters nearer to the Entrance Channel and in the offshore waters. Therefore, the potential adverse effects on brown pelican foraging habitat is also minimal.*

Mitigation Measures that would be implemented in the proposed project to reduce the impact on short-term effects on water quality and biology could include:

- *Implement Best Management Practices (BMPs; additional practices are found in Section 4.0, page 29, of the Marine Biological Resources Environmental Assessment by Coastal Resources Management, Inc. March 2010) to contain and minimize the spread of turbidity plume resulting from the demolition or installation of anchorages, such as installing a floating siltation curtain around the work area. The contractor shall be responsible for deploying and maintaining the silt curtains;*
- *Reduce and/or prevent the turbulence from crossing curtains into the navigation channels or other marine areas;*
- *When removing or installing new anchorages, use methods which minimize sediment disturbances;*
- *Prohibit the discard of construction and trash debris into the waters of Marina del Rey Harbor; and,*
- *Consider temporal mitigation measures to limit timing of on-water activities to October 1st through March 31st to avoid potential disruption to foraging California least terns. Because the main channel, Basin F and Basin G are not a primary least tern foraging area, this mitigation measure may not be necessary.*

With implementation of these mitigation measures and others discussed in the Marina del Rey Hotel and Boat Anchorage Renovation and Redevelopment, impacts would be reduced to less than significant.

e. ☐ ☒ ☐ **Does the project site contain oak or other unique native trees (specify kinds of trees)?**

The proposed project site currently contains vegetated areas along the outside of the Marina del Rey Hotel and vegetated medians in the surface parking lot that serves the proposed project site. The vegetated areas contain mature palm trees and other trees such as , none of which are oak trees or unique native trees. Some of the more mature trees around the project site would be removed and replaced with drought-tolerant trees. Since the proposed project site does not have oak trees or other unique native trees that would be removed due to implementation of the proposed project, there would be no impacts. Further analysis on this topic would not be required.

f. ☐ ☐ ☒ **Is the project site habitat for any known sensitive species (federal or state listed endangered, etc.)?**

As discussed above, the waterside development of the proposed project is located in the habitat of know sensitive benthic infauna, benthic macrofauna-hardscape, fishes (such as the Tidewater Goby (Eucyclogobius newberryi) and California halibut (Paralichthys californicus), and birds (such as the California least tern (Sterna antillarum browni) and the California brown pelican (Pelecanus occidentalis californicus). However, the Marine Biological Report for the Marina del Rey Hotel and Anchorage Renovation and Redevelopment includes mitigation measures that would be adhered to by the applicant during construction of the anchorage to ensure that impacts to these sensitive species are reduced to less than significant during redevelopment processes of the Parcels 42/43 Boat Anchorage.

The landside portion of the project site includes habitat that could be potentially used by the Great Blue Heron, Black-crowned Night Heron and the Great Egret, which are known sensitive species that forage and nest within the community of Marina del Rey. Surveys were conducted by a licensed ornithologist in May 2009 and August 2010 to assess whether any of the trees on the project site show evidence of roosting or nesting by herons. These surveys, which are appended to this Initial Study, conclude that none of the site trees show any evidence of roosting or nesting by herons. Nonetheless, the applicant would adhere to bio mitigation measures (provided below), which would ensure the proposed project complies with federal laws that protect nesting and roosting birds. Therefore, impacts would be less than significant and no further analysis would be required.

g. ☐ ☒ ☐ **Other factors (e.g., wildlife corridor, adjacent open space linkage)?**

The proposed project site is not adjacent or located on a wildlife corridor nor is it adjacent to an open space linkage. Discussion has been provided above regarding impacts associated with renovation and redevelopment of the landside and waterside portions of the project site, respectively, to marina biota and nesting and roosting birds such as the Great Blue Heron, Black-crowned Night Heron and the Great Egret. A Marine Biology Report has been prepared by Coastal Resources Management and concludes that incremental impacts to soft bottom marine habitat could be significant and requires mitigation through the approval of a coastal development permit. The invasive Caulerpa taxifolia algae has a potential to cause ecosystem impacts in bays and nearshore systems due to its extreme ability to out-compete other algae and seagrasses. Eelgrass (Zostera marina) enhances the abundance and the diversity of marine life compared to areas where the sediments are barren, and should be conserved where present. Impacts would be less than significant with mitigation and no further analysis would be required.

☒ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design ☐ ERB/SEATAC Review ☐ Oak Tree Permit

Heron nesting surveys (Biological Report and Revised Biological Report) dated May 4, 2009 and August 24, 2010 by Califauna are on-file. Marine Biological Resources Environmental Assessment for the Marina del Rey Hotel Dock Project, Basins F and G, Marina del Rey, California prepared by Coastal Resources Management, Inc. March 2010 is on-file.

The following mitigation measures would be implemented for renovation and redevelopment of the proposed project site:

MITIGATION MEASURES:

BIOTA 1: *Active bird nests are protected by the Migratory Bird Treaty Act (16 U.S.C. 704) and the California Fish and Game Code (Section 3503, 3503.5 and 3513). If activities associated with construction or demolition are planned during the nesting/breeding season for native birds, generally December through March for early nesting birds (e.g. Great Blue Heron, Coopers hawks, or hummingbirds) and from mid-March through September for most bird species, the applicant shall have a qualified biologist conduct surveys for active bird nests. Pre-construction nesting bird surveys must be conducted weekly within 30 days prior to initiation of ground-disturbing activities to determine the presence/absence of active nests. The surveys shall be performed on a weekly basis with the last survey conducted no more than three days before the start of clearance/construction work. Surveys shall include examination of trees, shrubs, and the ground within grasslands, for nesting birds, as several bird species known to the area are shrub or ground nesters, including mourning doves. Applicant shall submit all such surveys to Department of Regional Planning staff for review and inclusion in the case file. All active bird nests that are found within the construction zone shall be protected by a buffer appropriate to the species observed, as determined by a qualified biologist, and demarcated by construction fencing or other means that will allow avoidance of the nests, until young birds have fledged and no continued use of the nest is observed.*

*BIOTA 2***:** *If Great Blue Heron nesting activity is discovered, and the qualified biologist determines that renovation activities are disturbing nesting sites of the Great Blue Heron, all renovation in the immediate vicinity of the nest, as determined by the biologist, shall cease until feasible measures can be identified by the County to ensure that continued renovation does not affect Great Blue Heron nesting activity.*

BIOTA 3: *Not earlier than 90 days nor later than 30 days prior to commencement or recommencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga Caulerpa taxifolia. The survey shall include a visual examination of the substrate. If Caulerpa taxifolia is found within the project or buffer areas, the applicant shall eliminate all C. taxifolia discovered within the project and/or buffer area in a manner that complies with all applicable governmental approval requirements.*

BIOTA 4: *A valid pre-construction eelgrass (Zostera marina) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game.*

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on, **biotic** resources?

☐ Potentially significant ☒ Less than significant with project mitigation ☐ Less than significant/No impact

RESOURCES - 4. Archaeological/Historical/Paleontological

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Is the project site in or near an area containing known archaeological resources or containing features (drainage course, spring, knoll, rock outcroppings, or oak trees) that indicate potential archaeological sensitivity?** *As described above, the proposed project site is located in an area of Marina del Rey that is currently developed and has been developed for the past 50 years. The proposed project site does not contain known archaeological resources, drainage courses, springs, knolls, rock outcroppings or oak trees that indicate potential archaeological sensitivity. Demolition and export of approximately 2,300 cubic yards of concrete, underlying soil and debris would take place during the rehabilitation process. The closest area containing known archaeological resources is the Ballona Creek Watershed area where remnants of past human activity have been located, approximately 1,650 feet from the project site. Any resources on Marina land already altered or designated for development have been or have already been impacted. The existing land mass within the marina facility has been covered with fill material from channel construction and developed with residential and commercial buildings, thereby destroying or burying any potential resources.[9] Anticipated second generation development should not impose any further impacts unless mass excavation is proposed.[10] Therefore, there would be no impacts and no further analysis would be required.*
b.	☐	☒	☐	**Does the project site contain rock formations indicating potential paleontological resources?** *The proposed project site is fully developed and located in the highly urbanized community of Marina del Rey. The project site does not contain any rock formations that could include potential paleontological resources.*
c.	☐	☒	☐	**Does the project site contain known historic structures or sites?** *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.[11] Furthermore, the Marina del Rey Land Use Plan does not identify any known historical structures or sites within the community of Marina Del Rey.[12] Therefore, implementation of the proposed project site would not include renovation of a historic structure or historic site and no impacts would occur. Further analysis on this topic would not be required.*
d.	☐	☒	☐	**Would the project cause a substantial adverse change in the significance of a historical or archaeological resource as defined in 15064.5?** *As discussed above, the proposed project site is not considered a historical site nor does it contain historical structures. Furthermore, the proposed project site has been developed for the past 50 years and the likelihood of finding an archaeological resource beneath the project site would be remote due to the excavation and infill that was used in the original construction of the proposed project site.*
e.	☐	☒	☐	**Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

9 Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 1996, pg. 7-2.
10 Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 1996, pg. 7-2.
11 Office of Historic Preservation, California State Parks, California Historical Resources, http://ohp.parks.ca.gov/listed_resources/ Accessed January 8, 2010.
12 Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 1996, pg. 7-1 through pg. 7-3.

The proposed project site is currently developed with the Marina del Rey Hotel, surface parking lots, and a private anchorage. As described above, the proposed project site has been urbanized over the past 50 years and the likelihood of paleontological resources existing under the proposed project site is limited. This is due to the original deep excavation and infill from the harbor that was used to develop Marina del Rey. Furthermore, the proposed project would not involve excavation on site of any geologic feature because the project site consists of manufactured fill material, but rather would include renovation of the Marina Del Rey Hotel, surface parking lots, and renovation of the Parcels 42/43 Boat Anchorage. Additionally, the proposed project does not have or 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.

f. ☐ ☒ ☐ **Other factors?**

There are no other factors that need to be analyzed under this topic.

☐ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design ☐ Phase 1 Archaeology Report

CONCLUSION

Considering the above information, could the project leave a significant impact (individually or cumulatively) on **archaeological, historical**, or **paleontological** resources?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

RESOURCES - 5. Mineral Resources

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Would the project 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 proposed project site is not located within a Mineral Resource Zone as mapped by the County of Los Angeles.*[13]
b.	☐	☒	☐	**Would the project result in the loss of availability of a locally important mineral resource discovery site delineated on a local general plan, specific plan or other land use plan?** *As discussed above, the proposed project site is not located within a Mineral Resource Zone as mapped by the County of Los Angeles.*
c.	☐	☒	☐	**Other factors? (Oil and Natural Gas Resource Zone)** *The proposed project is located within an Oil and Gas Resource Zone.*[14] *The proposed project site does not currently contain existing drilling sites for the recovery of oil and natural gas, and there would not be any drilling sites located on the project site for the recovery of oil or natural gas in the future. There would be no impacts to Oil and Natural Gas resources with implementation of the proposed project; therefore, no further analysis would be required on this topic.*

☐ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design

CONCLUSION

Considering the above information, could the project leave a significant impact (individually or cumulatively) on **mineral** resources?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

13 County of Los Angeles Draft General Plan, Chapter 6 Conservation and Open Spaces Element, Figure 6.5, Natural Resource Areas, 2008.

14 County of Los Angeles Draft General Plan, Chapter 6 Conservation and Open Spaces Element, Figure 6.5, Natural Resource Areas, 2008.

RESOURCES - 6. Agriculture Resources

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Would the project 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 (FMMP) of the California Resources Agency to non-agricultural use?** *The proposed project 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.	☐	☒	☐	**Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?** *The proposed project site is located in the community of Marina del Rey which has been designated as Specific Plan Zone as zoned under the County of Los Angeles. The proposed project site does not have nor is it located near an area that is contracted under the Williamson Act. Therefore, no impacts would occur, and further analysis on this topic is not required.*
c.	☐	☒	☐	**Would the project involve other changes in the existing environment that due to their location or nature, could result in conversion of Farmland, to non-agricultural use?** *The proposed project site is located within the community of Marina del Rey, a highly urbanized area. 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.*
d.	☐	☒	☐	**Other factors?** *There are no other factors that need to be analyzed under this topic.*

☐ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design

CONCLUSION

Considering the above information, could the project leave a significant impact (individually or cumulatively) on **agriculture** resources?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

RESOURCES - 7. Visual Qualities

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Is the project site substantially visible from or would it obstruct views along a scenic highway (as shown on the Scenic Highway Element), or is it located within a scenic corridor or would it otherwise impact the viewshed?**

The proposed project site is located at the terminus of Bali Way on Lease Parcel 42 and Lease Parcel 43 in Marina del Rey. The closest designated scenic highway is the stretch of roadway from Via Marina to Admiralty Way to Fiji Way (west, then east), then extended Admiralty Way south to Ballona Creek.[15] As one travels westbound and eastbound past Bali Way the proposed project site is not visible from this scenic highway due to the distance the property is set back from Admiralty Way and due to the palm trees and other vegetated landscaping along the sides and median of Bali Way. 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.). [16]As motorists, pedestrians, and bicyclists approach the proposed project site from Bali Way, the Marina del Rey small craft harbor would be visible to the north and south, and masts, sails and boats are visible within the harbor. The Marina del Rey Hotel is set far enough back from the terminus of Bali Road to still allow views of the harbor to the south and north of Bali Road, as one looks towards the Marina del Rey Hotel. The rehabilitation of the hotel would incorporate updated exterior designs and paints to produce a harmonizing atmosphere that would represent existing architectural designs within other areas of Marina del Rey. The rehabilitation of the project site would not include the development of additional stories or bulk to the existing Marina del Rey Hotel buildings. Therefore, the bulk and height of the buildings would remain the same as is under existing conditions, and would not further degrade views of the Marina del Rey small craft harbor. Development of the new private anchorage on the waterside portion of the parcels would include the modernization of the existing deck and wet-slip system along with the addition of a new dock system with new slips that would extend approximately 200 feet west of the existing dock and wet-slips located on the western waterside of the Marina del Rey Hotel property. The addition of the dock and wet-slips would provide more parking spaces for boats, thus increasing the visibility of marina amenities such as boats, masts, and sails as visitors to the hotel look out towards the main channel of the Marina del Rey small craft harbor. Due to the height of the development pad associated with the existing Marina del Rey Hotel compared to the water elevation of the marina, visitors to the hotel would continue to be able see unobstructed views of the main channel of the Marina del Rey small craft harbor, even though a new mooring area would be added with the addition of more boats mooring in the new wet-slips. There would be no impacts associated with implementation of the proposed project and further analysis on this topic would not be required.

b.	☐	☒	☐	**Is the project substantially visible from or would it obstruct views from a regional riding or hiking trail?**

The proposed project site is not located near or adjacent to a regional riding or hiking trail. The proposed project would incorporate the design of a public Promenade walkway along the northern, western and southern sides of the Marina del Rey Hotel between the water's edge and the hotel buildings. This area would be closed off to motorists and open to pedestrians to allow visitors to the hotel and the community of Marina del Rey access to unobstructed views of the Marina del Rey small craft harbor and associated amenities such

15 Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 1996, pg. 7-1 through pg. 9-3.

16 Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 1996, pg. 7-1 through pg. 9-3.

as wildlife, boats, masts and sails. Since the proposed project would not be substantially visible from or obstruct views from a regional riding or hiking trail, there would be no impacts. Further analysis on this topic would not be required.

c. ☐ ☒ ☐ **Is the project site located in an undeveloped or undisturbed area that contains unique aesthetic features?**

The proposed project site is located within a highly urbanized portion of the community of Marina del Rey. The proposed project site is currently developed with surface parking lots, the Marina del Rey Hotel, and a private anchorage. There are no undeveloped or undisturbed areas on the project site, adjacent to the project site, or near the project site that contains unique aesthetic features. Therefore, implementation of the renovation of the proposed project and redevelopment of the Parcels 42/43 Boat Anchorage would not influence unique aesthetic features in the area. There would be no impacts and further analysis on this topic would not be required.

d. ☐ ☒ ☐ **Is the proposed use out-of-character in comparison to adjacent uses because of height, bulk, or other features?**

The proposed project includes the rehabilitation of the Marina del Rey Hotel and associated surface parking lot and the redevelopment of the existing private anchorage. The rehabilitation of the Marina del Rey Hotel would not include the addition of floors that would increase the height of the building or expand the area (bulk) of the building that currently exists on the project site. Renovations of the exterior portions of the Marina del Rey Hotel would entail the demolition of existing exterior windows, and glass door systems; demolition of existing pool deck surfaces; demolition of the existing balcony railings; complete new waterproofing of the decks and deck roofs; a new roof on the exercise/spa/office wing of the hotel; complete exterior repainting of the Hotel Wings and the exercise/spa/office wing; addition of new windows and doors; addition of a new frame trellis at the restaurant and pool deck; 19-new guest room cabanas; refinishing of the swimming pool and spa with the addition of a new American Disability Act (ADA) lift; a new porte-cochere at entry; a new walkway and pool deck surfaces; and new irrigation and landscaping. These renovations to the exterior portion of the Marina Del Rey Hotel would update the visual amenities on the project site to match the contemporary modern look of the buildings surrounding the project site within other areas of Marina del Rey. Furthermore, the proposed project would include redevelopment of the existing, dated private anchorage with a new, modern private anchorage. The proposed project site would be redeveloped in similar character to other modern uses within the Marina del Rey corridor. Therefore, there would be no impacts with implementation of the proposed project and further analysis would not be required.

e. ☐ ☒ ☐ **Is the project likely to create substantial sun shadow, light or glare problems?**

The proposed project does not include the addition of floors to the Marina del Rey Hotel nor does it include the increase of floor area and bulk of the existing Marina del Rey Hotel building. There are currently no uses that are located directly adjacent to the proposed project site, so any shadows that are cast due to the height and bulk of the building are typically cast across the anchorage and wet-slip docks of the Parcels 42/43 Boat Anchorage. Since the project would include the rehabilitation of the Marina del Rey Hotel and no additional building height or bulk would be developed, it is expected that the shadows that are cast by the hotel building would remain similar upon completion of the proposed project. Furthermore, the proposed project would include the renovation of exterior windows and glass doors, which would be required by County Standards to be designed to produce minimal glare. Additionally, the renovation of the Marina del Rey Hotel and surface parking lot would include new lighting features that use LED technology and down-cast light fixtures to ensure that lighting does not spill over onto adjacent properties. There would be no impacts and further analysis would not be required on this topic.

f. ☐ ☒ ☐ **Other factors (e.g., grading or landform alteration)?**

As described above, the proposed project includes the rehabilitation of the existing Marina del Rey Hotel, renovation of the surface parking lot, and redevelopment of the existing private anchorage on the waterside portion of the parcels. As noted in the Geotechnical Hazards section of this Initial Study, there would be demolition and export of concrete, underlying soil and debris from the project site for surface parking lot, promenade, and site drainage improvements during the rehabilitation of the Marina del Rey Hotel; however, no substantial landform alteration is involved due to the fact that all existing buildings would remain on-site; only minor excavation in conjunction with drainage improvements and trenching for storm water management would occur. Therefore the proposed project would not have an impact and further analysis on this topic would not be required.

☐ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design ☐ Visual Report ☐ Compatible Use

CONCLUSION

Considering the above information, could the project leave a significant impact (individually or cumulatively) on **scenic** qualities?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

RESOURCES - 8. Greenhouse Gas Emissions

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Would the project generate greenhouse gas (GhGs) emissions, either directly or indirectly, that may have a significant impact on the environment (i.e., on global climate change)? Normally, the significance of the impacts of a project's GhG emissions should be evaluated as a cumulative impact rather than a project-specific impact.** *The project would not increase the number of hotel units, landside amenities, or the number of marina boat slips associated with the Marina Del Rey Hotel. The project incorporates design standards and measures that are both feasible and consistent with many of the recommended measures for new projects from the guidance documents listed above. The proposed project would install energy-efficient lighting, and decrease parking spaces to encourage other forms of transportation and discourage the use of single-occupancy vehicles. 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 Construction and Demolition Debris Recycling and Reuse Ordinance, which requires a minimum of 50 percent of the debris to be diverted and recycled. The project proposes to divert approximately 54 percent. These measures would result in a net reduction in GHG emissions compared to the existing site.*
b.	☐	☒	☐	**Would the project conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases including regulations implementing AB 32 of 2006, General Plan policies and implementing actions for GhG emission reduction, and the Los Angeles Regional Climate Action Plan?** *While the County of Los Angeles has not adopted a GHG reduction plan for resources within its jurisdiction, the project is generally consist with applicable and feasible GHG reduction s*tandards and *measures recommended by other agencies including California Air Resources Board (CARB), California Air Pollution Control Officers Association (CAPCOA), Coordinating Committee For Automotive Repair (CCAR), Office of Planning and Research (OPR), and Attorney General Office (AGO). As noted above, the project would reduce overall 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.*
c.	☐	☒	☐	**Other factors?**

☐ **MITIGATION MEASURES** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design

CONCLUSION

Considering the above information, could the project leave a significant impact (individually or cumulatively) on **scenic** qualities?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

SERVICES - 1. Traffic/Access

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Does the project contain 25 dwelling units or more and is it located in an area with known congestion problems (roadway or intersections)?** *The proposed project site is located at the terminus of Bali Way. Access to the project site is provided by Lincoln Boulevard, Admiralty Way and Bali Way. Traffic congestion in the area of the proposed project site is typically heavy-to-moderate during AM and PM Peak Hours. This is primarily due to the heavily congested intersection at Washington Boulevard and Lincoln Boulevard, and motorists using Marina del Rey Streets for pass-through traffic to circumvent the congested intersection. However, since the proposed project merely consists of rehabilitation to the existing Marina del Rey Hotel, renovation of the surface parking lot, and redevelopment of a private anchorage (resulting in a reduction of wet slips on the site), trips by motorists visiting the project site upon its completion would remain similar to the existing traffic condition.*
b.	☐	☒	☐	**Would the project result in any hazardous traffic conditions?** *The proposed project would rehabilitate the existing surface parking lot that fronts and gives access to the Marina del Rey Hotel. In order to improve interior vehicle circulation, parking and drive aisle orientation and layout, the number of existing parking spaces in the surface parking lot would be reduced by 58-parking spaces. Vehicular access to the promenade, located around the Marina del Rey Hotel, would be eliminated. However, the existing promenade around the Marina del Rey Hotel would remain at its width to provide access to emergency vehicles such as ambulances and fire trucks. During construction and renovation of the Marina del Rey Hotel, surface parking lot and remodeling of the Parcels 42/43 Boat Anchorage, construction equipment would be staged on the project site to avoid conflicts with traffic conditions on Bali Way and Admiralty Way. Furthermore, a construction/demolition Haul Route plan would be developed by the project applicant to ensure that any trucks carrying demolition material or renovation material to and from the project site do not contribute to hazardous traffic conditions within the community of Marina del Rey. Since the proposed project would not increase the amount of traffic in Marina del Rey and since the applicant of the proposed project would develop a Construction/Demolition Haul Route, the proposed project would not result in any hazardous traffic conditions. No impacts would occur and further analysis on this topic would not be required.*
c.	☐	☒	☐	**Would the project result in parking problems with a subsequent impact on traffic conditions?** *The proposed project would include the rehabilitation of the surface parking lot that currently serves the Marina del Rey Hotel and the redevelopment of the private anchorage located on the waterside portion of the parcels. The existing parking lot has 380 parking spaces which includes 61 compact spaces. Implementation of the proposed project would include an adjustment in the parking lot design to optimize its functionality. Therefore, the reconfigured surface parking lot would be renovated to include 58 less parking spots than is currently provided under existing conditions. The bulk of the parking reduction is due to the elimination of unpermitted, Code-incompliant parking stalls that were developed along the waterfront promenade over the years of the hotel and anchorage's operation. Even with the reduction of parking spaces in the surface parking lot, the proposed project would continue to exceed the required standards for the amount of parking spaces that would be required under the Los Angeles County Zoning Code (1 parking space per 2 hotel-guestrooms and 6 handicap reserved parking spaces). The boat anchorage portion of the*

proposed project would require and apply for a parking permit approved by the County of Los Angeles since the anchorage would be asking for a reduction in parking spaces, from the Los Angeles County Zoning Code standard of 0.75 parking spaces per wet-slip, to 0.60 parking spaces per wet-slip. This is primarily due to the landside space limitations with the incorporation of the landside promenade and the fire lane. Traffic conditions on Bali Way would not be impacted by the reduction in parking spaces due to the renovation of the surface parking lot on the project site. Furthermore, with applicants for the boat anchorage portion of the proposed project applying for a parking permit, the proposed project would have an adequate number of parking spaces per the County of Los Angeles Parking Code. There would be no impacts and further analysis on this topic would not be required.

d. ☐ ☒ ☐ **Would inadequate access during an emergency (other than fire hazards) result in problems for emergency vehicles or residents/employees in the area?**

As discussed above, the proposed project would include the renovation of the public promenade along the waterfront perimeter of the Marina del Rey Hotel. The existing waterfront promenade provides vehicle access and parking along the waterfront side of the Marina del Rey Hotel. Additionally, the existing promenade provides emergency access for ambulances and fire trucks to provide adequate emergency protection service to the proposed project site. Implementation of the proposed project would include closing off the existing promenade from public vehicle access and public parking, and would include upgrades with decorative paving treatments, upgraded lighting, waterfront overlook and walkway amenities such as water fountains, shaded benches, trash receptacles and landscape elements. Emergency access would still be available to responding ambulances and fire trucks on the promenade during the renovation procedure and upon completion of the proposed project. Furthermore, emergency access to the proposed project site from Bali Way would not be altered in any way, and would still continue to provide emergency access to the proposed project site. Residents and employees in the area would still be able to ingress and egress on and off the project site in times of emergencies since the proposed project would not include the renovation of the emergency access system. No impacts would occur and further analysis on this topic would not be required.

e. ☐ ☒ ☐ **Would the congestion management program (CMP) Transportation Impact Analysis thresholds of 50 peak hour vehicles added by project traffic to a CMP highway system intersection or 150 peak hour trips added by project traffic to a mainline freeway link be exceeded?**

As discussed above, the proposed rehabilitation project would not result in the increase of AM and PM Peak Hour Traffic Trips on intersections near the project site. The proposed project includes the rehabilitation of the existing Marina del Rey Hotel, renovation of the surface parking lot, and redevelopment of the private anchorage on the waterside portion of the parcels (resulting in a decrease of wet boat slips). No new uses or expansions would occur during implementation of the project site that could generate more AM and PM Peak Hours Trips than is already occurring due to the uses currently existing on the project site. Therefore, the proposed project would not exceed the thresholds to a CMP highway or the thresholds to a mainline freeway link and no impacts would occur. Further analysis would not be required on this topic.

f. ☐ ☒ ☐ **Would the project conflict with adopted policies, plans, or program supporting alternative transportation (e.g., bus, turnouts, bicycle racks)?**

The proposed project site is currently served by the Los Angeles County Metropolitan Transportation Authority (MTA) that provides alternative transportation throughout the community of Marina del Rey and into parts of the Los Angeles Metro Region. The closest bus stop from the proposed project is located on the eastern and southern corners of the Admiralty Way and Bali Way intersections approximately 1,000 feet from the proposed

project site. Rehabilitation of the Marina del Rey Hotel and surface parking lot and the redevelopment of the private anchorage would not interfere with alternative transportation service as provided by the MTA. Redevelopment of the private anchorage would include a new gangway and wet-slips and One new side or end tie would be reserved for the marina-wide water taxi service that currently exists in the Marina del Rey small craft harbor. Since implementation of the proposed project would not conflict with adopted policies, plans or programs supporting alternative transportation and would support the marina-wide water taxi service, there would be no impacts. Further analysis on this topic would not be required.

g. ☐ ☒ ☐ **Other factors?**

There are no other factors pertaining to this project that would impact traffic and access in the area.

☒ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Project Design ☐ Traffic Report ☒ Consultation with Traffic & Lighting Division

The applicant would consult with DPW Land Development Division, Traffic and Lighting Division and Fire Department for access. For the remodeling of the private boat anchorage, the applicant would apply for a Parking Permit from the County Department of Regional Planning to allow for a reduction in the standard of 0.75 parking spaces per one wet-slip, to 0.60 parking spaces per one wet-slip. Prior to initiation of any project-related demolition or construction activities on the site, the applicant would submit a construction traffic management plan/Haul Route to DPW for review and approval.

MITIGATION MEASURES:

TRAFFIC 1: Applicant shall submit a construction traffic management plan to Los Angeles County Department of Public Works (DPW) for review and approval prior to initiation of any project construction activity at the subject property. In addition, the project site plan shall be submitted to the DPW Land Development Division for access and parking lot circulation review.

CONCLUSION

Considering the above information, could the project leave a significant impact (individually or cumulatively) on **traffic/access** factors?

☐ Potentially significant ☒ Less than significant with project mitigation ☐ Less than significant/No impact

SERVICES - 2. Sewage Disposal

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**If served by a community sewage system, could the project create capacity problems at the treatment plant?** *No new uses or an increase in people staying or working at the hotel is expected to occur; therefore, the proposed project would not increase the amount of sewage that is generated compared to existing conditions. However, a single sewer waste pump out station with an estimated average disposal of approximately 300 gallons per week is proposed. Furthermore, facilities exist at Burton W. Chace Park and the Marina del Rey Public Launch Ramp for boats to offload human waste into the local community sewage system. Since the proposed project would not substantially generate an increase in sewage, the proposed project would not increase capacity problems at the treatment plant that currently serves the project site. No impacts would occur and further analysis on this topic would not be required.*
b.	☐	☒	☐	**Could the project create capacity problems in the sewer lines serving the project site?** *The proposed project site is currently served by an existing sewer infrastructure conveyance system that is adequate for the current uses (hotel, surface parking lot) on the project site. A single sewer waste pump out station with an estimated average disposal of approximately 300 gallons per week is proposed. Implementation of the proposed project would not substantially generate more sewage than is already generated under current conditions; therefore, the current sewage conveyance system would continue to be adequate upon completion of the proposed project. The proposed project would not impact the existing sewer lines serving the proposed project site; therefore, no impacts would occur with implementation of the proposed project. No further analysis would be required on this topic.*
c.	☐	☒	☐	**Other factors?** *There are no other factors pertaining to this project that would impact sewage disposal services in the area.*

STANDARD CODE REQUIREMENTS

☒ Utilities Code, Title 20 – Division 2 (Sanitary Sewers and Industrial Waste)
☒ Plumbing Code, Title 28 – Chapter 7 (Sanitary Drainage)
☐ California Health Safety Code – Section 5474 (Sewer connection mitigation fee)

☐ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on the physical environment due to **sewage disposal** facilities?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

SERVICES - 3. Education

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Could the project create capacity problems at the district level?** *The hotel use accommodates a transient population and does not generate a permanent population. Therefore, the proposed project would not generate students that would attend local schools. The project would not create capacity problems at the district level, and further analysis on this topic would not be required.*
b.	☐	☒	☐	**Could the project create capacity problems at individual schools that would serve the project site?** *As described above, the proposed project would not generate a permanent population, and thus would not generate a student population that would attend the local educational system. No impacts would occur and further analysis on this topic would not be required.*
c.	☐	☒	☐	**Could the project create student transportation problems?** *As described above, the proposed project would not generate a permanent population, and thus would not generate a student population that would attend the local educational system. Student transportation would not be required nor would it be impacted by the proposed project. No further analysis on this topic would be required.*
d.	☐	☒	☐	**Could the project create substantial library impacts due to increased population and demand?** *The proposed project would not generate a permanent resident population. There would not be an increase in the usage of library facilities due to the implementation of the proposed project. No impacts would occur and further analysis on this topic is not required.*
e.	☐	☒	☐	**Other factors?** *There are no other factors pertaining to this project that would impact education services in the area.*

STANDARD CODE REQUIREMENTS

☐ State of California Government Code – Section 53080 (School Facilities Fee)
☐ Planning & Zoning Code, Title 22 – Chapter 22.72 (Library Facilities Mitigation Fee)

☐ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Site Dedication ☐ Government Code Section 65995 ☐ Library Facilities Mitigation Fee

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CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) relative to **educational** facilities/services?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

SERVICES - 4. Fire/Sheriff Services

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Could the project create staffing or response time problems at the fire station or sheriff's substation serving the project site?** *The proposed project site is currently served by the County of Los Angeles Fire Department and the County of Los Angeles Sheriff's Department. The closest fire station is Los Angeles County Fire Station Number 110 located at 4433 Admiralty Way approximately 0.62 miles from the proposed project site. The fire station that serves the proposed project site is currently operating at an adequate level to serve the community of Marina del Rey. The closest sheriff's department is the Marina del Rey Sheriff's Department (operated by the County of Los Angeles Sherriff's Department) located at 13851 Fiji Way, approximately 1.4 miles from the proposed project site. The Marina del Rey Sheriff's Station is currently staffed with adequate personnel and equipment to maintain adequate service patrol levels in the community of Marina del Rey. The proposed project would not generate a permanent population to the community of Marina del Rey, nor would it generate a larger transient population using the facilities at the Hotel, because there would not be the addition of rooms to the project site. During construction, Best Management Practices (BMPs) would be taken by the construction contractor to ensure construction equipment has spark arrestors on equipment as needed to reduce the possibility of a fire during renovation. Furthermore, the construction contractor would use BMPs in securing equipment as to reduce construction equipment theft during the renovation of the project site. With these BMPs in place and the fact that the proposed project would not generate a larger population than is already established on-site, staffing needs and response times would not increase over existing conditions for the Los Angeles County Fire and Sheriff Departments. No impacts would occur and further analysis on this topic would not be required in an EIR.*
b.	☐	☒	☐	**Are there any special fire or law enforcement problems associated with the project or the general area?** *As described above, the proposed project site is located in the urbanized area of Marina del Rey. BMPs would be standard during renovation and construction of the Marina del Rey Hotel and Parcels 42/43 Boat Anchorage, respectively, 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. Furthermore, renovation of the proposed project would include the development of a new up-to-date fire sprinkler system throughout the Marina del Rey Hotel to help in reducing the risk of fire spread in case of a conflagration. Since the proposed project would not pose any special fire or law enforcement problems, there would be no impacts. Therefore, further analysis on this topic would not be required.*
c.	☐	☒	☐	**Other factors?** *There are no other factors pertaining to this project that would impact fire or sheriff services in the area. Further analysis on this topic would not be required.*

STANDARD CODE REQUIREMENTS

☐ Revenue & Finance Code, Title 4 – Chapter 4.92 (Fire Protection Facilities Fee)

☐ **MITIGATION MEASURES /** ☒ **OTHER CONSIDERATIONS**

BMPs mentioned in "a." and "b." above would be taken by the construction contractor to ensure construction

equipment has spark arrestors on equipment as needed to reduce the possibility of a fire during renovation. Furthermore, the construction contractor would use BMPs in securing equipment as to reduce construction equipment theft during the renovation of the project site.

The Los Angeles County Sheriff and Fire Departments were consulted.

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) relative to **fire/sheriff** services?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

SERVICES - 5. Utilities/Other Services

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Is the project site in an area known to have an inadequate public water supply to meet domestic needs or to have an inadequate ground water supply and proposes water wells?** *The Department of Public Works operates and maintains the Marina del Rey water conveyance system for the Department of Beaches and Harbors.[17] This same water conveyance system currently serves the proposed project site. The Marina purchases its water from the Los Angeles County Marina del Rey Water System, which is the purveyor for the Metropolitan Water District of Southern California.[18] The proposed project site is not nor would it be served by water wells. The proposed project does not include an increase in square footage of the existing buildings on site, or an increase in the amount of guest rooms within the existing Marina del Rey Hotel. Therefore, the proposed project would not require an increase in demand for water supply upon its build-out. Furthermore, the applicant of the proposed project would develop and submit a Landscaping Plan for the renovation of the existing landscaping and irrigation system on the project site. The Landscaping Plan would include the replacement of non-drought tolerant landscaping with drought-tolerant landscaping, which would reduce the amount of water that would be needed on the proposed project site. Since the proposed project would not generate an increased need for water to the project site and would install water efficient shower heads, among other water conservation measures, and since the proposed project would incorporate design features in landscaping that would reduce the use of water, the proposed project would continue to have an adequate water supply. No impacts would occur and further analysis on this topic would not be required.*
b.	☐	☒	☐	**Is the project site in an area known to have an inadequate water supply and/or pressure to meet fire fighting needs?** *The proposed 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 currently adequate for the uses that currently exist on the project site (the Marina del Rey Hotel and the Parcels 42/43 Boat Anchorage). Furthermore, the proposed project site contains fire hydrants located around the Marina del Rey Hotel 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 or area to the existing Marina del Rey Hotel; therefore, an increase 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.*
c.	☐	☒	☐	**Could the project create problems with providing utility services, such as electricity, gas, or propane?** *The proposed 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. The rehabilitation of the Marina Del Rey Hotel would not include the addition of building square footage or an increase in 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. The new private anchorage would include updated utility hook-ups (electricity) which would be supplied by existing infrastructure that currently exists in the dock system. The amount of electricity that would be demanded by boats docking in the new wet-slips of the remodeled Parcels 42/43 Boat Anchorage would be the same or slightly less than existing demand because of*

17 Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 1996, pg. 12-2.
18 Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 1996, pg. 12-2.

the reduction of slips, and the current infrastructure system would be able to accommodate this future demand. No impacts would occur and further analysis on this topic would not be required.

d. ☐ ☒ ☐ **Are there any other known service problem areas (e.g., solid waste)?**

The proposed project would not 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 rehabilitation and remodeling of the Marina del Rey Hotel and redevelopment of the private anchorage, respectively, a slight increase in the amount of renovation 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, allowing approximately 54 percent (54 percent is the most up to date 2006 diversion rate for Unincorporated Areas of Los Angeles County) of the debris to be diverted and recycled. 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, no impacts would occur. A Recycling and Reuse Plan would be prepared for construction activities. The project design would provide adequate storage area for the collection and removal of recyclable materials subject to the satisfaction of DPW. Further analysis on this topic would not be required.

e. ☐ ☒ ☐ **Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services or facilities (e.g., fire protection, police protection, schools, parks, roads)?**

The proposed project would not generate an increase demand for government facilities, fire protection, police protection, schools, parks, or roads because the proposed project consists of the rehabilitation of the existing Marina del Rey Hotel, renovation of the surface parking lot, and redevelopment of the private anchorage. The proposed project would not intensify the land uses that are currently located on the project site, and therefore, would not generate a greater demand from these public services and facilities within the community of Marina del Rey. Implementation of the proposed project would not cause an impact on governmental facilities and public services; therefore, further analysis on this topic would not be required.

f. ☐ ☒ ☐ **Other factors?**

There are no other factors pertaining to this project that would impact utilities and public services in the area.

STANDARD CODE REQUIREMENTS

☒ Plumbing Code, Title 28 – Chapters 3, 6 & 12

☒ Utilities Code, Title 20 – Divisions 1, 4 & 4a (Water, Solid Waste, Garbage Disposal Districts)

☐ **MITIGATION MEASURES /** ☒ **OTHER CONSIDERATIONS**

☐ Lot Size ☒ Project Design

A Recycling and Reuse Plan would be submitted to DPW Environmental Programs Division for approval prior to construction or demolition.

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) relative to **utilities** services?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

OTHER FACTORS - 1. General

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Would the project result in an inefficient use of energy resources?** *The proposed project is currently served by Southern California Edison for its electrical needs. The existing Marina del Rey Hotel on the project site is currently outdated with respect to energy reduction resources within its design. Renovation of the Marina del Rey Hotel would include replacement of outdated lighting fixtures with replacement of energy efficient lighting fixtures and LED bulbs. This, in turn, would reduce the net amount of energy that the proposed project would require, compared to existing conditions.*
b.	☐	☒	☐	**Would the project result in a major change in the patterns, scale, or character of the general area or community?** *The proposed project includes the rehabilitation of the existing Marina del Rey Hotel and the construction of a new private anchorage on the waterside portion of the parcels. Rehabilitation of the Marina del Rey Hotel would not include the addition of floors, guest-rooms or the development of additional square feet of building space on the proposed project site. The scale of the existing Marina del Rey Hotel would remain the same upon completion of the proposed renovation process. The renovation of the exterior of the hotel would provide a modernized design which would better reflect the character and pattern of existing buildings adjacent and nearby to the proposed project site. The demolition and construction of a new private anchorage on the waterside portion of the subject parcels would provide an updated layout design. The proposed project would not result in a major change in the patterns, scale or character of the general area or community; therefore, there would be no impacts. Further analysis on this topic would not be required.*
c.	☐	☒	☐	**Would the project result in a significant reduction in the amount of agricultural land?** *The proposed project site does not consist of agricultural land, nor is there any agricultural land adjacent to or near the proposed project site.*
d.	☐	☒	☐	**Other factors?** *There are no other factors pertaining to this project that would impact general items in the area.*

STANDARD CODE REQUIREMENTS

☒ California State Administrative Code, Title 24, Part 5, T-20 (Energy Conservation)

☐ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

☐ Lot Size ☐ Project Design ☐ Compatible Use

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on the physical environment due to any of the above factors?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

OTHER FACTORS - 2. Environmental Safety

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Are any hazardous materials used, transported, produced, handled, or stored on-site?** *Typically, hotel uses do not store or handle hazardous materials. However, on-site support services, such as janitorial services and pool cleaning services could store small amounts of paint, cleaning substances, and chlorine Any amount of hazardous materials that would be stored on site upon completion of the proposed project would be subject to federal and state laws pertaining to the storage, generation and disposal of hazardous waste materials. Furthermore, the County of Los Angeles is authorized to inspect on-site uses and to enforce state and federal laws pertaining to the storage, use, transportation and disposal of hazardous wastes and materials. The County of Los Angeles also requires that uses such as hotels submit to an annual inventory of hazardous materials in use on site, as well as business emergency plans, submitted annually for review. Since the proposed project could store hazardous materials on-site pertaining to janitorial services and pool cleaning services, 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.	☐	☒	☐	**Are any pressurized tanks to be used or any hazardous wastes stored on-site?** *The proposed project site currently does not contain pressurized tanks or hazardous wastes that are stored on-site. Furthermore, no pressurized tanks or hazardous wastes would be developed or stored on the proposed project site upon its completion. Therefore, no impacts would occur and further analysis on this topic would not be required.*
c.	☐	☒	☐	**Are any residential units, schools, or hospitals located within 500 feet and potentially adversely affected?** *The proposed project site is located more than 500-feet from the closest residential units, school, and hospital, and would not include the storage of large quantities of hazardous materials or pressurized tanks, there would be no impacts. Further analysis on this topic would not be required in an EIR.*
d.	☐	☒	☐	**Have there been previous uses that indicate residual soil toxicity of the site or is the site located within two miles downstream of a known groundwater contamination source within the same watershed?** *The proposed project site has been developed for at least the past 50 years with the existing Marina del Rey Hotel. Past uses are not expected to have resulted in soil contamination and landform alteration activities would not occur with the landside project that would have the potential to significantly disturb existing site soils If any excavated soil is found to be contaminated, or classified as hazardous waste by an appropriate agency, the soil would be managed and disposed of in accordance with applicable Federal, State, and local laws and regulations. . No impacts would occur and further analysis on this topic would not be required in an EIR.*
e.	☐	☒	☐	**Would the project create a significant hazard to the public or the environment involving the accidental release of hazardous materials 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 renovation activities on the project site, as well as during operation of the uses on the project site upon build-out. All uses and storage of these materials would 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.

Redevelopment of the private anchorage would include the pounding of piles into the sea floor beneath the boat slips to support the new dock system that would be developed. As stated earlier, the proposed project site is located within an area of Marina del Rey that is known to have pockets of natural gas occurring underground. Pockets of methane gas could exist below the area where the anchorage piles for the new dock system would be pounded into the sea floor. However, the likelihood that the piles could penetrate these pockets and release natural gas into the environmental is minimal, since the anchorage system would penetrate the sea floor only a short distance. Precautions would still be taken to avoid the occurrence of releasing methane gas into the environment by complying with Los Angeles County Building Code Section 110.4, which addresses Methane Gas Hazards. With these precautions in place impacts would be less than significant. No further analysis would be required on this topic in an EIR.

f. ☐ ☒ ☐ **Would the project emit hazardous emissions or handle hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

The proposed project is not located within one-quarter mile of an existing or proposed school and would take actions to avoid accidental releases of hazardous materials. Therefore impacts would be less than significant. Further analysis on this topic would not be required in an EIR.

g. ☐ ☒ ☐ **Would the project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or environment?**

The proposed project 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.[19] The closest site that is included on a list of hazardous materials sites is located 4144 Glencoe Avenue, approximately 0.67 miles northeast of the proposed 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.

h. ☐ ☒ ☐ **Would the project result in a safety hazard for people in a project area located within an airport land use plan, within two miles of a public or public use airport, or within the vicinity of a private airstrip?**

The proposed project site is located approximately 2.3 miles to the northwest of Los Angeles International Airport (LAX) and approximately 2.08 miles southeast of the Santa Monica Airport. The proposed project is therefore not located within 2 miles of an airport. Furthermore, the proposed project is not located within the Santa Monica Airport Influence Area[20] or the LAX Airport Influence Area[21] 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.

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19 California Department of Toxic Substances, Envirostor, Hazardous Waste and Substances Site List, Accessed January 11, 2010.

20 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 January 11, 2010.

21 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 January 11, 2010.

i. ☐ ☒ ☐ **Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

The proposed project site is located in Marina del Rey an unincorporated portion of the County of Los Angeles. The proposed project site would be subject to the Operational Area Emergency Response Plan (the OAERP), which is prepared by the Office of Emergency Management.[22] Implementation of the proposed project site 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.

j. ☐ ☐ ☒ **Other factors?**

The project site appears to be located on or within 1,000 feet of a landfill (Venice Dump and Celery Dump).

☒ MITIGATION MEASURES / ☐ OTHER CONSIDERATIONS ☐ Toxic Clean-up Plan

The project would comply with Building Code Section 110.3 to address potential proximity to landfill and Section 110.4 to address Methane Gas Hazards. Demolition and renovation activities are subject to AQMD Rule 1403.

MITIGATION MEASURES:

SAFETY 1: Applicant shall contact Department of Public Works Environmental Programs Division (EPD) to confirm location of any nearby landfill(s) and will provide EPD with a study of subsurface lateral migration of landfill gas, if necessary, in compliance with Building Code Section 110.3.

CONCLUSION

Considering the above information, could the project have a significant impact relative to **public safety**?

☐ Potentially significant ☒ Less than significant with project mitigation ☐ Less than significant/No impact

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

OTHER FACTORS - 3. Land Use

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Can the project be found to be inconsistent with the plan designation(s) of the subject property?** *The subject parcels' land use designations per the Marina del Rey Land Use Plan are "Hotel" and "Water." The Hotel land use designation permits hotels and motels to provide overnight accommodations and attendant visitor-serving services including dining and entertainment uses. The Water land use designation permits private anchorages, as proposed. The rehabilitation of an existing hotel and anchorage is therefore consistent with the plan designations on the project site.*
b.	☐	☒	☐	**Can the project be found to be inconsistent with the zoning designation of the subject property?** *The proposed project is zoned as Specific Plan under the Los Angeles County Zoning Ordinance. Furthermore, the Marina del Rey Land Use Plan has designated the project as being within the "Bali Development Zone." This area is permitted for the development of a Hotel; 382 hotel rooms or motel units: and expansion of the anchorage (in the Funnel Expansion Area only). Since the proposed project includes the rehabilitation of the existing hotel and redevelopment of a private anchorage, the proposed project would be consistent with the zoning designation on the project site.*
c.				**Can the project be found to be inconsistent with the following applicable land use criteria:**
	☐	☒	☐	**Hillside Management Criteria?**
	☐	☒	☐	**SEA Conformance Criteria?**
	☐	☒	☐	**Other?** *The proposed project 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 proposed project 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.*
d.	☐	☒	☐	**Would the project physically divide an established community?** *The proposed project site is located in an area of Marina del Rey that is highly urbanized. Existing residential structures, commercial structures, marina anchorages, 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 would be required in an EIR.*
e.	☐	☒	☐	**Other factors?** *The proposed project does not have any other conflicts regarding land use. There would be no impacts, and further analysis on this topic would not be required.*

☐ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on the physical environment due to **land use** factors?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

OTHER FACTORS - 4. Population/Housing/Employment/Recreation

SETTING/IMPACTS

	Yes	No	Maybe	
a.	☐	☒	☐	**Could the project cumulatively exceed official regional or local population projections?**

Hotel uses provide room and board for a transient population, which is not counted toward the population of the community of Marina del Rey. 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.

b.	☐	☒	☐	**Could the project induce substantial direct or indirect growth in an area (e.g., through projects in an undeveloped area or extension of major 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 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.

c.	☐	☒	☐	**Could the project displace existing housing, especially affordable housing?**

The existing land uses on the project site include surface parking lots, a conference building, a private boat anchorage, and the Marina del Rey Hotel. There are no residential units located on the project site; therefore, implementation of the proposed project would not displace existing housing or affordable housing within the community of Marina Del Rey. No impacts would occur and no further analysis on this topic would be need in an EIR.

d.	☐	☒	☐	**Could the project result in substantial job/housing imbalance or substantial increase in Vehicle Miles Traveled (VMT)?**

The proposed project would rehabilitate the existing Marina del Rey Hotel and surface parking lot and redevelop the existing private anchorage on the waterside portion of the subject parcels. The proposed project does not contain residential units, and therefore, would not increase or decrease the housing within the community of Marina del Rey. Furthermore, upon completion of the proposed project, the number of employees that are currently working on the project site would not increase or decrease, and therefore would not affect the job balance within the community of Marina del Rey. Since the proposed project includes renovation and remodeling of an existing building and marina Vehicle Miles Traveled would not increase due to its implementation. No impacts would occur and further analysis on this topic would not be required.

e.	☐	☒	☐	**Could the project require new or expanded recreational facilities for future residents?**

The existing Marina del Rey Hotel currently includes a pool area and exercise room that provides for recreational activities to visitors staying at the hotel. The proposed project would include the renovation of the pool and pool area; however, the exercise room would not be renovated and would remain similar to its existing condition. The renovation of the pool and pool area would include the resurfacing of the pool interior, and addition of new coping and decorative tile accents. The pool-deck area would be renovated and a wood-polymer composite decking would be constructed to accentuate the renovations to the pool. Since the proposed project would not generate a permanent population within the community of Marina del Rey, there would not be a need to develop or expand additional recreational facilities around or near the project site. The transient population staying at the hotel upon completion of the proposed project, would still be able to access existing

recreational facilities such as the Marina del Rey Marina and Burton W. Chace Park near the project site. No impacts would occur and further analysis on this topic would not be required.

f. ☐ ☒ ☐ **Would the project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

The project site does not contain residential units where a permanent population resides. The proposed project would not displace substantial numbers of people, and would not necessitate construction of replacement housing. No impacts would occur and further analysis on this topic would not be required.

g. ☐ ☒ ☐ **Other factors?**

There are no further factors that are required to be analyzed. No Impacts would occur due to other factors concerning population, housing, employment and recreation topics.

☐ **MITIGATION MEASURES /** ☐ **OTHER CONSIDERATIONS**

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on the physical environment due to **population, housing, employment,** or **recreational** factors?

☐ Potentially significant ☐ Less than significant with project mitigation ☒ Less than significant/No impact

MANDATORY FINDINGS OF SIGNIFICANCE

Based on this Initial Study, the following findings are made:

	Yes	No	Maybe	
a.	☐	☐	☒	**Does the project have the potential to substantially 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, 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 it 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. Potential exists for the proposed project to impact marina biota during redevelopment of the private anchorage located on the waterside portion of the subject parcels; however, mitigation measures have been presented above which would reduce impacts to a less than significant level. Furthermore, the proposed project site contains potential habitat for nesting birds such as the Great Blue Heron, Black-crowned Night Heron and Great Egret. Mitigation measures have been presented in this Initial Study which would provide guidance on how to conduct surveys for these bird species prior to renovation and remodeling actives. With implementation of these mitigation measures, impacts would be less than significant and further analysis on this topic would not be required.*
b.	☐	☒	☐	**Does the project have possible environmental effects that are individually limited but cumulatively considerable? "Cumulatively considerable" means that the incremental effects of an individual 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.*
c.	☐	☒	☐	**Would the environmental effects of the project cause substantial adverse effects on human beings, either directly or indirectly?** *As described throughout the Initial Study, the proposed project includes the rehabilitation of the Marina del Rey Hotel, renovation of the surface parking lot, and redevelopment of a private anchorage and associated amenities. The proposed project would not include any construction activities or operational activities that would cause a substantial adverse effect on human beings. No impacts would occur and further analysis on this topic would not be required.*

CONCLUSION

Considering the above information, could the project have a significant impact (individually or cumulatively) on the environment?

☐ Potentially significant ☒ Less than significant with project mitigation ☐ Less than significant/No impact

FIGURES

FIGURE 1. Regional Location
FIGURE 2. Proposed Project Location

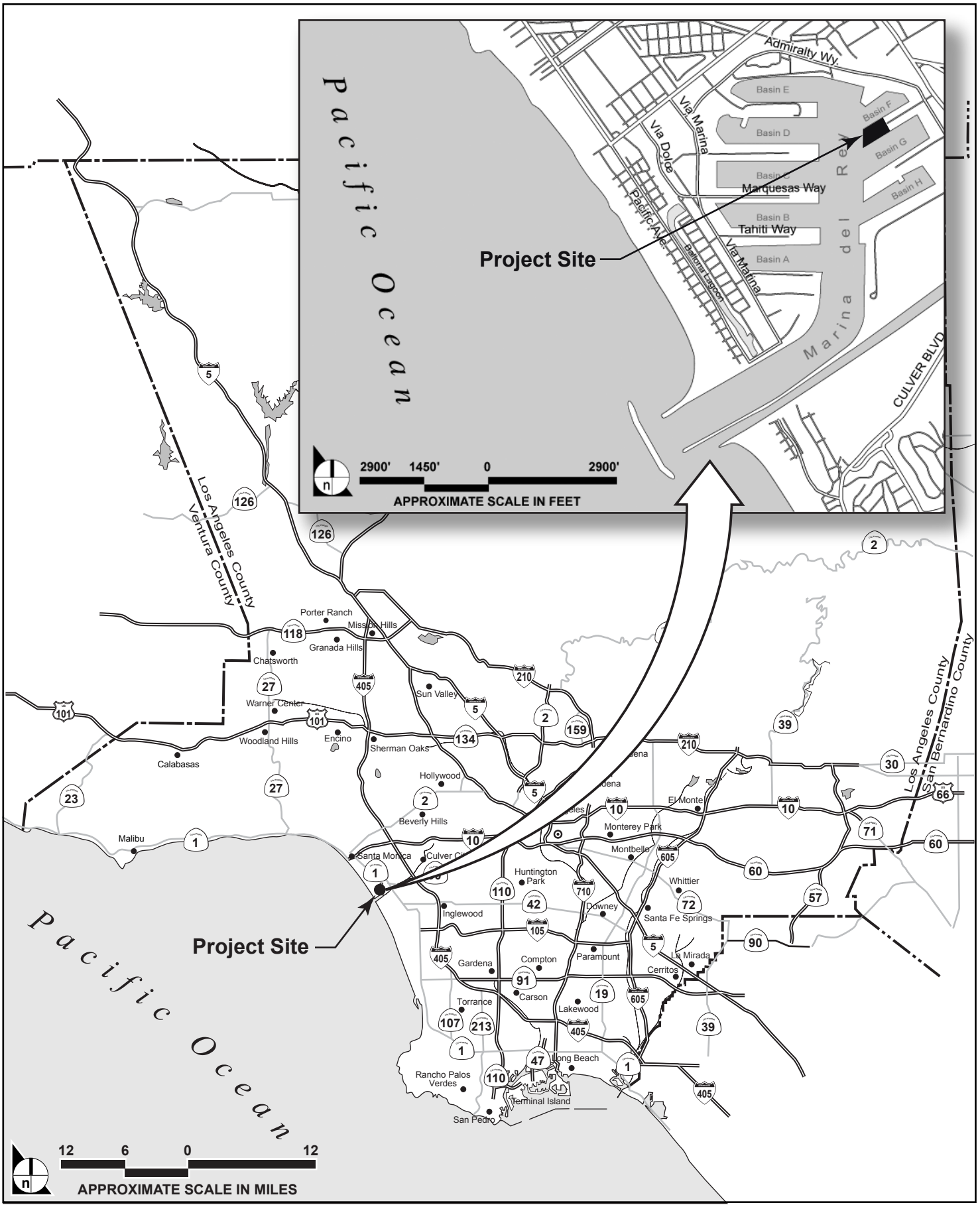
APPENDICES

APPENDIX A: MARINE BIOLOGICAL RESOURCES ENVIRONMENTAL ASSESSMENT, Coastal Resources Management, Inc., March 2010

APPENDIX B: BIOLOGICAL REPORT, Califauna, May 2009
REVISED BIOLOGICAL REPORT, Califauna, August 2010

APPENDIX D: MARINA DEL REY HOTEL AND ANCHORAGE PROJECT AIR QUALITY ASSESSMENT, Impact Sciences Inc., February 2010

APPENDIX E: NOISE AND VIBRATION STUDY FOR THE MARINA DEL REY HOTEL AND ANCHORAGE RENOVATION AND REDEVELOPMENT PROJECT IN LOS ANGELES COUNTY, CALIFORNIA, Impact Sciences, Inc., January 2010



SOURCE: Impact Sciences, Inc. – January 2010

FIGURE **1**

Regional Location

1049-001•01/10

SOURCE: Google Earth – 2010; Impact Sciences, Inc. – January 2010

FIGURE **2**

Proposed Project Location

1049-001•01/10

APPENDIX A

MARINE BIOLOGICAL RESOURCES ENVIRONMENTAL ASSESSMENT for the MARINE DEL REY HOTEL DOCK PROJECT, BASINS F AND G MARINA DEL REY HARBOR, CALIFORNIA

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March 28th, 2010

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1.0 INTRODUCTION

1.1 PROJECT PURPOSE

MDR Marina, L.P. proposes to renovate the Marina del Rey Hotel Marina boat dock system, in Marina del Rey Harbor, Marina del Rey, California. Coastal Resources Management, Inc. was retained by MDR Marina, L.P. to prepare an environmental assessment of the potential impacts of the proposed project on marine resources. The marine resources that were included in this impact assessment included marine plants, marine invertebrates, marine fishes, sensitive biological resources, and invasive species.

This report focuses on the environmental requirements set forth in the Marina del Rey Specific Plan, Part 3 of Chapter 22.46, Supplemental Filing Requirements for development projects in Marina del Rey (Revised Feb 96). Specifically, this report addresses filing requirement 22.46.1180.2 regarding the project's environmental impacts on biological productivity and marine biological resources within and adjacent to Marina del Rey Harbor. These potential impacts include:

1. Effects of any additional pollutants due to increased runoff caused by new development;
2. Potential changes in water temperature and biological productivity caused by outfalls, runoff, or a decrease in light entering the water due to shadowing (new buildings); and
3. Effects of any new structures placed in the water.

Items #2 and #3 are specifically addressed in this document, since the proposed project (renovation of existing boat docks) involves in-water development.

1.2 PROJECT LOCATION

Marina del Rey is located in Santa Monica Bay, California, south of Venice and north of Playa del Rey (Figure 1). It is approximately 24 kilometers (14.9 mi) southwest of downtown Los Angeles. Constructed in 1960 from part of the Ballona Wetlands and the former Lake Los Angeles, Marina del Rey encompasses approximately 354 acres and has a capacity to accommodate more than 6,000 private watercraft. The marina is protected at its entrance by two jetties and a detached breakwall, and is adjacent to the downcoast Ballona Creek Flood Control Channel. Marina del Rey is divided into eight basins, A through H.

The project area includes the dock systems and vessels on the south side of Basin F, the west-facing dock system on the main channel, the north side of Basin G, open-water fairways between docks, and the rip rap and bulkhead systems located shoreward of the marina (Figure 2). It encompasses about 8.1 acres, of which 3.6 acres are open waters and 4.5 acres of dock and vessel surface area (Figures 2-5).

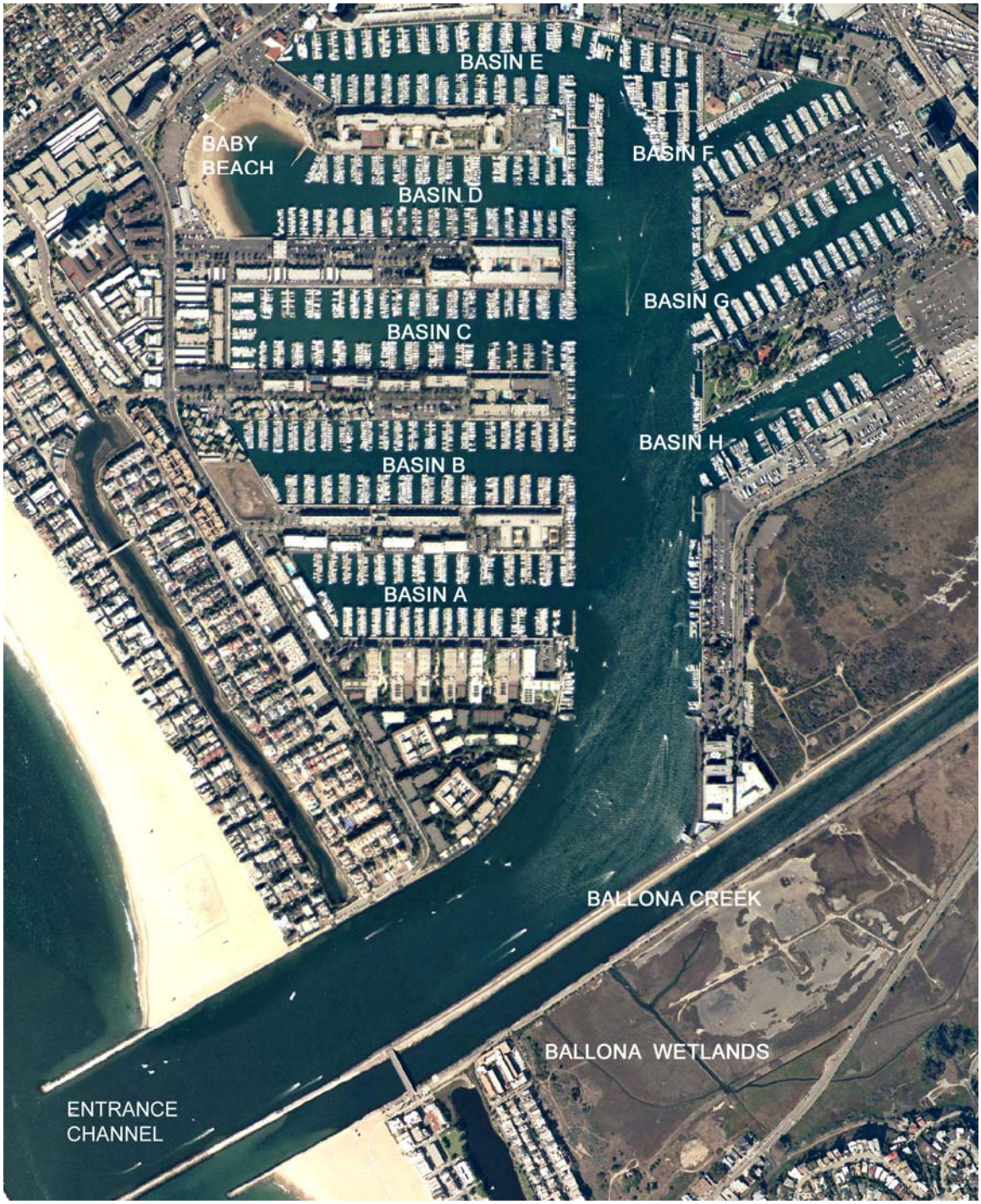

Figure 1. Marina del Rey Harbor,

Figure 2. Location of Project Area in Marina del Rey.

Figure 3. Project Area Docks, Basin F

Figure 4. Project Area Headwalk on Docks in the Main Channel

Figure 5. Project Area Docks, Basin G

1.3 PROPOSED PROJECT COMPONENTS (Source: Roger Van Wert, Van Wert Inc., MDR Marina, L.P.)

The proposed dock project will include the demolition of the existing docks, removal of piles, and the installation of new docks and piles. The new slip mix is shown in Table 1 and the proposed dock system is shown in Figure 6. The surface area of the existing dock is approximately 2.06 acres (89,965 square feet), and there are 163 piles. The new dock structure will encompass a total of 2.40 acres (104,099 square feet). The number of new piles will be 195, ranging in diameter from 14" to 24". The average slip length will be 43.2 feet.

Table 1. Proposed Dock Specifications

SLIP MIX CHART		
SLIP LENGTH	**TOTAL QTY**	**OVERALL LENGTH**
30	4	120
32	1	32
33	2	66
35	77	2695
38	7	266
40	64	2560
42	7	294
43	2	86
44	7	308
45	37	1665
46	3	138
48	7	336
49	2	98
50	26	1300
52	1	52
60	10	600
65	10	650
70	10	700
Total	**277**	**11966**
Average Slip Length (Ft)		**43.20**
End Ties	13	

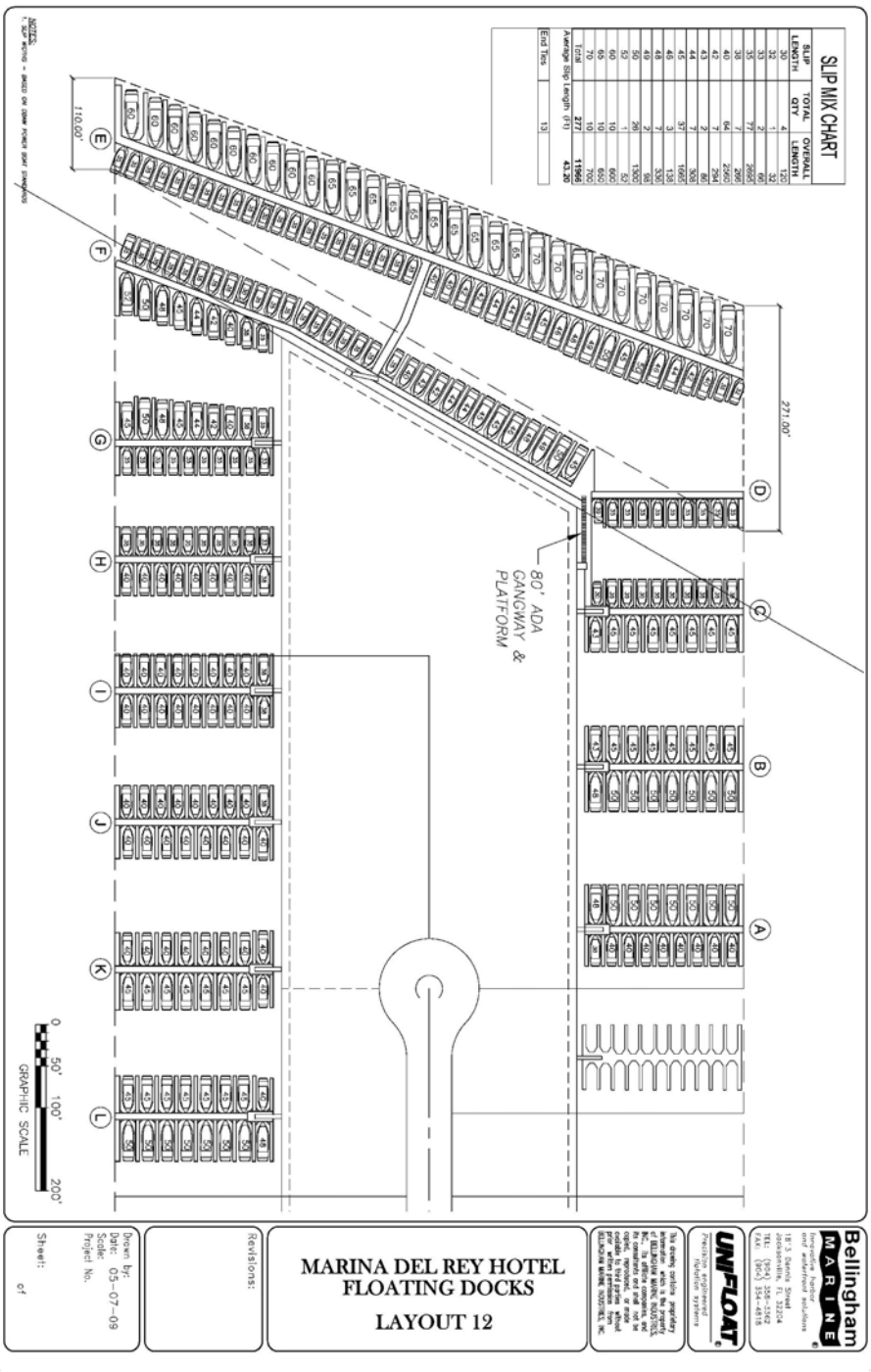

Figure 6. Proposed Marina del Rey Hotel Dock Layout
Source: MDR Marina, L.P.

2.0 EXISTING PHYSICAL AND BIOLOGICAL CONDITIONS

2.1 PHYSICAL ENVIRONMENT

The majority of marine habitat in Marina del Rey Harbor is subtidal (below the tide level) soft bottom habitat consisting of sands, silts, and clays (ABC Laboratories, 2005). The breakwall and main channel entrance jetties are constructed of rip rap and support hard bottom species (ACOE 1999). Within the marina proper, hard bottom habitat is limited to vertical retaining walls, protective rip rap placed up against the seawalls, piers, and floats. The only gently sloping, shallow water habitat in the marina is a small swimming beach (Mother's Beach) at the back of Basin D (Figure 1). Depths in the harbor range between about 17-20 feet Mean Lower Low Water (MLLW) in the entrance channel to between 9 and 10 ft in the mid-harbor main channel. Basin depths are approximately 7 and 10 ft deep that shallow up to depths of between 0.0 and -3 ft MLLW at the base of rip rap that protects the marina's seawalls (Coastal Resources Management, Inc. 2008).

2.1.1 Project Site Physical Characteristics

A marine biological reconnaissance survey was conducted at the Marina del Rey Hotel dock project site on 18 and 19 February, 2010 by Coastal Resources Management, Inc to determine both physical and marine biological characteristics within the area proposed for dock renovation. The survey was conducted by diving marine biologists who conducted underwater transects within each fairway of the marina from the seawall to the seaward end of the last boat slip. These transects were swam to a maximum depth of -10 ft MLLW and a distance of 60 to 70 meters seaward of the seawalls. Substrate types included cement seawall (bulkhead), rip rap, and unconsolidated sand-to-silty. Rip rap was covered with a fine layer of silt. Underwater visibility was poor to fair, and averaged about 2.5 ft on each side of the diver's transect center line. Suspended material and silt contributed to low visibility conditions. Water temperature was 61 degrees Fahrenheit. Tidal currents were minimal during the survey.

2.2 WATER QUALITY (Source: ABC Laboratories, 2005)

Marina del Rey Harbor, with its enclosed, shallow configuration, is heavily influenced by local, seasonal variability that includes changes in air and water temperature, waves, wind, rainfall, and changes in length and intensity of solar radiation. Periodic phytoplankton blooms, including red tides, are probably exacerbated by nutrient inputs from urban runoff and vessel traffic. In turn, these blooms of red tide within enclosed bays and harbors can negatively impact resident fish and invertebrates by depleting oxygen as they decompose (ABC Laboratories, 2005).

There are four potential sources of anthropogenic inputs into Marina del Rey during both wet and dry weather (ABC Laboratories, 2005). The first is the Ballona Creek Flood Control Channel that is by far the largest in volume and is a major drainage area for much of metropolitan Los Angeles. The watershed that drains into Ballona Creek is shown in Figure 7. The runoff from Ballona Creek is a major influence on surface waters near the

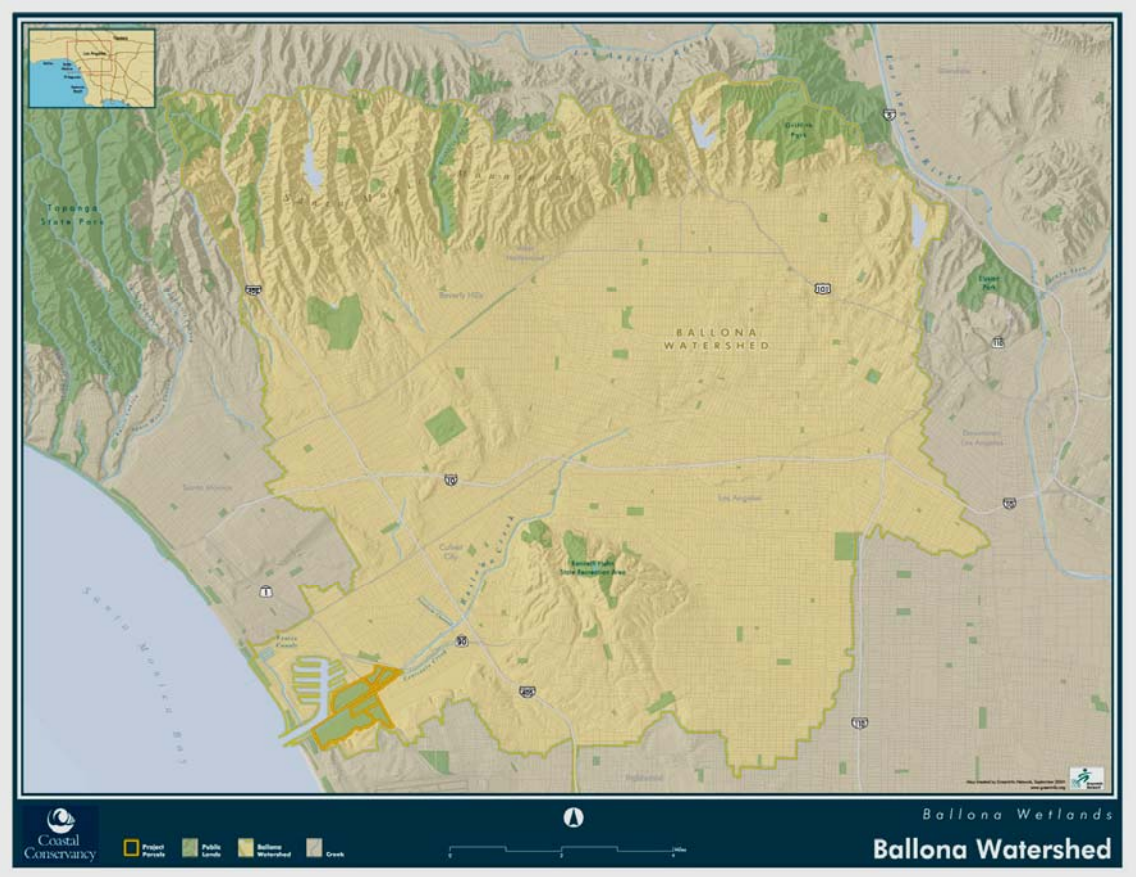

Figure 7. Ballona Watershed. Map Source: California Coastal Conservancy (2006) in: California Wildlife Ecology and Coastal Resources Management, Inc. (2007).

marina entrance, but not further back in the Marina's mid-channel and back basins (Los Angeles County Department of Beaches and Harbors, 2004). The effect of runoff from Ballona Creek is easily seen after a storm when trash (Styrofoam cups, plastic bottles, plastic bags, tennis balls, etc.) and other debris accumulate on the outer breakwater and channel jetties. Ballona Creek is listed as an impaired water body (303(d)) by the State of California and is currently undergoing a Total Maximum Daily Load (TMDL) investigation for bacteria.

The second source is the Oxford Flood Control Basin (Oxford Lagoon) which was built in the mid-1990's to improve the drainage of nearby streets during rain storms (Figure 8). The Lagoon is connected to the Marina through a tidal gate in Basin E. Water entering Basin E from the Lagoon slowly disperses into the main channel through tidal flushing. The third source includes the hundreds of small storm drains and other channels that drain directly into the Marina's back basins. Most of these drains only flow during wet weather, but an investigation currently under way is identifying those drains that flow during dry weather (LA County Department of Beaches and Harbors, 2004). Finally, the resident recreational boat population may contribute sewage and chemical contaminants directly into the Marina's waters through either accidental or intentional discharge of bilge water and petroleum byproducts.

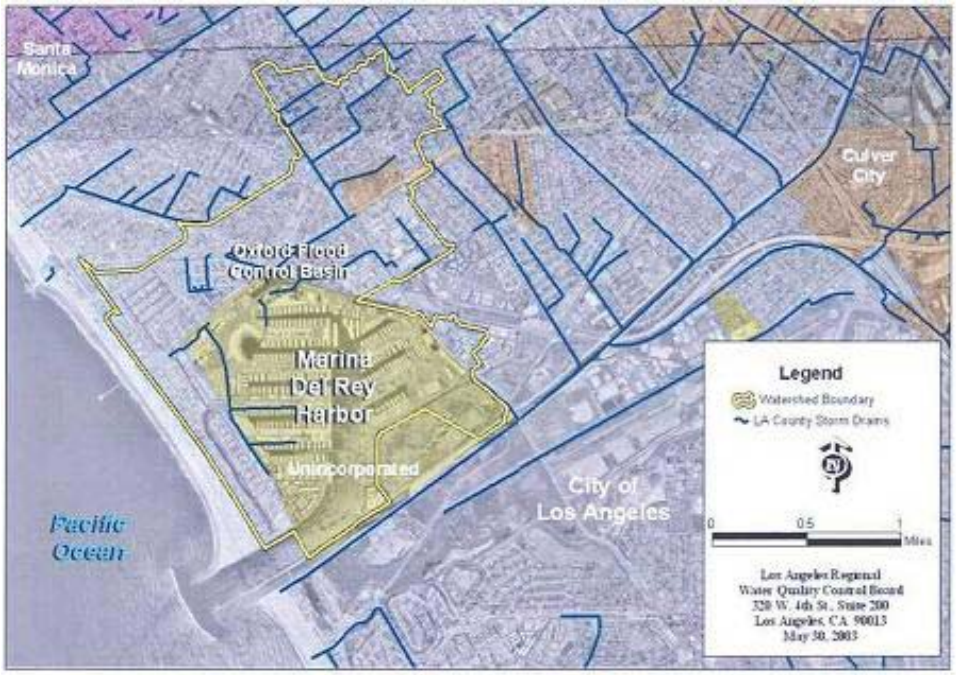

Figure 8. Marina del Rey Watershed. Source: ABC Laboratories, Inc. (2005)

Since 1998, water quality in the Marina has remained relatively stable and appears to be most influenced by seasonal weather and oceanographic conditions, and anthropogenic inputs from Oxford Lagoon and Ballona Creek (ABC Laboratories, 2005). Sampling locations for these studies are shown in Figure 9. While no statistically significant water quality trends were identified during analysis of long-term water quality trends in Marina del Rey Harbor, several parameters revealed visible trends. Average dissolved oxygen increased slightly over the time period, mainly at the entrance to the Marina and in the mid-channel. Water clarity, as measured by light transmittance and secchi disk, decreased slightly during the period. Reductions in water clarity may be the result of the periodic red tides that have been prevalent in the summer and fall. Water color during the seven year period did not completely follow this trend.

None of the other water quality parameters showed increasing or decreasing trends. Temperature followed normal seasonal patterns with warmer water in the summer and fall, and cooler water in the spring and winter. Heavy rain years in 1998 and 2005 were evidenced by salinity reductions in the back basins in 1998 and the entire Marina in 2005. Average ammonia concentrations remained the same across years, but were intermittently elevated in Oxford Lagoon, Ballona Creek, Basin E, and Basin F. Exceedances of the REC-1 bathing water standards for total coliforms, fecal coliforms and Enterococcus bacteria varied during the seven year period without following any

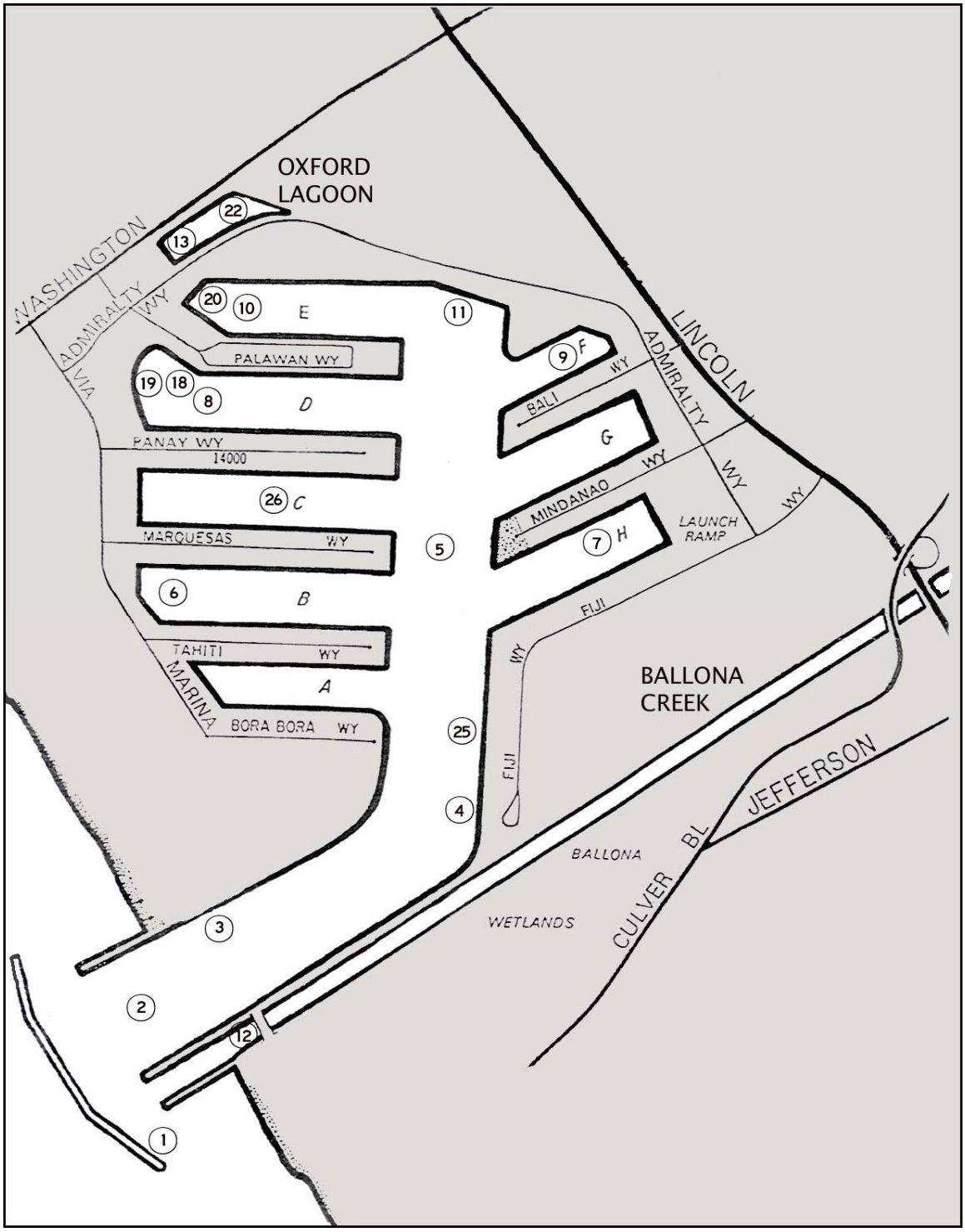

Figure 9. Water Quality, Sediment, and Biological Sampling Locations in Marina del Rey and Ballona Creek. Source: ABC Laboratories, Inc. (2005)

clear increasing or decreasing trends. For the Marina as a whole, each of the indicator bacteria exceeded their respective single sample standards in between 10 to 25% of the samples collected since 1998. When broken down as a percentage of samples collected from different sub-areas of the Marina, the majority of exceedances occurred in samples collected from Oxford Lagoon (25% to 80%, n=504), Basin E (3% to 40%, n=483), and Ballona Creek (18% to 75%, n=252).

2.3 SEDIMENT CONTAMINANTS (Source: ABC Laboratories, 2005)

Sediment contaminant concentrations and spatial patterns measured in Marina del Rey Harbor during 2004 were similar to those measured during the previous 25 years of sampling in the Marina (ABC Laboratories, 2005). In general, the concentrations of heavy metals were elevated in the back basins. Pesticides were also elevated in the back basins but measured in highest concentrations at the Marina entrance. The major source of contaminants in the Marina's back basins is dry-and-wet weather urban runoff that enters the Marina through the Oxford Lagoon and to a lesser extent, the hundreds of medium and small storm drains.

Elevated contaminant concentrations in sediments located at the entrance to the Marina are probably the result of runoff from Ballona Creek and deposition of particles that are swept there by coastal long shore currents. All of the heavy metals, except cadmium and silver, followed a similar spatial trend in the Marina: highest concentrations were in the back basins including sampling stations 9 and 11 (Basin E and F). Cadmium and silver concentrations were greater at the entrance to the Marina and at Station 25 in the mid-channel near the bait docks. Both Oxford Lagoon and, in some cases, stations located at Ballona Creek near the entrance to the Marina were also elevated.

Copper and tri-butyl tin, each historic components of anti-fouling paint, were elevated in the back basins. Four metals (copper, mercury, lead, silver and zinc) exceeded concentrations measured in Los Angeles Harbor (1995) and/or during Southern California Coastal Water Research Project (SCCWRP) reference site surveys in 1977, 1985 and 2003. In 2004, each of the metals measured exceeded the Effects Range Low (ER-L) (Long and Morgan, 1990) threshold for at least one station. In addition, the concentrations of copper, mercury, silver and zinc exceeded either the Effects Range Medium (ER-M) or Apparent Effects Threshold (AET) (PTI Environmental Services, 1988), indicating that significant biological community impairment may have occurred. The ER-L ER-M, and AET Threshold was exceeded in samples from Station 9, located in Basin F.

Pesticides and PCBs have been persistently high in the Marina over time. The highest concentrations of DDTs were measured near the Marina entrance (Stations 1 and 2), and in Basin E (Stations 10 and 11 near the tide gate connecting the Marina with Oxford Lagoon). This indicates that the sources for DDT in the back basins and at the entrance may be different. DDE exceeded either the ER-M or AET at stations at the Marina entrance, back basins and Oxford Lagoon indicating its concentrations could significantly

impair biological communities. The ER-L, ER-M, and AET threshold for p,p' DDE was exceeded in Basin F.

PCBs were elevated in Basin E and the Marina entrance where they exceeded the ER-L threshold limit. PCB concentrations measured between 1997 and 2005 exceeded the ER-L threshold on numerous occasions at several stations, but only exceeded the ER-M threshold on a single occasion in 2003 at Oxford Lagoon. DDT and PCB concentrations in the Marina were similar when compared against other historical surveys.

2.3.1 Summary of Water and Sediment Quality in Basins F and G

The results of the ABC Laboratories studies indicate that the water column and sediment quality in back basins and in the general vicinity of the Marina del Rey Hotel dock renovation (Basins F and G) is generally lower than in the mid-to-outer harbor because of reduced tidal circulation and longer tidal residence time. Water temperature tends to be higher, while pH, dissolved oxygen, and transmissivity tend to be lower, particularly in Basin E and at Marina Beach. Salinity in the back basin areas can be lowered particularly during years of substantial runoff, as in 1998, 2004-2005, and more recently, winter 2009-2010. ABC Laboratories (2005) reported decreases in salinity throughout the Marina after rainfall during October 2004, which dropped salinity below 32 ppt in portions of the mid-channel and back basins. Lowest salinities were measured throughout the Marina after 20 inches of rain had fallen in December, January and February 2005. During CRM dive survey on 18-19 February, 2010, underwater visibility averaged 2.5 ft, and ranged from less than one foot (Basin F) to a maximum of 5 feet at the juncture of Basin G and the main channel. This was within two weeks of substantial rainfall occurring in 2010. Sediment metals and pesticides appear elevated in these back basin areas, which have to potential to impact benthic resources.

2.4 MARINE BIOLOGICAL RESOURCES

The following discussion includes the results of the Coastal Resources Management, Inc. February 2010 reconnaissance dive survey conducted at the project site and other regions within Marina del Rey Harbor (Coastal Resources Management, 2006a, 2006b, 2006c, 2007a, 2007b, 2007c, 2008, and 2009a), and data from harbor-wide studies conducted in Marina del Rey Harbor (ABC Laboratories, Inc., 2005).

2.4.1 Pilings, Docks, Floats

Table 2 lists the organisms observed during the CRM 2010 survey at the Basin F and G project site. A total of 30 species were observed. Green, brown, and red algae accounted for 20% of the species while gastropods and bivalve mollusks, and tunicates each contributed 16.7% of the species. Fishes accounted for 13.3 %. Sponges, anemones, annelid worms, crustaceans, and ectoprocts (bryozoans) accounted for the remainder of the taxa observed during the survey. Twenty-two of the 30 taxa (73.3%) were associated with docks, piles, rip rap, or the cement seawall. Green algae (*Ulva intestinalis*), and red algae (*Ceramium* sp., and *Chondracanthus canaliculatus*) was abundant on cement piles

Table 2. Marine Organisms Observed at the Project Site. February 2010.
Coastal Resources Management, Inc.

Common Name	Scientific Name	Seawall or Rip Rap	Soft Benthos	Docks or Pilings Basin F	Dock or Pilings Main Channel	Dock or Pilings Basin G	Water Column	All Areas
green algae	*Ulva intestinalis*			**A**				**x**
brown algae	*Dictyota flabellata*					**C**		**x**
brown algae	*Sargassum muticum*	**C**						**x**
red algae	*Ceramium* sp.			**A**	**A**	**A**		**x**
red algae	*Chondracanthus canaliculatus*	**C**						**x**
red algae	*Rhodoglossum californicum*					**C**		**x**
sponge	Porifera, Unid.			**A**	**A**	**A**		**x**
burrowing anemone	Pachycerianthus fimbriatus		**P**					**x**
hydroid	Corymorpha palma		**P**					**x**
hydroid	Hydroid, unid.			**A**	**A**	**A**		**x**
polychaete	*Salmacina tribranchiata*					**C**		**x**
polychaete	Serpulidae, unid.			**A**	**A**			**x**
barnacle	*Balanus amphitrite*			**C**	**C**	**C**		**x**
lined shore crab	*Pachygrapsus crassipes*				**C**	**A**		**x**
limpet	*Lottia limatula*	**C**						**x**
bay mussel	*Mytilus galloprovincialis*			**A**	**A**	**A**		**x**
sea slug	*Navanax inermis*			**P**		**P**		**x**
octopus	*Octopus* sp.	**P**						**x**
oyster	*Ostrea* sp.	**C**		**P**				**x**
fluted bryozoan	*Hippodiplosia insculpta*			**C**	**C**	**C**		**x**
ectoproct	*Bugula neritina*			**C**	**C**	**C**		**x**
colonial tunicate	*Botryllus/Botryllo ides*			**A**	**A**	**A**		**x**
solitary tunicate	*Ciona* sp.			**A**	**A**	**A**		**x**
light bulb tunicate	*Clavelina huntsmani*			**C**				**x**
solitary tunicate	*Styela montereyensis*			**P**				**x**
solitary tunicate	*Styela plicata*			**A**	**A**	**A**		**x**
opaleye perch	*Girella nigricans*	**C**						**x**
kelp bass	*Paralabrax clathratus*	**P**						**x**
lizardfish	*Synodus lucioceps*		**P**					**x**
flatfish	unid. flatfish		**P**					**x**
Summary	Present	**2**	**4**	**3**	**0**	**1**	**0**	-
-	Common	**5**	**0**	**4**	**4**	**6**	**0**	-
-	Abundant	**0**	**0**	**9**	**8**	**8**	**0**	-
-	All	**7**	**2**	**16**	**12**	**15**	**0**	**30**

and the undersides of docks while the invasive brown algae *Sargassum muticum* was common on the seawall and rip rap. The most abundant invertebrates included encrusting sponge (Porifera, unid.), hydroids (hydroid, unid), serpulid polychaete worms (Serpulidae, unid), mussels (*Mytilus galloprovincialis),* colonial tunicates *(Botryllus/Botrylloides* complex), and solitary tunicates (*Styela plicata*). The undersides of docks and pilings supported a greater number of taxa (20) than the seawall/rip rap habitat (7). The piling/dock/rip rap community in the Basin F and Basin G project area was similar to that observed in Basin B (Coastal Resources Management, Inc. 2006c) and in Basin H (Coastal Resources Management, Inc. 2007c, 2009a).

Coastal Resources Management, Inc. conducted harbor-wide surveys of the marina biota at 27 project area locations for the County of Los Angeles seawall repair project (Coastal Resources Management, Inc., 2006b; 2007a, 2008) and at the southern portion of the marina complex near the ocean entrance channel (Coastal Resources Management, Inc., 2006a, 2007b). Five algae taxa, 22 invertebrate taxa, and eight types of fish were observed during the May 2006 survey; four algae taxa, 22 invertebrate taxa, and seven types of fish were observed during the December 2006 survey; and four algae taxa, 20, invertebrate taxa, and four types of fish were observed during the post construction survey in October 2007. Five algal associations, 21 invertebrate taxa, and nine species of fish were observed during the surveys along the southern jetty near the UCLA rowing dock (CRM, 2006a, 2007a) near the ocean entrance. Many of the invertebrates observed during this survey were "reef" associates living on or among the lower intertidal and shallow subtidal jetty quarry rock, typical of nearshore reef communities.

Red algae taxa observed these surveys included coralline turf (*Corallina pinnatafolia*) and *Polysiphonia* sp. The brown algae *Sargassum muticum and Dictyota binghamiae* were also present. Invertebrates included sponges (*Haliclona* sp.) hydroids (*Aglaophenia* sp., green anemones (*Anthopleura xanthogrammica*), California sea whips (*Muricea californica and M. fructicosa*), octopus (*Octopus* spp.) file limpets (*Tectur*a [*Collisella] limatula*), chitons (*Nuttalina californica/fluxa*), nudibranchs (*Doriopsilla sp.),* predatory sea slugs (*Navanax inermis*), festive murex (*Pteropurpura festiva*), turban snails (*Tegula funebralis*), angular unicorn snails *(Acanthina spirata*), mussels (*Mytilus galloprovincialis*), oysters (*Ostrea conchilcola*), rock scallops (*Crassedoma giganteum*), California lobsters (*Panulirus interruptus*), the short-spined sea star (*Pisaster brevispinus*), bat stars (*Asterina miniata*), sea cucumbers (*Parastichopus parvimensis*), ectoprocts (*Bugula californica, Zoobotryon verticillatum*), unidentified orange bryozoans, colonial tunicates, and solitary tunicates (*Styela montereyensis, Styela plicata*, *Mogula* sp., and Ascideacea, unid).

2.4.2 Soft Bottom Sediments

Organisms that live on or in the sediments are referred to as benthic infauna. While the most soft-bottom dwelling marine organisms live on the sediments (infauna) and are generally very small, others are larger, and live on or protrude from the sediment surface and are referred to as epibenthic organisms. A total of 13,039 benthic infaunal individuals were collected in the Harbor during the ABC Laboratories 2004 benthic

survey (ABC Laboratories, 2005). The composition of infauna in Marina del Rey Harbor was divided into two geographic areas: 1) the entrance and outer mid-channel, and 2) the back basins (Aquatic Bioassay 2003-04).

Sampling stations nearest to the Marina del Rey Hotel dock project area include Station 11 (Basin E) and Station 9 (Basin F). All sampling sites are shown in Figure 9. The Benthic Response Index (BRI) scores for the outer Marina and back basins reflected the results of the other biological metrics and cluster analyses. Average BRI scores[1] for the Marina entrance and mid-channel stations were below 31 which indicated they were similar to reference conditions in other southern California bays and Harbors. Three of the eight back basin sites exceeded the Level 1 Threshold (31) indicating that these three sites had lost 5% of the species that are typical of reference conditions. Four of the eight back basin stations exceeded the Level 2 Threshold (42) indicating that more than 25% of the reference species were not present.

Benthic samples were analyzed by hierarchal cluster analysis that grouped stations together based upon similar biological attributes (species abundances). Samples in, or nearby the Marina del Rey Hotel marina project site (Stations 9 and 11) were grouped with back basin Stations 7 and 8. These stations were characterized by low species abundances (mean=493/sample), low species richness (18), moderate species evenness (0.58), and a high BRI average (40.1). Comparatively, stations nearby the entrance channel in Group 2 (Stations 1 and 2) exhibited the highest species abundances, richness, diversity, evenness, and the lowest BRI values.

The most abundant species found at the entrance and mid-channel station groups included the polychaetes *Pseudopolydora paucibranchiata*, *Mediomastus sp.*, *Prionospio heterobranchia*, *Armandia brevis,* oligochaetes, and the phoronid, *Phoronis sp*. The back basin sites were dominated the phoronid worm *Phoronis* sp., and the polychaetes Scoletoma sp. C, *Euchone limnicola, Leitoscoloplos pugettensis,* and *Cirriformia* sp. MDR1**.**

During the CRM February 2010 survey, Two species of epibenthic invertebrates were observed in the Basin F and G project area on the soft substrate-the burrowing anemone (*Pachycerianthus fimbriatus*) and the hydroid *Corymorpha palma*. Both species are also present in Basin H (CRM, Inc. 2006c).

2.4.3 Open Water

Plankton. Plankton consists of algae (phytoplankton) and animals (zooplankton) small enough to be suspended in the water column and drift through tidal and oceanic currents. The phytoplankton community off the California coast primarily consists of diatoms, dinoflagellates, silicoflagellates, and coccolithophores while the zooplankton are those

[1] The BRI measures the condition of a benthic assemblage, with defined thresholds for levels of environmental disturbance (Smith et al. 2001, Ranasinghe, et al., 2003 in ABC Laboratories, 2005). The pollution tolerance of each species is assigned based upon its distribution of abundance along a pre-established environmental gradient.

animals that spend part (meroplankton) or all (holoplankton) of their life cycle as plankton. Fish eggs and larvae (ichthyoplankton) are an important component of the zooplankton community (see below discussion) . With the exception of a few fish species (e.g., the Embiotocidae or surfperches that bear live young), most fish that occur in southern California are present as larvae or eggs in the plankton community. Plankton abundances and distributions are directly tied to water temperature, nutrients, upwelling, and current movements, and for zooplankton, the amount of phytoplankton food resources. The planktonic community in Marina del Rey Harbor is expected to be composed of the same types of organisms common to the nearshore coastal environment offshore of Marina del Rey in the Santa Monica Bay since the plankton are drawn into the harbor through tidal and wind-driven processes and there is not a significant estuarine influence in the harbor.

Fishes. Marina del Rey Harbor is a viable habitat and nursery for many species of marine fish (ABC Laboratories 2005). To date, 96 different species of fish have been collected in the Harbor, which represents most feeding and habitat niches found in the eastern Pacific Ocean. Since its inception, the Los Angeles County sampling program in Marina del Rey Harbor has collected animals from different seasons (fall and spring), spatial strata (mid-water, bottom, inshore), habitat type (soft bottom or rocky reef), and age group (eggs, larvae, juveniles, adults).

The 2004-2005 sampling yielded 77,674 total fish of all age groups (including larvae and eggs) representing 56 different species. By far, the majority of these were eggs, larvae, and juveniles, which attests to the Harbor's value as a nursery ground. Bottom fish were collected using a semi-balloon otter trawl at three locations in Marina del Rey Harbor waters are a viable habitat and nursery for 111 species of marine fish based on several studies of the fish populations conducted in Marina del Rey Harbor since 1977 (ABC Laboratories 2001). Three recreationally important species of fish, California halibut, barred sand bass and kelp bass, were captured in this year's trawls. Barred sand bass and kelp bass are ranked in the top two of all recreationally caught fishes in southern California (Dotson and Charter, 2003 in ABC Laboratories, 2005). All three fish are economically valuable and are often abundant in harbors and estuaries during their early life stages (Valle et al., 1998 in ABC Laboratories, 2005).

In 2000, ABC Laboratories identified 47 species and 16,884 individuals of all age groups (including larvae and eggs) using a combination of trawl net sampling for bottom fish, gill net sampling for midwater fish, beach seine sampling for inshore fish, plankton net sampling for larval fish and eggs, and diver transect enumeration for reef fishes (ABC Laboratories 2001**).**

The bottom fishes of the main channels and basins are characterized by the occurrence of several species such as California halibut (*Paralichthys californicus*), barred sand bass, white croaker (*Genyonemus lineatus*), bat ray (*Myliobatis californicus*), and round stingray (*Urolophus halleri*). Ichthyoplankton collections are dominated by goby, and blenny larvae during the summer and winter months; anchovy larvae are abundant during the summer sample periods.

Typically, topsmelt, northern anchovy, and deepbody anchovy are common schooling fishes found throughout the marina waters-northern anchovy are generally found nearest the harbor entrance, whereas both topsmelt and deepbody anchovy occur throughout the basins.

The harbor entrance channel and the mid-outer harbor areas support the highest diversity of fishes within the Harbor, because of better water quality conditions and a greater degree of habitat variability.

Common reef-associated species found primarily along the jetties and break water, and secondarily and less-frequently around the hardscape of rip-rap, pilings, and piers farther into the channels of Marina del Rey Harbor include senorita *(Oxyjulis californica*), opaleye (*Girella nigricans*), sargo (*Anisotremus davidsoni*), black *(Embiotoca jacksoni*), shiner surfperch (*Cymatogaster aggregata*), blacksmith (*Chromis punctipinnis*), barred sand bass (*Paralabrax nebulifer*), kelp bass (*P. clathratus*), black croaker (*Cheilotrema saturnum*) and pile perch (*Damalichthys vacca*).

Fishes seen by biologists during subtidal surveys near the ocean entrance (CRM 2006a, 2007b) and County seawall repair pre-construction surveys (CRM (2006b, 2007a, 2008) included topsmelt (*Atherinops affinis*), opaleye (*Girella nigricans*), black surf perch (*Embiotoca jacksoni*), pile perch *(Damalichthys vacca*), black croaker (*Cheilotrema saturnum*) kelp bass (*Paralabrax clathratus*), barred sand bass (*P. nebulifer*) bat ray (*Myliobatis californica*) and round sting ray (*Urolophus halleri*). These species are typical of the hard-substrate and piling-associated species that are present around the jetty entrance channel, rip-rap within the harbor, and piling and float habitat provided by docks and piers (ABC Laboratories 2005). Generally, the harbor entrance channel and the mid-outer harbor areas support the highest diversity of fishes within the Harbor, because of better water quality conditions and a greater degree of habitat variability.

Few species of fish were observed during the February 2010 CRM dive survey in Basin F and Basin G, likely to do low underwater visibility. Species present included opaleye (*Girella nigricans*), unidentified flatfish, and California halibut (*Paralichthys californicus*). Fishes observed in Basin B include topsmelt (*Atherinops affinis*), opaleye perch (*Girella nigricans*), unid perch (Embiocidae, unid.), barred sand bass (P*aralabrax nebulifer),* unidentified turbot (*Pleuronichthys* sp.), and round sting ray (*Urolophus halleri*) (CRM, Inc. 2006c). In Basin H, biologists have observed opaleye perch (*Girella nigricans*, barred sand bass (*Paralabrax clathratus*), black perch (*Embiotoca jacksoni*), and round sting ray (*Urolophus halleri*) near the launch ramp (Coastal Resources Management, Inc. 2007c and 2009a).

2.5 SPECIAL STATUS SPECIES

2.5.1 Eelgrass (*Zostera marina*)

Eelgrass (Figure 10) is a marine flowering plant that grows in soft sediments in coastal bays and estuaries, and occasionally offshore to depths of about 50 feet. Eelgrass enhances the abundance and the diversity of marine life compared to areas where the sediments are barren. A diverse community of bottom-dwelling invertebrates (i.e., clams,

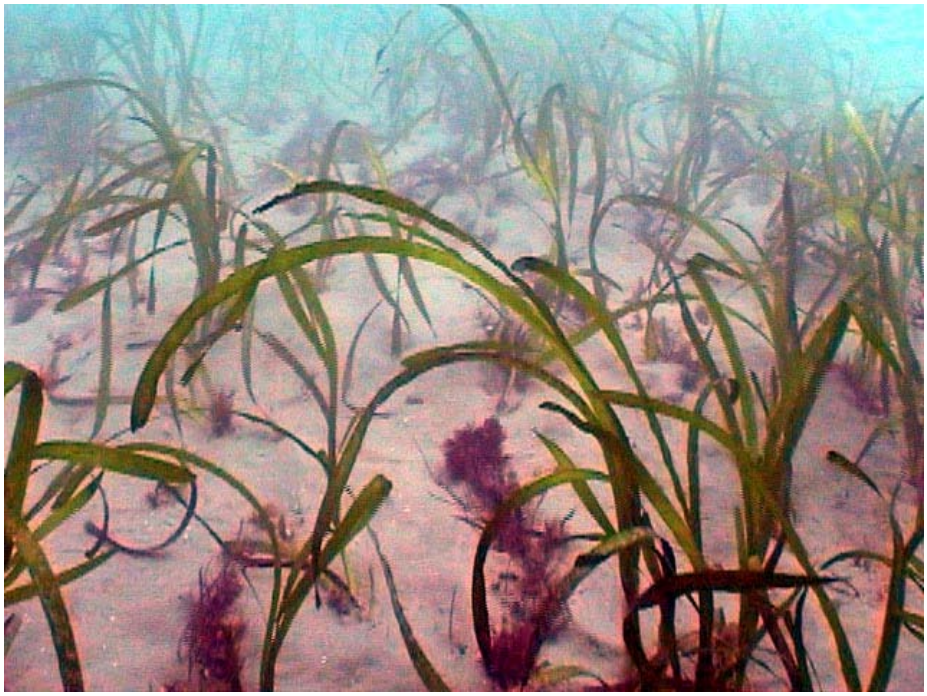

Figure 10. Eelgrass, *Zostera marina*. One "shoot" and the cluster of "blades" arising from the shoot is considered a "turion unit". Photo: CRM

crabs, and worms) lives on eelgrass or within the soft sediments that cover the root and rhizome mass system. The vegetation also serves a nursery function for many juvenile fishes, including species of commercial and/or sports fish value (California halibut and barred sand bass). Eelgrass meadows are critical foraging centers for seabirds (such as the endangered California least tern) that seek out baitfish (i.e., juvenile topsmelt) attracted to the eelgrass cover. Lastly, eelgrass is an important contributor to the detrital (decaying organic) food web of bays as the decaying plant material is consumed by many benthic invertebrates (such as polychaete worms) and reduced to primary nutrients by bacteria. Because of the high ecological value of eelgrass meadows, it is important to document the location and amount of eelgrass in areas of proposed waterside developments and to mitigate any losses by avoiding or reducing, or compensating for any adverse effects on eelgrass habitats and communities.

Focused Surveys for Eelgrass. No eelgrass was observed during the underwater biological reconnaissance investigations within the Marina del Rey Hotel Marina Basin biological surveys in February 2010. A total of 0.78 acres of soft-bottom habitat was

visually surveyed by diving-biologists. This represented 22% of the total open water habitat within the project area. The lack of eelgrass is likely due to a combination of environmental conditions- deep depths, shading from the docks and vessels,, historical low light levels in the back basins, and a lack of a "seed" source of eelgrass that is required for initial colonization of by eelgrass. Previous marine biological investigations in other areas of the harbor also failed to detect eelgrass (Coastal Resources Management, Inc 2006a, 2006b, 2006c, CRM 2007a, 2007b, 2007c, 2008, 2009a).

Ditchgrass (*Ruppia maritima*) has occurred irregularly within Basin D (Mother's Beach) since 1979 (Soule and Oguri 1993; Soule et al. 1997). Ditchgrass is an uncommon seagrass species found in quiet water habitats that is an important habitat for larval and adult fish. It is not found within the Basin F and Basin G project area.

2.5.2 Fishes

California Grunion (*Leuresthes tenuis*). This fish species is not a formally listed species but is considered sensitive because of its beach spawning activity and potential impacts from beach disturbances such as beach cleaning and beach nourishment. This species is also an important forage fish for several species that are protected or regulated. It uses the high intertidal sandy beach habitat of many southern California beaches as spawning habitat. Grunion were reported as present during fish surveys in 1996 and 1997 (ABC Laboratories, Inc. 2005) but not since occurred. It was not reported if they were larvae, fish eggs, or adults. Grunion lay their eggs in the wet beach sands during the highest spring tides between late February or early March to as late as early September (Walker 1952). The beaches outside the harbor are known spawning areas; they are not known to spawn in the harbor due to a lack of suitable beach habitat.

Steelhead Trout (*Onchorynchus mykiss*). The Steelhead trout is a Federal endangered and California State species of special concern. It is also one of the species listed in the Pacific Salmonid Management Plan The steelhead trout is an anadromous sea-going rainbow trout that lives approximately two to four years of its life (but this period varies greatly) in the open ocean prior to returning to the stream where it was spawned. It is dependent on small, clear-flowing but not rapid, streams with gravel beds to complete its spawning cycle. The area must also have protective cover and an adequate food source. Steelhead populations are declining because of impacts on habitat such as dams, turbidity, and other habitat incursions (http://www.nmfs.noaa.gov/pr/species).

Except for the colonization of a small population in San Mateo Creek in northern San Diego County, steelhead appear to have been completely extirpated from nearly all systems in the southern portion of the range of the Distinct Population Segment (DPS) from Malibu Creek to the Mexican border (http://www.nmfs.noaa.gov/pr/species). This species will not occur in Marina del Rey Harbor.

Tidewater Goby (*Eucyclogobius newberryi*). The tidewater goby is a Federally-listed endangered species that has been expatriated from many southern California creek mouths. It is currently found in shallow marine areas and lower reaches of streams

between San Diego northward to Humboldt County waters where salinity is less than 10 ppt (U.S. Fish and Wildlife 1995). The population of Tidewater Goby is depleted due to reduced or eliminated flows in the lower reaches of coastal streams, pollution, and the filling in, channelization, and other physical alterations of their habitats. The population disappeared from about 74 percent of the coastal lagoons from Morro Bay southward to San Diego (U.S. Fish and Wildlife 1995). Habitat conducive to tidewater gobies is absent from Marina del Rey Harbor, and it does not occur within Marina del Rey Harbor or the Ballona Channel.

California Halibut (*Paralichthys californicus*). Although it does not have a formal special status, the California halibut is considered a sensitive species by resource agencies because of its commercial value and a continued region-wide reduction of its nursery habitat in bays and wetlands and occurs in Marina del Rey Harbor. California halibut spawn at sea and its larval stages are planktonic. After several months, larval fish settle to the bottom and migrate into shallow coastal waters. Young-of-the-Year fish (YOTY) prefer shallow waters between about -1.5 feet and -3.5 feet MLLW, whereas juveniles prefer deeper channel bottoms to a maximum depth of approximately -15 feet MLLW. After spending nearly nine months in coastal embayments, juveniles move out into the open coastal environment Bay (Horn and Allen, 1976b; Allen 1981; Allen 1986. The species uses inshore waters of bays, harbors, and estuaries as a nursery and foraging habitat. Halibut are known to occur throughout Marina del Rey Harbor (ABC Laboratories, 2005; Allen 1991) although they are more abundant in entrance channel habitat than farther back in the channels or boat basins.

2.5.3 Reptiles

Sea Turtles. Several species of federally-listed threatened and endangered sea turtles could potentially occur in the nearshore open water habitats surrounding Alamitos Bay. These include the endangered leatherback sea turtle (*Dermochelys coriacea*), the threatened green sea turtle (*Chelonia mydas*), loggerhead sea turtle (*Caretta caretta*), and olive ridley sea turtle *(Lepodochelys olivacea*).

In the eastern North Pacific, green turtles have been sighted from Baja California to southern Alaska, but most commonly occur from San Diego south. Occasionally, green sea turtles are sighted offshore of Orange County and Los Angeles County, north of their more common southerly range limit due to movement during warmer water El Nino periods (Coastal Resources Management, 2007d and e). The potential for green turtles to be present in Marina del Rey Harbor is extremely low to none.

2.5.4 Marine Mammals

Cetaceans, including gray whales (*Eschricthius robustus*) and bottlenose dolphins (*Tursiops truncatus*) may occasionally swim into the Marina del Rey entrance channel. Pinnipeds, including California sea lions (*Zalophus californianus*) and harbor seals (*Phoca vitulina*) rest on harbor buoys and the breakwater at the entrance to Marina del Rey Harbor, and will also occasionally swim in the main channel of Marina del Rey Harbor. The Harbor is not

considered a breeding habitat for pinnipeds (Bonnell and Dailey, 1993) but it is a potential secondary foraging area due to their observed presence in the Marina, and the presence of fishes that make up their prey base. The probability of pinnipeds occurring in the back basins of Marina del Rey Harbor, including Basins F and G is low; they are more commonly observed near the harbor entrance channel and Fisherman's Wharf.

2.6 INVASIVE OR EXOTIC SPECIES

2.6.1 *Caulerpa taxifolia (*Noxious Algae*)*

The invasive *Caulerpa taxifolia* algae (Figure 11) has a potential to cause ecosystem-level impacts on California's bays and nearshore systems due to its extreme ability to out-compete other algae and seagrasses (National Marine Fisheries Service, 2008). *Caulerpa taxifolia* grows as a dense smothering blanket, covering and killing all native aquatic vegetation in its path when introduced in a non-native marine habitat. Fish, invertebrates, marine mammals, and sea birds that are dependent on native marine vegetation are displaced or die off from the areas where they once thrived. It is a tropical-subtropical species that is used in aquariums. It was introduced into southern California in 2000 (Agua Hedionda Lagoon) and (Huntington Harbour) by way of individuals likely dumping their aquaria waters into storm drains, or

Figure 11. *Caulerpa taxifolia*. Source: NMFS

directly into the lagoons. While outbreaks have been contained, the Water Resources Board, through the National Marine Fisheries Service and the California Department of Fish and Game require that projects that have potential to spread this species through dredging, and bottom-disturbing activities conduct pre-construction surveys to determine if this species is presence using standard agency-approved protocols and by National

Marine Fisheries Service/California Department of Fish and Game Certified Field Surveyors (National Marine Fisheries Service, 2008).
Caulerpa algae was not observed during the diver reconnaissance surveys within the Marina del Rey Hotel marina project area. During the survey, a total of acres were surveyed, of a total 0.78 acres (22%) of bayfloor habitat with the marina basins and the proposed temporary dock areas. A 20% minimum covered is required in non-infected systems (including Marina del Rey Harbor) when *Caulerpa* pre-and-post construction surveys are conducted.

2.6.2 *Undaria pinnatifida* (Brown Algae, "Wakame")

In the last decade, the invasive brown alga *Undaria pinnatifida* has spread throughout the Northeastern Atlantic and Southwestern Pacific, and most recently to California. In March 2000 it was detected in Los Angeles Harbor, and subsequently spread northward, reaching Monterey Harbor in 2001 (Lonhart, 2003). This macrophyte has also been observed in San Diego Bay and Anaheim Bay (R. Ware, pers. observation). This species was not observed during the February 2010 survey within the Marina del Rey Harbor project area.

2.6.3 *Sargassum muticum* (Brown Algae)

This algae is a large, yellowish-brown or olive-brown seaweed that can be distinguished from most other Pacific coast seaweeds by its small, spherical float bladders. It grows on rocks, shells or other hard objects, attached by a stout, spongy holdfast. On the Pacific Coast, plants grow up to about 2 m long in northern Washington and British Columbia, but in southern California a large plant can be 3-4 m long and plants up to 10 m long have been reported. It is commonly found in harbors, marinas, and bays on boat floats, rip rap, jetties, and breakwaters, as well as the low intertidal and shallow subtidal reefs. *S. muticum* is present-to-common in the project area, and widespread throughout Marina del Rey Harbor. There are no agency-mandated efforts or actions to eradicate this species. In southern California, however, it is abundant at 4-8 m depth and has been found at depths up to 24 m. There are many reports of *Sargassum muticum* competing with and displacing native species of seaweed and eelgrass, at least in part by shading and reduction of light levels.
http://www.exoticsguide.org/species_pages/s_muticum.html.

2.6.4 *Sargassum hornerii* (Brown Algae)

The brown seaweed *Sargassum hornerii* is native to Asia (Japan, Korea, China, Viet Nam). This species was spotted in Long Beach Harbor in October 2003. In April 2006, it was found near the Wrigley Marine Science Center, Cherry Cove, and Emerald Bay, Bird Rock, Isthmus Reef, Pumpernickel Cove and Big Geiger Cove in the Isthmus area, as well as Hen Rock, east of Long Point (Miller et al., 2007), and Descanso Beach (Coastal Resources Management, Inc. 2009). It was found at Point Loma, California in September 2006. The plant is golden-brown. Its branching is radial around the upright, tough stipe; each frond is flat and very symmetrical (fern-like) with a notched tip. This juvenile

specimen is about 10 cm tall. This species was not observed during the February 2010 field surveys at the Marina del Rey project site.

2.6.5 *Zostera japonica* (Dwarf Eelgrass)

Dwarf eelgrass is native to Asia and an invasive to California wetlands. It has been recorded in Humboldt Bay but not in southern California. This species can be distinguished from the native eelgrass, *Zostera marina* by its very narrow blades, is a serious concern to resource managers. Dwarf eelgrass invades mudflats, which are home to many creatures and vital feeding grounds for shorebirds (Foss et al., 2007, (http://www.dfg.ca.gov/invasives/dwarfeelgrass;

3.0 POTENTIAL PROJECT IMPACTS

3.1 PROJECT ELEMENTS

The proposed dock project will include the demolition of the existing docks, removal of piles, and the installation of new docks and piles. The existing dock system is shown in Figure 2, and the proposed dock system is shown in Figure 6. The surface area of the existing dock is 2.06 acres (89,965 square feet), and there are 163 piles. The new dock structure will encompass a total of 2.40 acres (104,099 square feet). The number of new piles will be 195, ranging in diameter from 14" to 24". The average slip length will be 43 ft (Table 1). One pump-out facility will be located on the outer dock on the main channel. The construction time is estimated to be 9 to 12 months. It is anticipated that the project will commence in approximately two years (Sources: Tom Hogan, Pacific Marina Development and Roger Van Wert, Van Wert, Inc.)

Based upon similar types of previous dock renovation projects, existing tenant's boats would be relocated to other vacant slips within Marina del Rey prior to demolition. Fingers would first be manually disconnected from the mainwalks. Small motorized construction boats would be used by the construction crew to access the various areas to be demolished, and tow the floating dock sections to a centralized staging location within the project boundary. Bolts, nuts and other fasteners would be removed in order to disconnect the fingers from the mainwalks. Fasteners not removed by conventional means would be sawn-off, as necessary. Care would be taken to prevent debris from falling into the bay and floating "debris catchers" would be used when falling debris is unavoidable. Debris that may fall into the water would be promptly retrieved by divers and disposed.

The fingers would then be floated to a common location along the seawall and lifted out of the water by a landside crane. Dock elements would be cut into the largest possible elements capable of fitting into standard 40 cubic yard "drop bin" containers. Once full, these containers would be transported via truck to an approved landfill disposal site.

Upon removal of the majority of fingers and mainwalks, extraction of concrete guide piles would commence. Piles would be pulled out of the bay bottom utilizing clamping

devices suspended by a floating crane. Once pulled, piles would be cut into smaller lengths capable of fitting into drop bins. A demolition crew would be employed to remove the dock elements and move and stage the floating elements. Additionally, a crane operator and tender would be required to lift the elements out of the water. The demolition crew would use small motorized boats and small mechanical/electrical tools such as drills, circular saws, saws-aIls, impact and manual wrenches, etc. Depending on the demolition and hauling rate, a second crew may be required during peak periods of work.

During construction of the proposed pump-out stations and dock, small motorized vessels, barges, a crane, and other equipment will be used to construct the new dock system. Cement pilings will be driven into the sediments to support the dock and the pier platform.

During construction, small motorized vessels, barges, a crane, and other equipment will be used to remove pilings and docks and subsequently construct the new marina dock system.

No dredging will be required for this project.

3.2 POTENTIAL SHORT-TERM CONSTRUCTION EFFECTS

3.2.1 Water Quality

- Sediment resuspension in the immediate demolition and construction zone due to pile removal and pile installation activity;

- Release of heavy metals and chlorinated pesticides into the water column due to pile removal and pile installation activity;

- Temporary degradation in water quality (decreased dissolved oxygen, higher biological oxygen demand due to the resuspension of fine, organically-enriched sediments) and increased turbidity resulting from pile removal and pile emplacement activity.

3.2.2 Non-Sensitive Marine Resources

- Initial mortality of soft bottom benthic invertebrates in the immediate area of guide piles during removal and pile installation;

- Initial mortality of algae and invertebrates attached to the piles and docks during the removal process;

- Movement of fishes away from the immediate demolition and construction zone due to increased turbidity, a potential increase in underwater noise from pile driving; and the presence of work vessels and barges; and

- Attraction of some fishes to the general project vicinity (i.e., perch) to forage on algae and invertebrates dislodged from the docks and pilings as they are removed.

3.2.3 Sensitive Marine Biological Resources

- No eelgrass or ditchgrass occurs at the project site which precludes project impacts on these species during construction;

- No grunion, tidewater gobies, steelhead trout, or sea turtles occur at the project site, which precludes project impacts on this species during construction;

- California halibut have the potential to occur in Basin F and G. During dock removal and installation, individuals will respond to any disturbance (vessels, noise, pile removal and driving) by moving way from the zone of impact. No mortality of California halibut will occur as a consequence of dock replacement activities; and

- An occasional sea lion or harbor seal may be transient through the back basins of Marina del Rey Harbor during construction. However, the likelihood is extremely low, precluding significant impacts to pinnipeds. No cetaceans are expected to be present at the project site.

3.2.4 Invasive and Exotic Marine Species

- With the exception of the seaweed *Sargassum muticum*, there are no invasive or exotic species present in the project area. Removal and installation of the dock system has a potential for increasing the cover of this species in the back channel, as parts of plants break off, and bladders with reproductive material settle on nearby substrate. However, this species is already a common component of the harbor ecosystem and there are currently no programs to eradicate or control *S. muticum's* population. Therefore, any spread of this species is not likely to result in result in significant ecological effects that haven't already occurred within Marina del Rey Harbor.

3.3 POTENTIAL LONG-TERM EFFECTS

The proposed dock system surface area will increase from 2.06 acres (89,965 square feet), to 2.40 acres (104,099 square feet), 14,137 sq ft larger than the existing dock system. The number of new piles will be 195, ranging in diameter from 14" to 24", an increase of 32 piles compared to existing conditions. Shading impacts and routine marina activities such as boat and dock maintenance and non-routine occurrences of fuel and oil spills, illegal waste discharges all have a potential to degrade water quality and biological productivity in Marina del Rey Harbor.

Illegal waste discharge in the Marina and at the public dock facility operations can contribute to an increase in bacterial contamination, nutrient loading, and turbidity that would affect both water quality and water contact recreation uses of the Harbor. While

the elimination of wastes from vessel holding tanks to the Harbor is prohibited, accidental occurrences are more likely. Authorized pump-out stations must be used for waste elimination. The inclusion of a vessel pump-out facility on the proposed transient dock will be a beneficial impact and will assist in minimizing illegal vessel discharges in the mid-outer harbor.

3.3.1 Water Quality

The proposed dock system will include a private pump-out facility to service the boat tenants. This facility and other current and planned pump out locations in Marina del Rey Harbor are shown in Figure 12. No design specifications for the proposed pump-out facility are currently available.

- A beneficial effect of the installation of the commercial vessel pump-out facility is a decrease in the number of potentially illegal vessel discharges and an improvement of water quality related to the potential reduction in bacteria and virus concentrations;

- A poorly maintained pump-out facility can contribute to serious health hazards by releasing both pathogenic bacteria and viruses to the marine environment and increasing turbidity and nutrient levels that could potentially lead to plankton or bacteria blooms, and bioaccumulation of pathogens in filter feeding clams and mussels. A poorly maintained pump-out facility could also increase the exposure of humans to pathogens through direct water contact activities or through consumption of locally collected shellfish; and

- Water quality and sediment quality degradation as a result of a poorly maintained facility would increase organic loads that could contribute to an altered and less diverse infaunal community.

3.3.2 Non-Sensitive Marine Biological Resources

- The amount of unshaded open water habitat in the project area will decrease because an additional 0.32 acre of dock surface area will be added along the main channel between Basin F and G. Productivity is low in this part of the harbor due to high suspended sediment loads, lower underwater light levels, and overall poorer water quality than regions nearer to the ocean entrance channel. The additional shading will not substantially affect plankton primary production since phytoplankton are not stationary and drift throughout Marina del Rey Harbor with the prevailing tidal currents;

- The benthic habitat to be shaded is 100% soft bottom; this habitat does not support kelp or other macroalgae. In addition, there will be no increase in shading of hard-bottom habitat that could potentially support kelp and macroalgae;

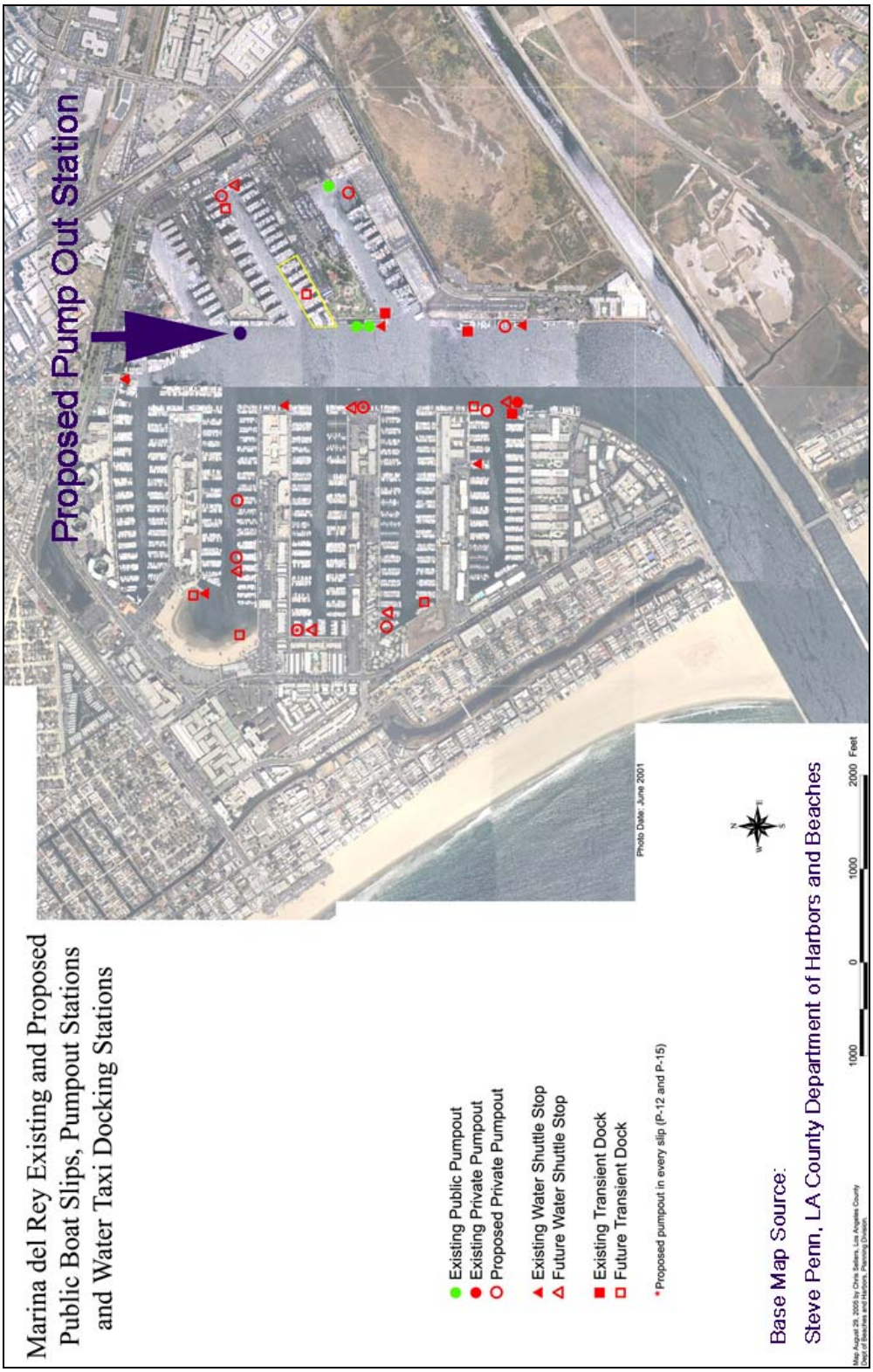

Figure 12. Location of Pump Out Station at the Marina del Rey Hotel Marina

- Approximately 63 sq ft of soft bottom benthic habitat will be replaced by guide piles. This will result in the long-term mortality of benthic infaunal invertebrates and loss of soft bottom habitat. This is considered a long-term significant but mitigable impact on non-sensitive marine resources that may require replacement (mitigation) of like-habitat at an agreed upon mitigation ratio within the Marina del Rey Harbor or watershed (i.e., Ballona Wetlands); and

- Algae and invertebrates will recolonize newly installed pilings and the underside of docks over the course of a few months to several years.

Since the footprint of the new docks will be about 0.32 acres greater than the current configuration, the biomass (productivity) of piling-and-dock associated plants and invertebrates (the fouling community) will increase. This will result in an increase of secondary biological productivity (biomass), and a beneficial impact on hard-substrate associated fishes since additional forage habitat will be created.

3.3.3 Sensitive Marine Biological Resources

- The operation of the dock system will not affect eelgrass or ditchgrass since neither occurs within the limits of the proposed dock system. Historically, no eelgrass or ditch grass has ever been recorded in the project area;

- The long-term operation of the dock system will not adversely impact local populations of California halibut; and

- California grunion, tide-water gobies, steelhead trout, sea turtles, and marine mammals will not be affected by the project; they do not occur in the project area.

3.3.4 Invasive or Exotic Species

- With the exception of the seaweed *Sargassum muticum*, there are no invasive or exotic species present in the project area. This species will have an increased surface area platform (0.32 acres) to attach to. This however, would not result in any significant ecological changes to the project area or the Harbor as a whole since it is already established throughout the Harbor. Although it has the ability to outcompete native algae, it does provide cover and habitat for local fishes and invertebrates.

4.0 MITIGATION AND BEST MANAGEMENT PRACTICES FOR POTENTIAL SHORT-TERM AND LONG TERM IMPACTS ON BIOLOGICAL RESOURCES

4.1 SHORT TERM WATER QUALITY IMPACTS

- Adhere to State of California Regional Water Quality Control Board Section 401(b) requirements that provide not-to-exceed turbidity limits;

- Implement Best Management Practices to contain and minimize the spread of any turbidity plume resulting from the demolition or installation of piles. Install a floating siltation curtain around the work area. The contractor shall be responsible for deploying and maintaining the silt curtains;

- Reduce and/or prevent the turbulence from crossing the curtains into the navigation channels or other marine areas;

- When removing or installing new pilings, use methods which minimize sediment disturbances; and

- Prohibit the discard of construction and trash debris into the waters of Marina del Rey Harbor; and

4.2 LONG-TERM WATER QUALITY IMPACTS

Best Management Practices for marina operation and management should be implemented to reduce the potential for water quality and benthic habitat degradation at the Marina del Rey Hotel marina. These BMPs include, but are not limited to:

- The operators and slip lessees of the Marina del Rey Hotel marina shall adhere to all local, state, and federal water quality regulations and laws to prevent water quality degradation that could affect both non-sensitive and sensitive marine biological resources;

- The project applicant shall provide each marina tenant with a copy of all applicable regulations regarding vessel discharges of wastes, antifouling paint use, and refuse management (including handling of hazardous wastes) as part of the lease materials;

- The project applicant shall provide each marina tenant with information regarding procedures for notifying appropriate authorities regarding spills of hazardous materials, containment measures, and applicable penalties for violations as a part of lease materials;

- The project applicant shall provide regular cleaning of the marina dock facilities and vacuum sweeping of the parking lots;

- For the private pump-out facility, the project applicant should install adequate signs to identify the station, its location and hours of operation;

- Pump-out facility services should be provided at convenient times and at a reasonable cost;

- The pump-out facility should be user friendly;

- The project applicant shall develop and adhere to a regular inspection and maintenance schedule for the pump-out facility;

- The project applicant shall provide educational information about the pump out station to commercial tenant boaters;

- The project applicant shall enforce existing local, state and federal regulations pertaining to Marine Sanitation Devices and the illegal discharge of boat sewage; and;

- The project applicant shall post and make available to boaters a list of other local pump out locations; and

- Clean Marinas California Program (2006) developed a guidebook for to making marinas environmentally clean facilities and to help protect the state's waterways from pollution. This guidebook is available at http://cleanmarinascalifornia.org. It is recommended that a copy of this document be kept onsite at the Marina del Rey Hotel marina office.

4.3 LONG-TERM BIOLOGICAL IMPACTS

- A reduction of 63 square feet of soft-bottom habitat due to an increase in the number of guide piles may require a mitigation program to restore soft-bottom habitat to Marina del Rey Harbor or the Marina del Rey watershed. A mitigation plan would be required that describes a plan of action and timeline for fully mitigating the loss of soft bottom habitat that also identifies a mitigation to impact ratio that will be used for the project to offset soft bottom habitat loss. This mitigation ratio would be negotiated with permitting and wildlife agencies.

5.0 PERMITTING

The following recommendations are provided to assist in the permitting and environmental assessment process.

- Conduct pre-construction invasive algae and eelgrass surveys required for the project as part of State-and-Federal agency permit conditions;

- Develop a marina construction and operational management plan that will be implemented through the various project phases to ensure that water quality and biological impacts are minimized; and

- Prepare a marine resources construction monitoring plan that identifies a project monitor, a site inspection plan, and a site-inspection schedule, if required by the permitting agencies. The project monitor will be responsible for ensuring that construction has no adverse environmental impacts on marine resources. In the event that marine resources are being adversely affected during construction, then appropriate steps would be taken to correct construction practices that are affecting marine resources.

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APPENDIX B

CALIFAUNA

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PEBBLE BEACH, CA 93953

TEL: (831) 224-8595
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Monday, 4 May 2009

To: Mr. Thomas Henry
Vice President of Development
Pacifica Hotel Investors
9686 East Preserve Way
Scottsdale, Arizona 85262

Copy: Mr. Aaron Clark
Armbruster & Goldsmith LLP
10940 Wilshire Boulevard, Suite 2100
Los Angeles, California 90024

Subject: Marina del Rey Hotel - MdR Parcels 42 & 43 - Bird & Tree Survey
Study Locale: *lat* 33.979924° | *lon* -118.445988° @ 13 ft ASL (see attached illustration for locus)

BIOLOGICAL REPORT

On 15 April 2009, at the request of Mr. Henry, I made a field survey and evaluation of all trees situated on the subject property and its immediate vicinity, searching in particular for trees that may have contained nests or evidence of nesting by any species of herons, particularly the Great Blue Heron. GBH are known to nest in palm trees in several parts the marina environment; and GBH, Black-crowned Night-Heron and Snowy Egret nest in local broadleaf and evergreen trees. The attached aerial photograph serves to specify the entire area surveyed -- all photographed trees were subject to this study.

The total results of this survey are straightforward: There existed no nests, active or inactive, or evidence of nesting by either Great Blue Herons or any other species of heron on the subject parcels. Also, no herons were observed showing interest in or landing upon any onsite tree during the three hour survey. Furthermore, following five years of searching for heron nests throughout MdR, including Bali way, herons have yet to be found nesting on the subject property.

It is my opinion that there exists no reason to delay or modify plans, during any time in 2009 to trim or otherwise manage trees that are situated on the Marina Hotel property.

Signed,

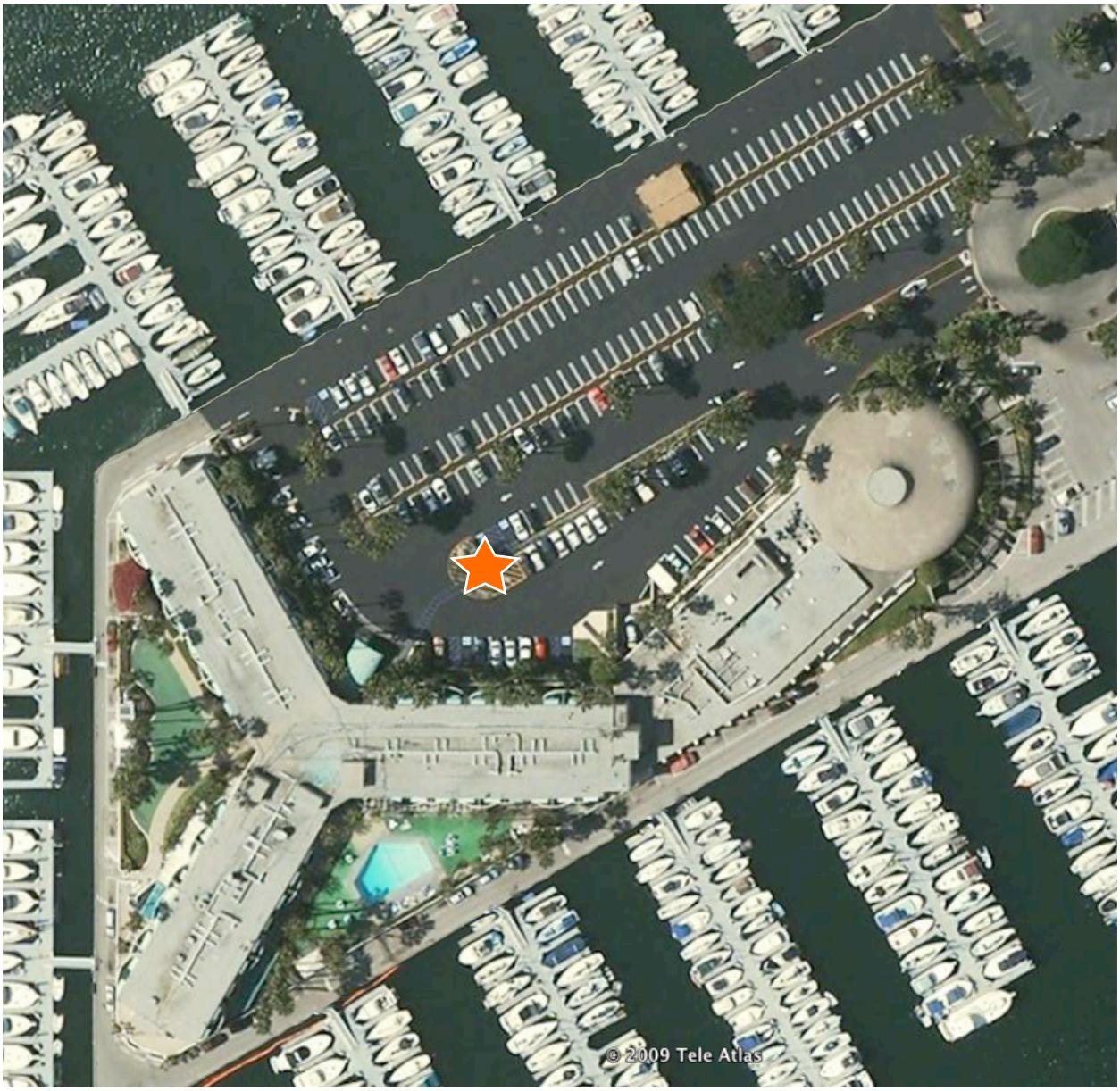

Illustration:
The present survey for herons and heron nests on the Marina Hotel property encompassed all landside areas and all trees depicted by the aerial image.

Orange Star:
The geographic position of the study area is lat 33.979924° | lon -118.445988° @ 13 ft ASL.

-- JBFroke

CALIFAUNA
WILDLIFE & LANDSCAPE SCIENCE
FOR THE CALIFORNIA COMMUNITY

Tuesday, 24 August 2010

To: Mr. Aaron Clark
Armbruster & Goldsmith LLP
10940 Wilshire Boulevard, Suite 2100
Los Angeles, California 90024

Subject: Marina del Rey Hotel - MdR Parcels 42 & 43 - Bird & Tree Survey
Locale: *lat* 33.979924o | *lon* -118.445988o @ 13 ft ASL

REVISED BIOLOGICAL REPORT

On 20 August 2010, at the request of Mr. Clark, I made a second survey and evaluation of all trees situated on the subject property and its immediate vicinity. This survey identically tracked the survey report that I made and submitted on 04 May 2009 (field date: 15 April 2009). The purpose of the second visit was the same -- determine the presence of heron species that may be or recently had nested onsite.

The findings of this survey match those from 2009: There is no evidence that herons of any species nested on the property in 2010. Maintenance, moving or downing any of the onsite trees at this time would not affect the Marina del Rey Heronry, or nesting birds in particular.

Signed,

Jeffrey B. Froke, Ph.D.
Wildlife Ecologist

JEFFREY B. FROKE, PH.D. 3158 BIRD ROCK ROAD, PEBBLE BEACH, CA 93953 / (831) 224-8595 / JBFROKE@MAC.COM

APPENDIX C

Marina del Rey Hotel and Anchorage Project

Air Quality Assessment

Prepared for:

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February 2010

SUMMARY

The air quality assessment for the proposed Marina del Rey Hotel and Anchorage Project ("project" or "proposed project"), located at 13534 Bali Way in Marina del Ray, unincorporated Los Angeles County, California, was prepared in accordance with the South Coast Air Quality Management District's (SCAQMD) *California Environmental Quality Act (CEQA) Air Quality Handbook*[1] and other guidance provided by the SCAQMD. The proposed project consists of the renovation of the existing Marina del Rey Hotel and associated marina. Construction of the landside portion of the proposed project is anticipated to last 45 weeks, and construction of the waterside portion is anticipated to last five years.

The impacts associated with construction and operation of the proposed project were compared to the thresholds of significance established by the SCAQMD. Thresholds of significance during project construction are based on mass daily emission thresholds for 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 (PM_{10}), and fine particulate matter less than 2.5 microns in diameter ($PM_{2.5}$). Thresholds of significance during project operation are based on mass daily emission thresholds for the air pollutants described above. In addition, the SCAQMD has promulgated localized significance thresholds (LSTs) that identify local ambient air impacts during project construction and operation for nitrogen dioxide (NO_2), CO, PM_{10}, and $PM_{2.5}$. In addition, the SCAQMD requires an evaluation of the project's impact on local CO concentrations near impacted intersections and roadways.

Based on the results of the air quality assessment, construction of the proposed project would not exceed the emissions thresholds for the pollutants analyzed above. Since the project would not result in an increase in capacity or project-related traffic, operation of the proposed project would not exceed existing operational emissions. In addition the project would replace fixtures and appliances with more energy efficient models, which would likely reduce emissions from existing levels. The proposed project would also not exceed the localized ambient concentration thresholds established in the SCAQMD *Final Localized Significance Threshold Methodology*[2] ("LST Methodology") and would not lead to the formation of CO "hotspots" due to project-related vehicular traffic. Furthermore, the proposed project would not result in an odor nuisance and would not emit substantial toxic air contaminants that would exceed health-based standards. Finally, the construction and operation of the proposed project would not result in a significant contribution to greenhouse gas emissions and global climate change. For these reasons, the proposed project would result in less-than-significant air quality impacts with respect to the above significance thresholds.

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1 South Coast Air Quality Management District, *CEQA Air Quality Handbook*, (1993).

2 South Coast Air Quality Management District, *Final Localized Significance Threshold Methodology*, (2008).

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1.0 INTRODUCTION

This air quality assessment discusses and evaluates the potential air quality impacts associated with implementation of the proposed Marina del Rey Hotel and Anchorage Project ("project" or "proposed project") located at 13534 Bali Way in Marina del Rey, unincorporated Los Angeles County, California. The proposed project includes the renovation of the existing hotel exterior and interior space and the associated marina. Construction activity of the landside portion of the proposed project is anticipated to last 45 weeks, and the waterside portion is anticipated to last five years. The proposed project is situated on parcels 42 and 43, at the intersection of Bali Way and Admiralty Way. Parcels 42 and 43 have a combined landside area of 6.23 acres and a combined waterside area of 8.9 acres. The existing hotel property consists of 153 guest rooms, and includes such amenities as an indoor and outdoor restaurant and 10,000 square feet of banquet and meeting facilities. The existing hotel also has office space, an exercise room, pool/spa area, an outside promenade, a surface parking lot with 380 parking spaces, and an associated marina with 349 boat slips.

The project is located in the South Coast Air Basin (Basin), which is a geographical region that shares the same air pollution concerns. The Basin consists of Orange County and the urbanized portions of Los Angeles, Riverside, and San Bernardino Counties. The South Coast Air Quality Management District (SCAQMD) is the air pollution control agency for the Basin. This assessment has been prepared in accordance with the SCAQMD's *California Environmental Quality Act (CEQA) Air Quality Handbook*[3] and other guidance provided by the SCAQMD.

The impacts associated with construction and operation of the proposed project are compared to the thresholds of significance established by the SCAQMD. Thresholds of significance during project construction are based on mass daily emission thresholds for volatile reactive organic compounds (VOCs), oxides of nitrogen (NO_X), carbon monoxide (CO), sulfur dioxide (SO_2), respirable particulate matter (PM_{10}), and fine particulate matter ($PM_{2.5}$). Thresholds of significance during project operation are based on mass daily emission thresholds for the air pollutants described above. In addition, the SCAQMD has promulgated localized significance thresholds (LSTs) that identify local ambient air impacts during project construction and operation for nitrogen dioxide (NO_2), CO, PM_{10}, and $PM_{2.5}$. In addition, the SCAQMD requires an evaluation of the project's impact on local CO concentrations near impacted intersections and roadways.

3 South Coast Air Quality Management District, *CEQA Air Quality Handbook*, (1993).

The proposed project includes renovation of the hotel's interior and exterior surfaces. As part of the renovation project, existing interior partitions and finishes as well as the exterior concrete haunches, trellis, beams, and metal trims would be demolished. Fixtures, appurtenances and non-structural elements would be replaced, resurfaced or upgraded. New paint and carpet, installation of a new fire sprinkler system would be installed, and the elevator cab and associated equipment would be upgraded. Windows and glass doors would be replaced, the deck would be waterproofed, new poolside cabanas, and new irrigation system and landscaping would be installed. Moreover, the entry porte-cochere would be refurbished.

2.0 METHODOLOGY

The air quality assessment of the proposed project utilized the following model and guidelines as tools to create the analytical basis for the analysis. The URBEMIS2007[4] Environmental Management Software was used to analyze the proposed project emissions during construction. URBEMIS2007 is a program that calculates air emissions from land use sources and incorporates the California Air Resources Board's (CARB) EMFAC2007 model for on-road vehicle emissions and the OFFROAD2007 model for off-road vehicle emissions. The model also incorporates factors specific to the Basin and the SCAQMD, such as VOC content in architectural coating and vehicle fleet mixes. During project construction, the model can analyze emissions that occur during different phases, such as building construction and architectural coating, concurrently or separately. Since the Marina del Rey Hotel and Anchorage Project will maintain the same number of units and project related traffic while improving and upgrading the building, the operational emissions and CO concentrations will be analyzed qualitatively.

Site-specific or project-specific data were used in the URBEMIS2007 model where available. The project Applicant provided the estimated construction schedule and information. The number and type of construction equipment, vendor trips (e.g., transport of building materials) and worker trips was based on default values provided in the URBEMIS2007 model. The landside portion of the project would be constructed in three non-overlapping phases beginning the first week of April 2010 and ending the first week of February 2012. Each phase would last 15 weeks and would include a demolition, building construction, architectural coating, and asphalt paving sub-phases. Demolition amounts were conservatively estimated based on hotel and marina footprint measurements from the site plan of the project. The waterside portion of the project would be constructed in five non-overlapping phases beginning November 2011 and ending in March 2016. Each phase would last five months and would include a demolition and building construction sub-phase. Demolition amounts were conservatively

4 Rimpo and Associates, "URBEMIS2007, version 9.2.4," http://www.urbemis.com.

estimated based on hotel and marina footprint measurements from the site plan of the project. The contrustion of the waterside portion would, in addition to the default construction equipment, use a workboat. Phase 3 of the landside portion and Phase 1 of the waterside portion of the project would overlap.

The SCAQMD's *Localized Significance Threshold Methodology* ("LST Methodology") was used to assess conformity with the established LSTs. The LSTs are based on ambient air pollutant concentrations determined using dispersion modeling analyses. However, the LST Methodology allows the use of screening tables, which are applicable to projects with an overall site area of 5 acres or less, to determine if the construction of a project would likely exceed the LSTs. As each phase of the project area is less than 5 acres, this report uses the screening tables to assess the localized ambient air quality impacts.

3.0 THRESHOLDS OF SIGNIFICANCE

3.1 Regional Thresholds of Significance

The SCAQMD *CEQA Air Quality Handbook* provides significance thresholds for both construction and operation of projects within the SCAQMD jurisdictional boundaries. Exceedance of the SCAQMD thresholds could result in a potentially significant impact. Ultimately, the lead agency determines the thresholds of significance for impacts. If the project proposes development that would generate emissions in excess of the established thresholds, as illustrated in **Table 1, South Coast Air Quality Management District Regional Emission Thresholds**, a significant air quality impact may occur and additional analysis is warranted to fully assess the significance of impacts.

Table 1
South Coast Air Quality Management District Regional Emission Thresholds

Phase	Pollutant (pounds per day)					
	VOC	NO_X	CO	SO_X	PM_{10}	$PM_{2.5}$
Construction	75	100	550	150	150	55
Operational	55	55	550	150	150	55

Source: South Coast Air Quality Management District, Air Quality Significance Thresholds*, (2006).*

3.2 Localized Significance Thresholds

In addition to the above-listed emission-based thresholds, the SCAQMD also recommends that the potential impacts on localized ambient air concentrations due to construction emissions be evaluated.

This LST evaluation requires that anticipated ambient air concentrations, determined using a computer-based air quality dispersion model, be compared to localized significance thresholds for PM_{10}, $PM_{2.5}$, NO_2, and CO.[5] The significance threshold for PM_{10}, which is 10.4 micrograms per cubic meter ($\mu g/m^3$), represents compliance with Rule 403 (Fugitive Dust), while the thresholds for NO_2 and CO represent the allowable increase in concentrations above background levels in the vicinity of the project that would not cause or contribute to an exceedance of the relevant ambient air quality standards. The significance threshold for $PM_{2.5}$, which is also 10.4 $\mu g/m^3$, is intended to constrain emissions to aid in progress toward attainment of the ambient air quality standards. The SCAQMD's LST Methodology includes lookup tables that can be used for projects less than 5 acres in size 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 SCAQMD SRA 2 (Northwest Los Angeles County Coastal). The landside portion of the project is 6.23 acres; however, each construction phase would only include the renovation of approximately 2.08 acres. The waterside portion of the project is 8.90 acres; however, each construction phase would only include the renovation of approximately 1.78 acres. The distance to the nearest sensitive receptors is within the project site since a portion of the Hotel would remain operational during construction. 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."[6] Therefore, the thresholds are based on a 25 meter distance. Based on these factors, the LST for each pollutant is shown in **Table 2, Localized Significance Thresholds for SRA 2**.

Table 2
Localized Significance Thresholds for SRA 2

Pollutant	Threshold (Pounds per Day)		
	Landside	Waterside	Combined
Respirable Particulate Matter (PM_{10})	6.19	5.56	10.34
Fine Particulate Matter ($PM_{2.5}$)	4.05	3.78	5.24
Nitrogen Dioxide (NO_2)	166.19	153.00	214.84
Carbon Monoxide (CO)	833.51	757.58	1245.28

Source: SCAQMD, Final Localized Significance Threshold Methodology, *(2008).*

5 South Coast Air Quality Management District, *Final Localized Significance Threshold Methodology*, (2008).

6 Ibid.

3.3 Operational CO "Hotpots" Thresholds of Significance

The significance of project impacts depends on whether existing ambient CO levels in the vicinity of the project are above or below state and federal CO standards. If the ambient CO levels are less than these standards and operation of the proposed project causes an exceedance of either the state 1-hour or 8-hour CO concentrations, the project would be considered to have a significant local impact. If ambient levels already exceed a state or federal standard, then project emissions would be considered significant if they cause an increase in the 1-hour CO concentrations by 1.0 parts per million (ppm) or more or 8-hour CO concentrations by 0.45 ppm or more.

4.0 AIR QUALITY IMPACT ANALYSIS

4.1 Construction Impacts Analysis

Construction emissions are generated from projects as a result of operation of mobile equipment and motor vehicles, disturbance of soil, and application of architectural coatings and asphalt paving. As indicated in **Table 1**, the SCAQMD has established construction thresholds of significance for VOC, NO_X, CO, SO_X, PM_{10}, and $PM_{2.5}$. The landside portion of the Hotel is approximately 6.23 acres, and contains 153 hotel units and approximately 49,547 square feet of associated land uses such as restaurant, pool and spa, deck, office, and banquet land uses. The landside portion also has a parking lot with 380 parking spaces. The landside portion of the project would be constructed in three non-overlapping phases beginning the first week of April 2010 and ending the first week of February 2012. Each phase would last 15 weeks and would include a demolition, building construction, architectural coating, and asphalt paving sub-phase. The demolition debris amount of 492,699 square feet was conservatively estimated based on the hotel footprint measurements from the site plan of the project. The number of hotel units would remain the same, while the parking spaces would be reduced to 322 spaces. Phase I would include the renovation of 57 hotel units and 17,319 square feet of associated amenities. Phase II would include the renovation of 63 hotel units and 15,511 square feet of associated amenities. Phase III would include the renovation of 33 hotel units and 16,718 square feet of associated amenities.

The waterside portion of the project is approximately 8.90 acres and contains the marina with 349 boat-slips, which would be reduced to 277 boat-slips. The waterside portion of the project would be constructed in five non-overlapping phases beginning November 2011 and ending in March 2016. Each phase would last five months and would include a demolition and building construction sub-phase. The demolition amount of 269,700 square feet was conservatively estimated based on the marina footprint measurements from the site plan of the project. Each waterside portion construction phase would reconstruct approximately 55 boat-slips. The construction of the waterside portion would, in addition to

the default construction equipment, use a workboat. Phase III of the landside portion and Phase I of the waterside portion of the project would overlap. Because of the differences in the landside and waterside portions and phases of the project, an URBEMIS2007 model run was conducted for each portion and phase of the project.

Based on the above information, **Table 3, Estimated Unmitigated Landside Construction Emissions**, presents the estimated maximum daily emissions associated with the landside portion of the proposed project. Because the data relies largely on CARB default emission factors and SCAQMD default model parameters contained in the URBEMIS2007 model, the estimated emissions represent a reasonably conservative estimate of the construction impacts associated with the project. As indicated below, emissions would not exceed the SCAQMD's significance thresholds during any phase of construction.

Table 3
Estimated Unmitigated Landside Construction Emissions

	Maximum Emissions in Pounds per Day[1]					
Construction Phase	**VOC**	**NO_X**	**CO**	**SO_X**	**PM_{10}**	**$PM_{2.5}$**
Phase I						
Demolition	1.34	9.87	6.55	0.00	2.76	1.06
Building Construction	1.35	9.84	8.29	0.00	0.63	0.56
Architectural Coating	46.76	0.03	0.57	0.00	0.01	0.00
Asphalt Paving	2.11	12.33	8.94	0.00	1.06	0.97
Maximum pounds per day:	**50.21**	**22.20**	**17.81**	**0.01**	**2.76**	**1.53**
SCAQMD Threshold:	**75**	**100**	**550**	**150**	**150**	**55**
Exceeds Threshold?	NO	NO	NO	NO	NO	NO
Phase II						
Demolition	1.34	9.87	6.55	0.00	2.76	1.06
Building Construction	1.36	9.91	8.64	0.01	0.63	0.57
Architectural Coating	45.00	0.03	0.55	0.00	0.00	0.00
Asphalt Paving	2.11	12.34	8.95	0.00	1.06	0.97
Maximum pounds per day:	**48.48**	**22.28**	**18.14**	**0.01**	**2.76**	**1.54**
SCAQMD Threshold:	**75**	**100**	**550**	**150**	**150**	**55**
Exceeds Threshold?	NO	NO	NO	NO	NO	NO
Phase III						
Demolition	1.34	9.87	6.55	0.00	2.76	1.06
Building Construction	1.21	8.95	7.02	0.00	0.58	0.52
Architectural Coating	33.90	0.02	0.39	0.00	0.00	0.00
Asphalt Paving	1.95	11.56	8.69	0.00	1.00	0.91
Maximum pounds per day:	**37.05**	**20.53**	**16.10**	**0.01**	**2.76**	**1.44**
SCAQMD Threshold:	**75**	**100**	**550**	**150**	**150**	**55**
Exceeds Threshold?	NO	NO	NO	NO	NO	NO

Source: Impact Sciences, Inc., (2010). Emissions calculations are provided in the Appendix.
Note: Totals in table may not appear to add exactly due to rounding in the computer model calculations.
[1] *PM_{10} and $PM_{2.5}$ emissions reflect compliance with SCAQMD Rule 403 (Fugitive Dust).*

Table 4, Estimated Unmitigated Waterside Construction Emissions, shows the construction emissions that would occur from each phase of the waterside portion of the project. As indicated below, emissions would not exceed the SCAQMD's significance thresholds during any phase of construction.

Table 4
Estimated Unmitigated Waterside Construction Emissions

	Maximum Emissions in Pounds per Day[1]					
Construction Phase	**VOC**	**NO_X**	**CO**	**SO_X**	**PM_{10}**	**$PM_{2.5}$**
Demolition	1.11	7.66	5.71	0.00	0.99	0.61
Building Construction	1.06	8.02	5.34	0.00	0.50	0.45
Workboat Emissions	0.18	3.76	0.49	0.51	0.09	0.09
Maximum pounds per day:	**1.29**	**11.78**	**6.20**	**0.51**	**1.08**	**0.70**
SCAQMD Threshold:	**75**	**100**	**550**	**150**	**150**	**55**
Exceeds Threshold?	NO	NO	NO	NO	NO	NO

Source: Impact Sciences, Inc., (2010). Emissions calculations are provided in the Appendix.
Note: Totals in table may not appear to add exactly due to rounding in the computer model calculations.
[1] *PM_{10} and $PM_{2.5}$ emissions reflect compliance with SCAQMD Rule 403 (Fugitive Dust).*

Table 5, Estimated Unmitigated Construction Emissions during Overlapping Phases, shows the construction emissions that would occur from the overlapping landside Phase III and waterside Phase I. As indicated below, emissions would not exceed the SCAQMD's significance thresholds during any phase of construction.

Table 5
Estimated Unmitigated Construction Emissions during Overlapping Phases

	Maximum Emissions in Pounds per Day[1]					
Construction Phase	**VOC**	**NO_X**	**CO**	**SO_X**	**PM_{10}**	**$PM_{2.5}$**
Demolition	2.45	17.53	12.26	0.00	3.75	1.67
Building Construction	2.27	16.97	12.36	0.00	1.08	0.97
Architectural Coating	33.90	0.02	0.39	0.00	0.00	0.00
Asphalt Paving	1.95	11.56	8.69	0.00	1.00	0.91
Workboat Emissions	0.18	3.76	0.49	0.51	0.09	0.09
Maximum pounds per day:	**40.75**	**49.84**	**34.19**	**0.51**	**5.92**	**3.64**
SCAQMD Threshold:	**75**	**100**	**550**	**150**	**150**	**55**
Exceeds Threshold?	NO	NO	NO	NO	NO	NO

Source: Impact Sciences, Inc., (2010). Emissions calculations are provided in the Appendix.
Note: Totals in table may not appear to add exactly due to rounding in the computer model calculations.
[1] *PM_{10} and $PM_{2.5}$ emissions reflect compliance with SCAQMD Rule 403 (Fugitive Dust).*

4.2 Operational Impacts Analysis

Operational emissions would be generated by both stationary and mobile sources as a result of normal day-to-day activities on the project site after occupation. Stationary emissions would be generated by the consumption of natural gas for space and water heating devices (including residential and commercial use water heater and boilers). Mobile emissions would be generated by the motor vehicles traveling to, from, and within the project site.

The proposed project would not result in an increase in project related traffic and hotel 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 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.

4.3 Localized Significance Thresholds Analysis

As indicated in **Subsection 3.2** above, 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, PM_{10}, and $PM_{2.5}$. The SCAQMD 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 landside portion of the project is 6.23 acres Each landside construction phase would renovate an area of approximately 2.08 acres. Each waterside construction phase would renovate an area of approximately 1.78 acres. During construction, the Marina Del Rey Hotel will remain open for business. Therefore, the nearest sensitive receptors would be located within the project site. 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."[7] Therefore, the thresholds are based on a 25-meter distance.

The LSTs for the landside portion of the proposed project are shown in **Table 6, Localized Significance Thresholds Analysis during Landside Construction**, and are compared with the maximum daily on-site construction emissions. The LSTs were linearly interpolated using the 2-acre and 5-acre screening tables.

Table 6
Localized Significance Thresholds Analysis during Landside Construction

Pollutant	Maximum On-Site Emissions[1] (Pounds per day)	LST Thresholds[2] (Pounds per day)	Exceeds LST?
Nitrogen Oxides (NO_X)	21.05	166.19	NO
Carbon Monoxide (CO)	11.79	833.51	NO
Respirable Particulate Matter (PM_{10})	2.65	6.19	NO
Fine Particulate Matter ($PM_{2.5}$)	1.47	4.05	NO

Source: Impact Sciences, Inc., (2010). Emissions calculations are provided in the Appendix.
[1] *PM_{10} and $PM_{2.5}$ emissions reflect compliance with SCAQMD Rule 403 (Fugitive Dust).*
[2] *South Coast Air Quality Management District,* Final Localized Significance Threshold Methodology, *(2008).*

The LSTs for the waterside portion of the proposed project are shown in **Table 7, Localized Significance Thresholds Analysis during Waterside Construction**, and are compared with the maximum daily on-site construction emissions. Similarly, the LSTs were linearly interpolated using the 1-acre and 2-acre screening tables.

Table 7
Localized Significance Thresholds Analysis during Waterside Construction

Pollutant	Maximum On-Site Emissions[1] (Pounds per day)	LST Thresholds[2] (Pounds per day)	Exceeds LST?
Nitrogen Oxides (NO_X)	10.95	153.00	NO
Carbon Monoxide (CO)	5.08	757.58	NO
Respirable Particulate Matter (PM_{10})	1.04	5.56	NO
Fine Particulate Matter ($PM_{2.5}$)	0.67	3.78	NO

Source: Impact Sciences, Inc., (2010). Emissions calculations are provided in the Appendix.
[1] *PM_{10} and $PM_{2.5}$ emissions reflect compliance with SCAQMD Rule 403 (Fugitive Dust).*

7 Ibid.

Pollutant	Maximum On-Site Emissions[1] (Pounds per day)	LST Thresholds[2] (Pounds per day)	Exceeds LST?

[2] *South Coast Air Quality Management District,* Final Localized Significance Threshold Methodology, *(2008).*

The LSTs for the overlapping phases (Phase III of the landside portion and Phase I of the waterside portion) of the proposed project are shown in **Table 8, Localized Significance Thresholds Analysis during Overlapping Construction Phases**, and are compared with the maximum daily on-site construction emissions. The LSTs were linearly interpolated using the 2-acre and 5-acre screening tables for the 3.86 acre combined site.

Table 8
Localized Significance Thresholds Analysis during Overlapping Construction Phases

Pollutant	Maximum On-Site Emissions[1] (Pounds per day)	LST Thresholds[2] (Pounds per day)	Exceeds LST?
Nitrogen Oxides (NO_X)	30.72	214.84	NO
Carbon Monoxide (CO)	16.67	1,245.28	NO
Respirable Particulate Matter (PM_{10})	3.69	10.34	NO
Fine Particulate Matter ($PM_{2.5}$)	1.64	5.24	NO

Source: Impact Sciences, Inc., (2010). Emissions calculations are provided in the Appendix.
[1] *PM_{10} and $PM_{2.5}$ emissions reflect compliance with SCAQMD Rule 403 (Fugitive Dust).*
[2] *South Coast Air Quality Management District,* Final Localized Significance Threshold Methodology, *(2008).*

The project would not result in an incremental increase in operational emissions. Therefore, an LST analysis for on-site operational emissions is not required. As indicated in **Table 6, Table 7** and **Table 8**, on-site construction emissions of NO_X, CO, PM_{10}, and $PM_{2.5}$ would not exceed the SCAQMD LST thresholds for nearby sensitive receptors.

It should be noted that the U.S. Environmental Protection Agency (EPA) promulgated a new 1-hour 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 3-year average of the 98th-percentile of the annual distribution of daily maximum 1-hour concentrations). The U.S. 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 U.S. EPA standard, the 1-hour 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 U.S. EPA 1-hour NO_2 standard. However, as shown in **Table 6**, **Table 7**, and **Table 8**, the NO_X emissions are less than 15 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 U.S. EPA 1-hour NO_2 standard at nearby sensitive receptors.

Based on the above analysis, the project would not increase local emissions to a significant extent due to increased traffic congestion or use of a parking structure and would not exceed the SCAQMD thresholds of potential significance. The project would have a less than significant impact with respect to this criterion.

4.4 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 carbon monoxide (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. As a result, potential air quality impacts to sensitive receptors are assessed through an analysis of localized CO concentrations. As a result, potential air quality impacts to sensitive receptors are assessed through an analysis of localized CO concentrations. 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. Thus, an exceedance condition would occur based on the state standards prior to exceedance of the federal standard. The project does not propose the addition of new hotel units or the extension of its existing facilities and therefore would not increase vehicles traveled to and from the site. Additionally, the renovation of the project would reduce the parking capacity by 58 spaces, which would result in fewer vehicles traveling to and from the project site. Therefore, the proposed project would not cause an incremental increase in CO hotspots and would be less than significant with respect to this criterion.

4.5 Toxic Air Contaminants

The commercial land uses associated with the proposed project are not anticipated to emit toxic air contaminants (TACs) in appreciable quantities. The SCAQMD has established thresholds for TACs. Emissions of TACs would be significant if sensitive receptors would be exposed to a carcinogenic risk

that exceeds 10 in 1 million or a noncancer Hazard Index greater than 1.0. Sources of TACs from hotel land uses may include household solvents and cleaners and motor vehicle emissions. However, hotels do not typically generate TAC emissions in quantities that would exceed the SCAQMD thresholds. Accordingly, no significant impacts with respect to the criteria listed above are expected to occur.

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) 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.[8] 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.

4.6 Odor

The proposed project consists of renovating the existing land uses and would not develop new land uses. The hotel land uses associated with the proposed project are not expected to cause odor nuisances, dust, and hazardous emissions. Construction of the project is temporary and is not expected to cause an odor nuisance. Refuse associated with operation of the proposed project will continue to be disposed of in accordance with applicable regulations. Additionally, the adjacent land uses are such that the project residents would not be subject to substantial sources of objectionable odors from any surrounding land uses. Therefore, the proposed project would not have a significant impact on air quality with respect to this criterion.

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

5.0 GLOBAL CLIMATE CHANGE

Global climate change refers to any significant change in climate measurements, such as temperature, precipitation, or wind, lasting for an extended period (i.e., decades or longer).[9] Climate change may result from:

- Natural factors, such as changes in the sun's intensity or slow changes in the Earth's orbit around the sun;
- Natural processes within the climate system (e.g., changes in ocean circulation, reduction in sunlight from the addition of GHG and other gases to the atmosphere from volcanic eruptions); and
- Human activities that change the atmosphere's composition (e.g., through burning fossil fuels) and the land surface (e.g., deforestation, reforestation, urbanization, desertification).

The natural process through which heat is retained in the troposphere[10] is called the "greenhouse effect." The greenhouse effect traps heat in the troposphere through a three-fold process as follows: (1) short-wave radiation in the form of visible light emitted by the Sun is absorbed by the Earth as heat; (2) long-wave radiation re-emitted by the Earth; and (3) GHGs in the upper atmosphere absorbing or trapping the long-wave radiation and re-emitting it back towards the Earth and into space. This third process is the focus of current climate change actions.

While water vapor and CO_2 are the most abundant GHGs, other trace GHGs have a greater ability to absorb and re-radiate long-wave radiation. To gauge the potency of GHGs, scientists have established a Global Warming Potential for each GHG based on its ability to absorb and re-emit long-wave radiation over a specific time period. The Global Warming Potential of a gas is determined using CO_2 as the reference gas with a Global Warming Potential of 1 over 100 years. For example, a gas with a Global Warming Potential of 10 is 10 times more potent than CO_2 over 100 years. The use of Global Warming Potential allows GHG emissions to be reported using CO_2 as a baseline. The sum of each GHG multiplied by its associated Global Warming Potential is referred to as carbon dioxide equivalents (CO_2e). This essentially means that 1 metric ton of a GHG with a Global Warming Potential of 10 has the same climate change impacts as 10 metric tons of CO_2.

The primary effect of global climate change has been a rise in the average global tropospheric temperature of 0.2° Celsius per decade, determined from meteorological measurements world-wide

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9 United States Environmental Protection Agency, "Glossary of Climate Change Terms," http://www.epa.gov /climatechange/glossary.html#Climate_change. 2008.

10 The troposphere is the bottom layer of the atmosphere, which varies in height from the Earth's surface to 10 to 12 kilometers).

between 1990 and 2005.[11] Climate change modeling using 2000 emission rates shows that further warming is likely to occur, which would induce further changes in the global climate system during the current century.[12] Changes to the global climate system and ecosystems and to California could include:

- Declining sea ice and mountain snowpack levels, thereby increasing sea levels and sea surface evaporation rates with a corresponding increase in tropospheric water vapor due to the atmosphere's ability to hold more water vapor at higher temperatures;[13]
- Rising average global sea levels primarily due to thermal expansion and the melting of glaciers, ice caps, and the Greenland and Antarctic ice sheets;[14]
- Changing weather patterns, including changes to precipitation, ocean salinity, and wind patterns, and more energetic aspects of extreme weather including droughts, heavy precipitation, heat waves, extreme cold, and the intensity of tropical cyclones;[15]
- Declining Sierra snowpack levels, which account for approximately half of the surface water storage in California, by 70 percent to as much as 90 percent over the next 100 years;[16]
- Increasing the number of days conducive to ozone formation by 25 to 85 percent (depending on the future temperature scenario) in high ozone areas located in the Southern California area and the San Joaquin Valley by the end of the 21st century;[17]
- Increasing the potential for erosion of California's coastlines and sea water intrusion into the Sacramento and San Joaquin Delta and associated levee systems due to the rise in sea level;[18]

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11 Intergovernmental Panel on Climate Change, "Climate Change 2007: The Physical Science Basis, Summary for Policymakers," http://ipcc-wg1.ucar.edu/wg1/docs/WG1AR4_SPM_PlenaryApproved.pdf. 2007.

12 Ibid.

13 Ibid.

14 Ibid.

15 Ibid.

16 California Environmental Protection Agency, Climate Action Team, *Climate Action Team Report to Governor Schwarzenegger and the Legislature*, (2006).

17 Ibid.

18 Ibid.

- Increasing pest infestation making California more susceptible to forest fires; [19] and
- Increasing the demand for electricity by 1 to 3 percent by 2020 due to rising temperatures resulting in hundreds of millions of dollars in extra expenditures. [20]

5.1 Greenhouse Gases

State law defines GHGs to include the following compounds:[21]

- *Carbon Dioxide (CO_2)*. CO_2 is primarily generated from fossil fuel combustion from stationary and mobile sources. CO_2 is the most widely emitted GHG and is the reference gas (Global Warming Potential of 1) for determining the Global Warming Potentials of other GHGs.
- *Methane (CH_4)*. Methane is emitted from biogenic sources (i.e., resulting from the activity of living organisms), incomplete combustion in forest fires, landfills, manure management, and leaks in natural gas pipelines. The Global Warming Potential of methane is 21.
- *Nitrous Oxide (N_2O)*. Is produced by human-related sources including agricultural soil management, animal manure management, sewage treatment, mobile and stationary combustion of fossil fuel, adipic acid production, and nitric acid production. The Global Warming Potential of nitrous oxide is 310.
- *Hydrofluorocarbons (HFCs)*. HFCs typically are used as refrigerants in both stationary refrigeration and mobile air conditioning. The use of HFCs for cooling and foam-blowing is growing particularly as the continued phase-out of chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs) gains momentum. The Global Warming Potential of HFCs ranges from 140 for HFC-152a to 6,300 for HFC-236fa.
- *Nitrogen Trifluoride (NF_3)*. Nitrogren trifluoride is one of several gases used during the manufacture of liquid crystal flat-panel displays, thin-film solar cells, and microcircuits. The GWP of NF_3 is 17,200.
- *Perfluorocarbons (PFCs)*. Perfluorocarbons are compounds consisting of carbon and fluorine. They are primarily created as a byproduct of aluminum production and semiconductor manufacturing. Perfluorocarbons are potent GHGs with a Global Warming Potential several thousand times that of carbon dioxide, depending on the specific PFC. Another area of concern regarding PFCs is their long

19 Ibid.

20 Ibid.

21 All Global Warming Potentials are given as 100-year values. Unless noted otherwise, all Global Warming Potentials were obtained from the Intergovernmental Panel on Climate Change. *Climate Change 1995: The Science of Climate Change – Contribution of Working Group I to the Second Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge (UK): Cambridge University Press, 1996.

atmospheric lifetime (up to 50,000 years).[22] The Global Warming Potentials of PFCs range from 5,700 to 11,900.

- *Sulfur Hexafluoride (SF_6)*. Sulfur hexafluoride is a colorless, odorless, nontoxic, nonflammable gas. It is most commonly used as an electrical insulator in high voltage equipment that transmits and distributes electricity. Sulfur hexafluoride is the most potent GHG that has been evaluated by the Intergovernmental Panel on Climate Change with a Global Warming Potential of 23,900. However, its global warming contribution is not as high as the Global Warming Potential would indicate due to its low mixing ratio, as compared to carbon dioxide (4 parts per trillion [ppt] in 1990 versus 365 parts per million [ppm] of CO_2).[23]

5.2 CEQA Guidelines on Greenhouse Gas Emissions

In accordance with Senate Bill (SB) 97, the Natural Resources Agency adopted amendments to the *State CEQA Guidelines* on December 30, 2009, which includes criteria for evaluating GHG emissions.[24] The Natural Resources Agency delivered its rulemaking package to the Office of Administrative Law for their review pursuant to the Administrative Procedure Act. The adopted amendments will not become effective until after the Office of Administrative Law completes its review of the adopted amendments and rulemaking file, and transmits the adopted amendments to the Secretary of State for inclusion in the California Code of Regulations. According to the adopted amendments, a project would have a significant effect on the environment if it would:

- Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or

- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

5.3 Greenhouse Gas Emissions

Project impacts would have a significant impact on global climate change impacts if the project would emit significant amounts of greenhouse gases. Construction of the proposed project would result in one-time emissions of greenhouse gases (GHGs). These emissions, primarily CO_2, CH_4, and N_2O, are the result of fuel combustion by construction equipment and motor vehicles. The other primary GHGs (hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) are typically associated with specific industrial sources and are not expected to be emitted by the proposed project. The emissions of CO_2 were

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22 Energy Information Administration, "Other Gases: Hydrofluorocarbons, Perfluorocarbons, and Sulfur Hexafluoride," http://www.eia.doe.gov/oiaf/1605/gg00rpt/other_gases.html. n.d.

23 United States Environmental Protection Agency, "High GWP Gases and Climate Change," http://www epa gov /highgwp/scientific.html#sf6. n.d.

24 The adopted amendments may be viewed at the following website: http://ceres.ca.gov/ceqa/guidelines/. 2009.

estimated using URBEMIS2007 using the same parameters for criteria pollutants. URBEMIS2007 does not provide estimates of other GHGs associated with combustion, namely CH_4 and N_2O. Therefore, in order to account for emissions of these compounds, the following adjustments were made to the URBEMIS2007 emission calculations:

- **Construction diesel trucks and equipment:** The CO_2 emissions associated with off-road and on-road equipment were multiplied by a factor based on the assumption that CO_2 represents approximately 99.1 and 99.9 percent, respectively, of the CO_2 equivalent emissions. These assumptions were derived from information provided by the California Climate Action Registry[25] and the California Energy Commission.[26]
- **Motor vehicles:** The CO_2 emissions associated with project-generated trips were multiplied by factor based on the assumption that CO_2 represents 95 percent of the CO_2 equivalent emissions associated with passenger vehicles, which account for most of the project-related trips.[27]

Table 9, Estimated Construction GHG Emissions, lists the estimated GHG emissions associated with construction of the project. The SCAQMD recommends amortizing 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, so that GHG reduction measures will address construction GHG emissions as part of the operational GHG reduction strategies. 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 9
Estimated Construction GHG Emissions

GHG Emissions Source	Emissions (Metric Tons CO_2e/year)
Landside Portion:	
Phase I	59.14
Phase II	61.53
Phase III	56.42
Landside Total GHG Emissions	177.09
Waterside Portion:	
Phase I	47.52
Phase II	46.57
Phase III	46.57

25 California Climate Action Registry, *General Reporting Protocol: Reporting Entity-Wide Greenhouse as Emissions Version 3.1*, (2009) 96, 100.

26 California Energy Commission, *Diesel Use in California, Remarks by Commissioner James D. Boyd*, (2002).

27 U.S. Environmental Protection Agency, *Office of Transportation and Air Quality, Greenhouse Gas Emissions from a Typical Passenger Vehicle (EPA420-F-05-004)*, (2005) 4.

GHG Emissions Source	Emissions (Metric Tons CO_2e/year)
Phase IV	46.57
Phase V	47.46
Waterside Total GHG Emissions	234.70
One-Time Total Construction GHG Emissions	**411.79**
Amortized over Project Lifetime	**13.73**

Source: Impact Sciences, Inc., (2010). Emissions calculations are provided in the Appendix.
Note: Totals in table may not appear to add exactly due to rounding.

At full buildout, the project 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).

The project does not propose an increase in the hotel units, landside amenities, or the marina associated with the Marina Del Rey Hotel. Therefore, the project would not result in an incremental increase over the existing GHG emissions. Moreover, the project proposes to decrease parking capacity from 380 to 322 spaces, a total of 58 spaces. Of the 322 parking spaces, 61 spaces would be for compact automobiles. The project also proposes to decrease the boat-slips of the marina from 349 to 277 boat-slips, a total of 72 boat-slips. These changes would cause a reduction in mobile source GHG emissions since fewer automobiles and boats would travel to and from the project site. The compact parking spaces would also encourage the use of light-weight and more gas-efficient automobiles, which would further reduce GHG emissions. In addition, the proposed project would upgrade the lighting to energy efficient models, which would result in a net reduction in operational GHG emissions.

While no agency has formally adopted a numerical threshold to evaluate the significance of a project's GHG emissions under CEQA, it is generally the case that an individual project of this size is of insufficient magnitude by itself to influence climate change or result in a substantial contribution to the global GHG inventory.[28] GHG impacts are recognized as exclusively cumulative impacts; there are no non-cumulative GHG emission impacts from a climate change perspective.[29] Therefore, the project's net GHG emissions, by itself, would have a less than significant impact on the environment.

28 California Air Pollution Control Officers Association, *CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act*, (2008) 35.

29 Ibid.

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 Angles has not yet adopted plans, policies, or regulations that contain specific requirements with respect to resources that are within the County's jurisdiction that demonstrate reductions in GHG emissions that would not result in significant environmental impacts under CEQA. Therefore, no guidance exists to explicitly evaluate the project's impact with respect to this threshold. When no guidance exists under CEQA, the agency may look to and assess general compliance with comparable regulatory schemes.[30] 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. Other state agencies and offices have offered guidance documents and recommended measures for reducing GHG emissions from land use developments. The potentially applicable regulatory schemes that may be used to address general compliance with this threshold include the following:

- California Air Resources Board, AB 32 Climate Change Scoping Plan, (2008);
- California Air Pollution Control Officer's Association, CEQA and Climate Change, (2008);
- California Climate Action Team, 2006 Climate Action Team Report to the Governor and Legislature and 2007 Updated Macroeconomic Analysis of Climate Change Strategies, (2006, 2007);
- Office of Planning and Research, Technical Advisory, CEQA and Climate Change, (2008); and
- Attorney General's Office, Addressing Climate Change at the Project Level, (2010).

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. Planning efforts that lead to reduced vehicle trips while preserving personal mobility should be undertaken in addition to programs such as employee transit incentives, telework programs, car sharing, parking policies, public education programs and other strategies that enhance and complements land use and transit strategies. The Climate Change Scoping Plan also recommends energy-efficiency measures in

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30 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).

buildings such as maximizing the use of energy-efficient appliances and solar water heating as well as complying with green building standards that result in decreased energy consumption compared to Title 24 building codes. In addition, the Climate Change Scoping Plan encourages the use of renewable sources of energy to provide clean energy and reduce fossil-fuel based energy.

The other guidance documents provided by the California Air Pollution Control Officer's Association (CAPCOA), California Climate Action Team (CCAT), Office of Planning and Research (OPR), and the Attorney General's Office (AGO) provide a range of project design standards and mitigation measures to reduce GHG emissions. These include design standards and measures that reduce dependency on automobiles and vehicle miles traveled, reduce dependency on fossil-fuel based sources of energy, require the use of energy and water efficient appliances, require water efficient landscaping, and require reductions in waste generation and disposal.

The purpose of the proposed project is to renovate an existing land use. The project would not increase the number of hotel units, landside amenities, or the marina associated with the Marina Del Rey Hotel. The project incorporates design standards and measures that are both feasible and consistent with many of the recommended measures for new projects from the guidance documents listed above. The proposed project would install energy-efficient lighting, and decrease parking spaces to encourage other forms of transportation and discourage the use of single-occupancy vehicles. 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 CAPCOA, reductions in parking spaces can reduce transportation-related GHG emissions from 1 percent up to 30 percent, depending on the nature of the parking reductions and the ability of the site to be adequately serviced by alternative forms of transportation (CAPCOA mitigation measure MM T-11).[31] The use of energy efficient lighting has a low potential to reduce GHG emissions (CAPCOA does not present data that specifically quantifies reductions associated with energy efficient lighting).

While the County of Los Angeles has not adopted a GHG reduction plan for resources within its jurisdiction, the project is generally consist with applicable and feasible GHG reduction standards and measures recommended by other agencies including CARB, CAPCOA, CCAR, OPR, and AGO. As noted above, the project would reduce overall GHG emissions compared to the existing site. Therefore, the

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31 California Air Pollution Control Officers Association, *CEQA and Climate Change*, (2008) B-9.

proposed project would have a less than significant impact on the environment with respect to this criterion.

6.0 CONCLUSION

The air quality assessment for the proposed Marina del Rey Hotel and Anchorage Project, located at 13534 Bali Way in Marina del Rey, unincorporated Los Angeles County, California, was prepared in accordance with the SCAQMD's *CEQA Air Quality Handbook* and other data provided by the SCAQMD. Emissions from construction of the proposed project will not exceed the emissions thresholds for the pollutants analyzed above. Operational emissions will not exceed existing emissions. In addition, emissions from the proposed project will not exceed the localized ambient concentration thresholds established in the SCAQMD's LST Methodology. Furthermore, the proposed project will not lead to the formation of CO hotspots due to project-related vehicular traffic. Also, the proposed project would not produce odor nuisance and toxic air contaminants. Finally, the construction and operation of the proposed project would not contribute to global climate change. For these reasons, the proposed project will have less than significant air quality impacts with respect to the above significance thresholds.

APPENDIX A

URBEMIS2007 Construction Emissions

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Urbemis 2007 Version 9.2.4

Combined Summer Emissions Reports (Pounds/Day)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Landside Renovations\Phase I\Phase I - South Wing.urb924

Project Name: Marina Del Rey Hotel

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
2010 TOTALS (lbs/day unmitigated)	50.21	22.20	17.81	0.01	2.08	1.65	2.76	0.43	1.52	1.53

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
Time Slice 4/1/2010-5/17/2010 Active Days: 33	1.34	9.87	6.55	0.00	**2.08**	0.68	**2.76**	**0.43**	0.62	1.06
Demolition 04/01/2010-05/17/2010	1.34	9.87	6.55	0.00	2.08	0.68	2.76	0.43	0.62	1.06
Fugitive Dust	0.00	0.00	0.00	0.00	2.06	0.00	2.06	0.43	0.00	0.43
Demo Off Road Diesel	1.14	7.68	4.68	0.00	0.00	0.59	0.59	0.00	0.54	0.54
Demo On Road Diesel	0.16	2.13	0.82	0.00	0.01	0.09	0.10	0.00	0.08	0.08
Demo Worker Trips	0.03	0.06	1.05	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 5/18/2010-6/25/2010 Active Days: 29	1.35	9.84	8.29	0.00	0.02	0.61	0.63	0.01	0.56	0.56
Building 05/18/2010-07/26/2010	1.35	9.84	8.29	0.00	0.02	0.61	0.63	0.01	0.56	0.56
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.04	0.49	0.40	0.00	0.00	0.02	0.02	0.00	0.02	0.02
Building Worker Trips	0.10	0.18	3.07	0.00	0.02	0.01	0.03	0.01	0.01	0.01

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Time Slice 6/28/2010-6/30/2010 Active Days: 3	48.10	9.87	8.86	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building 05/18/2010-07/26/2010	1.35	9.84	8.29	0.00	0.02	0.61	0.63	0.01	0.56	0.56
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.04	0.49	0.40	0.00	0.00	0.02	0.02	0.00	0.02	0.02
Building Worker Trips	0.10	0.18	3.07	0.00	0.02	0.01	0.03	0.01	0.01	0.01
Coating 06/28/2010-07/26/2010	46.76	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00
Architectural Coating	46.74	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.02	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00
Time Slice 7/1/2010-7/26/2010 Active Days: 18	**50.21**	**22.20**	**17.81**	**0.01**	0.04	**1.65**	1.69	0.01	**1.52**	**1.53**
Asphalt 07/01/2010-07/26/2010	2.11	12.33	8.94	0.00	0.01	1.05	1.06	0.00	0.96	0.97
Paving Off-Gas	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	1.95	11.89	6.98	0.00	0.00	1.03	1.03	0.00	0.94	0.94
Paving On Road Diesel	0.03	0.33	0.13	0.00	0.00	0.01	0.01	0.00	0.01	0.01
Paving Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.00	0.01
Building 05/18/2010-07/26/2010	1.35	9.84	8.29	0.00	0.02	0.61	0.63	0.01	0.56	0.56
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.04	0.49	0.40	0.00	0.00	0.02	0.02	0.00	0.02	0.02
Building Worker Trips	0.10	0.18	3.07	0.00	0.02	0.01	0.03	0.01	0.01	0.01
Coating 06/28/2010-07/26/2010	46.76	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00
Architectural Coating	46.74	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.02	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00

Phase Assumptions

Phase: Demolition 4/1/2010 - 5/17/2010 - Type Your Description Here

Building Volume Total (cubic feet): 163350

Building Volume Daily (cubic feet): 4913

On Road Truck Travel (VMT): 68.24

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

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Phase: Paving 7/1/2010 - 7/26/2010 - Default Paving Description
Acres to be Paved: 0.53
Off-Road Equipment:
4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 5/18/2010 - 7/26/2010 - Default Building Construction Description
Off-Road Equipment:
1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day
2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 6/28/2010 - 7/26/2010 - Default Architectural Coating Description
Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100
Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50
Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250
Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100
Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250
Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Urbemis 2007 Version 9.2.4

Combined Winter Emissions Reports (Pounds/Day)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Landside Renovations\Phase I\Phase I - South Wing.urb924

Project Name: Marina Del Rey Hotel

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
2010 TOTALS (lbs/day unmitigated)	50.21	22.20	17.81	0.01	2.08	1.65	2.76	0.43	1.52	1.53

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
Time Slice 4/1/2010-5/17/2010 Active Days: 33	1.34	9.87	6.55	0.00	**2.08**	0.68	**2.76**	**0.43**	0.62	1.06
Demolition 04/01/2010-05/17/2010	1.34	9.87	6.55	0.00	2.08	0.68	2.76	0.43	0.62	1.06
Fugitive Dust	0.00	0.00	0.00	0.00	2.06	0.00	2.06	0.43	0.00	0.43
Demo Off Road Diesel	1.14	7.68	4.68	0.00	0.00	0.59	0.59	0.00	0.54	0.54
Demo On Road Diesel	0.16	2.13	0.82	0.00	0.01	0.09	0.10	0.00	0.08	0.08
Demo Worker Trips	0.03	0.06	1.05	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 5/18/2010-6/25/2010 Active Days: 29	1.35	9.84	8.29	0.00	0.02	0.61	0.63	0.01	0.56	0.56
Building 05/18/2010-07/26/2010	1.35	9.84	8.29	0.00	0.02	0.61	0.63	0.01	0.56	0.56
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.04	0.49	0.40	0.00	0.00	0.02	0.02	0.00	0.02	0.02
Building Worker Trips	0.10	0.18	3.07	0.00	0.02	0.01	0.03	0.01	0.01	0.01

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Time Slice 6/28/2010-6/30/2010 Active Days: 3	48.10	9.87	8.86	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building 05/18/2010-07/26/2010	1.35	9.84	8.29	0.00	0.02	0.61	0.63	0.01	0.56	0.56
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.04	0.49	0.40	0.00	0.00	0.02	0.02	0.00	0.02	0.02
Building Worker Trips	0.10	0.18	3.07	0.00	0.02	0.01	0.03	0.01	0.01	0.01
Coating 06/28/2010-07/26/2010	46.76	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00
Architectural Coating	46.74	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.02	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00
Time Slice 7/1/2010-7/26/2010 Active Days: 18	**50.21**	**22.20**	**17.81**	**0.01**	0.04	**1.65**	1.69	0.01	**1.52**	**1.53**
Asphalt 07/01/2010-07/26/2010	2.11	12.33	8.94	0.00	0.01	1.05	1.06	0.00	0.96	0.97
Paving Off-Gas	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	1.95	11.89	6.98	0.00	0.00	1.03	1.03	0.00	0.94	0.94
Paving On Road Diesel	0.03	0.33	0.13	0.00	0.00	0.01	0.01	0.00	0.01	0.01
Paving Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.00	0.01
Building 05/18/2010-07/26/2010	1.35	9.84	8.29	0.00	0.02	0.61	0.63	0.01	0.56	0.56
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.04	0.49	0.40	0.00	0.00	0.02	0.02	0.00	0.02	0.02
Building Worker Trips	0.10	0.18	3.07	0.00	0.02	0.01	0.03	0.01	0.01	0.01
Coating 06/28/2010-07/26/2010	46.76	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00
Architectural Coating	46.74	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.02	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00

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Phase Assumptions

Phase: Demolition 4/1/2010 - 5/17/2010 - Type Your Description Here
Building Volume Total (cubic feet): 163350
Building Volume Daily (cubic feet): 4913
On Road Truck Travel (VMT): 68.24
Off-Road Equipment:
1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day
1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Paving 7/1/2010 - 7/26/2010 - Default Paving Description
Acres to be Paved: 0.53
Off-Road Equipment:
4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 5/18/2010 - 7/26/2010 - Default Building Construction Description
Off-Road Equipment:
1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day
2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 6/28/2010 - 7/26/2010 - Default Architectural Coating Description
Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100
Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50
Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250
Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100
Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250
Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Urbemis 2007 Version 9.2.4

Combined Summer Emissions Reports (Pounds/Day)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Landside Renovations\Phase II\Phase II - North Wing.urb924

Project Name: Phase II - North Wing

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
2010 TOTALS (lbs/day unmitigated)	48.48	22.28	18.14	0.01	2.08	1.66	2.76	0.43	1.52	1.54

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
Time Slice 8/2/2010-9/15/2010 Active Days: 33	1.34	9.87	6.55	0.00	**2.08**	0.68	**2.76**	**0.43**	0.62	1.06
Demolition 08/01/2010-09/15/2010	1.34	9.87	6.55	0.00	2.08	0.68	2.76	0.43	0.62	1.06
Fugitive Dust	0.00	0.00	0.00	0.00	2.06	0.00	2.06	0.43	0.00	0.43
Demo Off Road Diesel	1.14	7.68	4.68	0.00	0.00	0.59	0.59	0.00	0.54	0.54
Demo On Road Diesel	0.16	2.13	0.82	0.00	0.01	0.09	0.10	0.00	0.08	0.08
Demo Worker Trips	0.03	0.06	1.05	0.00	0.01	0.00	0.01	0.00	0.00	0.00

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Time Slice 9/16/2010-10/22/2010 Active Days: 27	1.36	9.91	8.64	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building 09/16/2010-11/25/2010	1.36	9.91	8.64	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.05	0.54	0.45	0.00	0.00	0.02	0.03	0.00	0.02	0.02
Building Worker Trips	0.11	0.20	3.38	0.00	0.02	0.01	0.03	0.01	0.01	0.02
Time Slice 10/25/2010-10/29/2010 Active Days: 5	46.36	9.94	9.19	0.01	0.03	0.61	0.64	0.01	0.56	0.57
Building 09/16/2010-11/25/2010	1.36	9.91	8.64	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.05	0.54	0.45	0.00	0.00	0.02	0.03	0.00	0.02	0.02
Building Worker Trips	0.11	0.20	3.38	0.00	0.02	0.01	0.03	0.01	0.01	0.02
Coating 10/25/2010-11/25/2010	45.00	0.03	0.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	44.99	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.02	0.03	0.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Time Slice 11/1/2010-11/25/2010 Active Days: 19	**48.48**	**22.28**	**18.14**	**0.01**	0.04	**1.66**	1.69	0.01	**1.52**	**1.54**
Asphalt 11/01/2010-11/25/2010	2.11	12.34	8.95	0.00	0.01	1.05	1.06	0.00	0.96	0.97
Paving Off-Gas	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	1.95	11.89	6.98	0.00	0.00	1.03	1.03	0.00	0.94	0.94
Paving On Road Diesel	0.03	0.34	0.13	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Paving Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.00	0.01
Building 09/16/2010-11/25/2010	1.36	9.91	8.64	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.05	0.54	0.45	0.00	0.00	0.02	0.03	0.00	0.02	0.02
Building Worker Trips	0.11	0.20	3.38	0.00	0.02	0.01	0.03	0.01	0.01	0.02

Coating 10/25/2010-11/25/2010	45.00	0.03	0.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	44.99	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.02	0.03	0.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Phase Assumptions

Phase: Demolition 8/1/2010 - 9/15/2010 - Default Demolition Description

Building Volume Total (cubic feet): 163350

Building Volume Daily (cubic feet): 4913

On Road Truck Travel (VMT): 68.24

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Paving 11/1/2010 - 11/25/2010 - Default Paving Description

Acres to be Paved: 0.58

Off-Road Equipment:

4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day

1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day

1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 9/16/2010 - 11/25/2010 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

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Phase: Architectural Coating 10/25/2010 - 11/25/2010 - Default Architectural Coating Description

Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100

Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50

Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250

Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100

Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Urbemis 2007 Version 9.2.4

Combined Winter Emissions Reports (Pounds/Day)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Landside Renovations\Phase II\Phase II - North Wing.urb924

Project Name: Phase II - North Wing

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
2010 TOTALS (lbs/day unmitigated)	48.48	22.28	18.14	0.01	2.08	1.66	2.76	0.43	1.52	1.54

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
Time Slice 8/2/2010-9/15/2010 Active Days: 33	1.34	9.87	6.55	0.00	**2.08**	0.68	**2.76**	**0.43**	0.62	1.06
Demolition 08/01/2010-09/15/2010	1.34	9.87	6.55	0.00	2.08	0.68	2.76	0.43	0.62	1.06
Fugitive Dust	0.00	0.00	0.00	0.00	2.06	0.00	2.06	0.43	0.00	0.43
Demo Off Road Diesel	1.14	7.68	4.68	0.00	0.00	0.59	0.59	0.00	0.54	0.54
Demo On Road Diesel	0.16	2.13	0.82	0.00	0.01	0.09	0.10	0.00	0.08	0.08
Demo Worker Trips	0.03	0.06	1.05	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 9/16/2010-10/22/2010 Active Days: 27	1.36	9.91	8.64	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building 09/16/2010-11/25/2010	1.36	9.91	8.64	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.05	0.54	0.45	0.00	0.00	0.02	0.03	0.00	0.02	0.02
Building Worker Trips	0.11	0.20	3.38	0.00	0.02	0.01	0.03	0.01	0.01	0.02

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Time Slice 10/25/2010-10/29/2010 Active Days: 5	46.36	9.94	9.19	0.01	0.03	0.61	0.64	0.01	0.56	0.57
Building 09/16/2010-11/25/2010	1.36	9.91	8.64	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.05	0.54	0.45	0.00	0.00	0.02	0.03	0.00	0.02	0.02
Building Worker Trips	0.11	0.20	3.38	0.00	0.02	0.01	0.03	0.01	0.01	0.02
Coating 10/25/2010-11/25/2010	45.00	0.03	0.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	44.99	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.02	0.03	0.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Time Slice 11/1/2010-11/25/2010 Active Days: 19	**48.48**	**22.28**	**18.14**	**0.01**	0.04	**1.66**	1.69	0.01	**1.52**	**1.54**
Asphalt 11/01/2010-11/25/2010	2.11	12.34	8.95	0.00	0.01	1.05	1.06	0.00	0.96	0.97
Paving Off-Gas	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	1.95	11.89	6.98	0.00	0.00	1.03	1.03	0.00	0.94	0.94
Paving On Road Diesel	0.03	0.34	0.13	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Paving Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.00	0.01
Building 09/16/2010-11/25/2010	1.36	9.91	8.64	0.01	0.02	0.61	0.63	0.01	0.56	0.57
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53
Building Vendor Trips	0.05	0.54	0.45	0.00	0.00	0.02	0.03	0.00	0.02	0.02
Building Worker Trips	0.11	0.20	3.38	0.00	0.02	0.01	0.03	0.01	0.01	0.02
Coating 10/25/2010-11/25/2010	45.00	0.03	0.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	44.99	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.02	0.03	0.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00

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Phase Assumptions

Phase: Demolition 8/1/2010 - 9/15/2010 - Default Demolition Description
Building Volume Total (cubic feet): 163350
Building Volume Daily (cubic feet): 4913
On Road Truck Travel (VMT): 68.24
Off-Road Equipment:
1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day
1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Paving 11/1/2010 - 11/25/2010 - Default Paving Description
Acres to be Paved: 0.58
Off-Road Equipment:
4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 9/16/2010 - 11/25/2010 - Default Building Construction Description
Off-Road Equipment:
1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day
2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 10/25/2010 - 11/25/2010 - Default Architectural Coating Description
Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100
Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50
Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250
Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100
Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250
Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Urbemis 2007 Version 9.2.4

Combined Summer Emissions Reports (Pounds/Day)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Landside Renovations\Phase III\Phase III - West Wing.urb924

Project Name: Phase III - West Wing

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
2010 TOTALS (lbs/day unmitigated)	1.34	9.87	6.55	0.00	2.08	0.68	2.76	0.43	0.62	1.06
2011 TOTALS (lbs/day unmitigated)	37.05	20.53	16.10	0.01	2.08	1.56	2.71	0.43	1.43	1.44

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
Time Slice 12/1/2010-12/31/2010 Active Days: 23	1.34	9.87	6.55	0.00	**2.08**	0.68	**2.76**	**0.43**	0.62	1.06
Demolition 12/01/2010-01/15/2011	1.34	9.87	6.55	0.00	2.08	0.68	2.76	0.43	0.62	1.06
Fugitive Dust	0.00	0.00	0.00	0.00	2.06	0.00	2.06	0.43	0.00	0.43
Demo Off Road Diesel	1.14	7.68	4.68	0.00	0.00	0.59	0.59	0.00	0.54	0.54
Demo On Road Diesel	0.16	2.13	0.82	0.00	0.01	0.09	0.10	0.00	0.08	0.08
Demo Worker Trips	0.03	0.06	1.05	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 1/3/2011-1/14/2011 Active Days: 10	1.23	9.19	6.29	0.00	**2.08**	0.63	2.71	**0.43**	0.58	1.01
Demolition 12/01/2010-01/15/2011	1.23	9.19	6.29	0.00	2.08	0.63	2.71	0.43	0.58	1.01
Fugitive Dust	0.00	0.00	0.00	0.00	2.06	0.00	2.06	0.43	0.00	0.43
Demo Off Road Diesel	1.05	7.22	4.58	0.00	0.00	0.55	0.55	0.00	0.50	0.50
Demo On Road Diesel	0.15	1.91	0.74	0.00	0.01	0.08	0.09	0.00	0.07	0.07
Demo Worker Trips	0.03	0.06	0.98	0.00	0.01	0.00	0.01	0.00	0.00	0.00

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Time Slice 1/17/2011-2/24/2011 Active Days: 29	1.21	8.95	7.02	0.00	0.01	0.56	0.58	0.01	0.52	0.52
Building 01/16/2011-03/25/2011	1.21	8.95	7.02	0.00	0.01	0.56	0.58	0.01	0.52	0.52
Building Off Road Diesel	1.11	8.51	4.68	0.00	0.00	0.54	0.54	0.00	0.50	0.50
Building Vendor Trips	0.03	0.32	0.27	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Building Worker Trips	0.06	0.12	2.07	0.00	0.01	0.01	0.02	0.00	0.01	0.01
Time Slice 2/25/2011-2/28/2011 Active Days: 2	35.10	8.97	7.41	0.00	0.02	0.56	0.58	0.01	0.52	0.53
Building 01/16/2011-03/25/2011	1.21	8.95	7.02	0.00	0.01	0.56	0.58	0.01	0.52	0.52
Building Off Road Diesel	1.11	8.51	4.68	0.00	0.00	0.54	0.54	0.00	0.50	0.50
Building Vendor Trips	0.03	0.32	0.27	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Building Worker Trips	0.06	0.12	2.07	0.00	0.01	0.01	0.02	0.00	0.01	0.01
Coating 02/25/2011-03/25/2011	33.90	0.02	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	33.89	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.01	0.02	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Time Slice 3/1/2011-3/25/2011 Active Days: 19	**37.05**	**20.53**	**16.10**	**0.01**	0.03	**1.56**	1.58	0.01	**1.43**	**1.44**
Asphalt 03/01/2011-03/25/2011	1.95	11.56	8.69	0.00	0.01	0.99	1.00	0.00	0.91	0.91
Paving Off-Gas	0.05	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	1.83	11.26	6.91	0.00	0.00	0.98	0.98	0.00	0.90	0.90
Paving On Road Diesel	0.02	0.20	0.08	0.00	0.00	0.01	0.01	0.00	0.01	0.01
Paving Worker Trips	0.05	0.10	1.71	0.00	0.01	0.01	0.02	0.00	0.00	0.01
Building 01/16/2011-03/25/2011	1.21	8.95	7.02	0.00	0.01	0.56	0.58	0.01	0.52	0.52
Building Off Road Diesel	1.11	8.51	4.68	0.00	0.00	0.54	0.54	0.00	0.50	0.50
Building Vendor Trips	0.03	0.32	0.27	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Building Worker Trips	0.06	0.12	2.07	0.00	0.01	0.01	0.02	0.00	0.01	0.01
Coating 02/25/2011-03/25/2011	33.90	0.02	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	33.89	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.01	0.02	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00

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Phase Assumptions

Phase: Demolition 12/1/2010 - 1/15/2011 - Default Demolition Description
Building Volume Total (cubic feet): 163350
Building Volume Daily (cubic feet): 4913
On Road Truck Travel (VMT): 68.24
Off-Road Equipment:
1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day
1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Paving 3/1/2011 - 3/25/2011 - Default Paving Description
Acres to be Paved: 0.38
Off-Road Equipment:
4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 1/16/2011 - 3/25/2011 - Default Building Construction Description
Off-Road Equipment:
1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day
2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 2/25/2011 - 3/25/2011 - Default Architectural Coating Description
Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100
Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50
Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250
Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100
Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250
Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Urbemis 2007 Version 9.2.4

Combined Winter Emissions Reports (Pounds/Day)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Landside Renovations\Phase III\Phase III - West Wing.urb924

Project Name: Phase III - West Wing

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
2010 TOTALS (lbs/day unmitigated)	1.34	9.87	6.55	0.00	2.08	0.68	2.76	0.43	0.62	1.06
2011 TOTALS (lbs/day unmitigated)	37.05	20.53	16.10	0.01	2.08	1.56	2.71	0.43	1.43	1.44

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
Time Slice 12/1/2010-12/31/2010 Active Days: 23	1.34	9.87	6.55	0.00	**2.08**	0.68	**2.76**	**0.43**	0.62	1.06
Demolition 12/01/2010-01/15/2011	1.34	9.87	6.55	0.00	2.08	0.68	2.76	0.43	0.62	1.06
Fugitive Dust	0.00	0.00	0.00	0.00	2.06	0.00	2.06	0.43	0.00	0.43
Demo Off Road Diesel	1.14	7.68	4.68	0.00	0.00	0.59	0.59	0.00	0.54	0.54
Demo On Road Diesel	0.16	2.13	0.82	0.00	0.01	0.09	0.10	0.00	0.08	0.08
Demo Worker Trips	0.03	0.06	1.05	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 1/3/2011-1/14/2011 Active Days: 10	1.23	9.19	6.29	0.00	**2.08**	0.63	2.71	**0.43**	0.58	1.01
Demolition 12/01/2010-01/15/2011	1.23	9.19	6.29	0.00	2.08	0.63	2.71	0.43	0.58	1.01
Fugitive Dust	0.00	0.00	0.00	0.00	2.06	0.00	2.06	0.43	0.00	0.43
Demo Off Road Diesel	1.05	7.22	4.58	0.00	0.00	0.55	0.55	0.00	0.50	0.50
Demo On Road Diesel	0.15	1.91	0.74	0.00	0.01	0.08	0.09	0.00	0.07	0.07
Demo Worker Trips	0.03	0.06	0.98	0.00	0.01	0.00	0.01	0.00	0.00	0.00

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Time Slice 1/17/2011-2/24/2011 Active Days: 29	1.21	8.95	7.02	0.00	0.01	0.56	0.58	0.01	0.52	0.52
Building 01/16/2011-03/25/2011	1.21	8.95	7.02	0.00	0.01	0.56	0.58	0.01	0.52	0.52
Building Off Road Diesel	1.11	8.51	4.68	0.00	0.00	0.54	0.54	0.00	0.50	0.50
Building Vendor Trips	0.03	0.32	0.27	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Building Worker Trips	0.06	0.12	2.07	0.00	0.01	0.01	0.02	0.00	0.01	0.01
Time Slice 2/25/2011-2/28/2011 Active Days: 2	35.10	8.97	7.41	0.00	0.02	0.56	0.58	0.01	0.52	0.53
Building 01/16/2011-03/25/2011	1.21	8.95	7.02	0.00	0.01	0.56	0.58	0.01	0.52	0.52
Building Off Road Diesel	1.11	8.51	4.68	0.00	0.00	0.54	0.54	0.00	0.50	0.50
Building Vendor Trips	0.03	0.32	0.27	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Building Worker Trips	0.06	0.12	2.07	0.00	0.01	0.01	0.02	0.00	0.01	0.01
Coating 02/25/2011-03/25/2011	33.90	0.02	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	33.89	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.01	0.02	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Time Slice 3/1/2011-3/25/2011 Active Days: 19	**37.05**	**20.53**	**16.10**	**0.01**	0.03	**1.56**	1.58	0.01	**1.43**	**1.44**
Asphalt 03/01/2011-03/25/2011	1.95	11.56	8.69	0.00	0.01	0.99	1.00	0.00	0.91	0.91
Paving Off-Gas	0.05	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	1.83	11.26	6.91	0.00	0.00	0.98	0.98	0.00	0.90	0.90
Paving On Road Diesel	0.02	0.20	0.08	0.00	0.00	0.01	0.01	0.00	0.01	0.01
Paving Worker Trips	0.05	0.10	1.71	0.00	0.01	0.01	0.02	0.00	0.00	0.01
Building 01/16/2011-03/25/2011	1.21	8.95	7.02	0.00	0.01	0.56	0.58	0.01	0.52	0.52
Building Off Road Diesel	1.11	8.51	4.68	0.00	0.00	0.54	0.54	0.00	0.50	0.50
Building Vendor Trips	0.03	0.32	0.27	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Building Worker Trips	0.06	0.12	2.07	0.00	0.01	0.01	0.02	0.00	0.01	0.01
Coating 02/25/2011-03/25/2011	33.90	0.02	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	33.89	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.01	0.02	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00

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Phase Assumptions

Phase: Demolition 12/1/2010 - 1/15/2011 - Default Demolition Description
Building Volume Total (cubic feet): 163350
Building Volume Daily (cubic feet): 4913
On Road Truck Travel (VMT): 68.24
Off-Road Equipment:
1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day
1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Paving 3/1/2011 - 3/25/2011 - Default Paving Description
Acres to be Paved: 0.38
Off-Road Equipment:
4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 1/16/2011 - 3/25/2011 - Default Building Construction Description
Off-Road Equipment:
1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day
2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 2/25/2011 - 3/25/2011 - Default Architectural Coating Description
Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100
Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50
Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250
Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100
Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250
Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Urbemis 2007 Version 9.2.4

Combined Summer Emissions Reports (Pounds/Day)

File Name:

Project Name: Marina Del Rey Hotel - Docks

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
2011 TOTALS (lbs/day unmitigated)	1.11	7.66	5.71	0.00	0.42	0.57	0.99	0.09	0.52	0.61
2012 TOTALS (lbs/day unmitigated)	1.06	8.02	5.53	0.00	0.42	0.51	0.93	0.09	0.47	0.56

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
Time Slice 11/1/2011-12/30/2011 Active Days: 44	**1.11**	7.66	**5.71**	**0.00**	**0.42**	**0.57**	**0.99**	**0.09**	**0.52**	**0.61**
Demolition 11/01/2011-01/15/2012	1.11	7.66	5.71	0.00	0.42	0.57	0.99	0.09	0.52	0.61
Fugitive Dust	0.00	0.00	0.00	0.00	0.41	0.00	0.41	0.09	0.00	0.09
Demo Off Road Diesel	1.05	7.22	4.58	0.00	0.00	0.55	0.55	0.00	0.50	0.50
Demo On Road Diesel	0.03	0.38	0.15	0.00	0.00	0.02	0.02	0.00	0.01	0.01
Demo Worker Trips	0.03	0.06	0.98	0.00	0.01	0.00	0.01	0.00	0.00	0.00

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Time Slice 1/2/2012-1/13/2012 Active Days: 10	1.04	7.16	5.53	**0.00**	**0.42**	0.51	0.93	**0.09**	0.47	0.56
Demolition 11/01/2011-01/15/2012	1.04	7.16	5.53	0.00	0.42	0.51	0.93	0.09	0.47	0.56
Fugitive Dust	0.00	0.00	0.00	0.00	0.41	0.00	0.41	0.09	0.00	0.09
Demo Off Road Diesel	0.98	6.77	4.49	0.00	0.00	0.49	0.49	0.00	0.45	0.45
Demo On Road Diesel	0.03	0.34	0.13	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Demo Worker Trips	0.03	0.05	0.91	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 1/16/2012-3/30/2012 Active Days: 55	1.06	**8.02**	5.34	0.00	0.01	0.49	0.50	0.00	0.45	0.45
Building 01/16/2012-03/31/2012	1.06	8.02	5.34	0.00	0.01	0.49	0.50	0.00	0.45	0.45
Building Off Road Diesel	1.03	7.87	4.56	0.00	0.00	0.49	0.49	0.00	0.45	0.45
Building Vendor Trips	0.01	0.10	0.09	0.00	0.00	0.00	0.01	0.00	0.00	0.00
Building Worker Trips	0.02	0.04	0.69	0.00	0.00	0.00	0.01	0.00	0.00	0.00

Phase Assumptions

Phase: Demolition 11/1/2011 - 1/15/2012 - Default Demolition Description

Building Volume Total (cubic feet): 52022

Building Volume Daily (cubic feet): 980.1

On Road Truck Travel (VMT): 13.61

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Building Construction 1/16/2012 - 3/31/2012 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

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Urbemis 2007 Version 9.2.4

Combined Winter Emissions Reports (Pounds/Day)

File Name:

Project Name: Marina Del Rey Hotel - Docks

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
2011 TOTALS (lbs/day unmitigated)	1.11	7.66	5.71	0.00	0.42	0.57	0.99	0.09	0.52	0.61
2012 TOTALS (lbs/day unmitigated)	1.06	8.02	5.53	0.00	0.42	0.51	0.93	0.09	0.47	0.56

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5
Time Slice 11/1/2011-12/30/2011 Active Days: 44	**1.11**	7.66	**5.71**	**0.00**	**0.42**	**0.57**	**0.99**	**0.09**	**0.52**	**0.61**
Demolition 11/01/2011-01/15/2012	1.11	7.66	5.71	0.00	0.42	0.57	0.99	0.09	0.52	0.61
Fugitive Dust	0.00	0.00	0.00	0.00	0.41	0.00	0.41	0.09	0.00	0.09
Demo Off Road Diesel	1.05	7.22	4.58	0.00	0.00	0.55	0.55	0.00	0.50	0.50
Demo On Road Diesel	0.03	0.38	0.15	0.00	0.00	0.02	0.02	0.00	0.01	0.01
Demo Worker Trips	0.03	0.06	0.98	0.00	0.01	0.00	0.01	0.00	0.00	0.00

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Time Slice 1/2/2012-1/13/2012 Active Days: 10	1.04	7.16	5.53	**0.00**	**0.42**	0.51	0.93	**0.09**	0.47	0.56
Demolition 11/01/2011-01/15/2012	1.04	7.16	5.53	0.00	0.42	0.51	0.93	0.09	0.47	0.56
Fugitive Dust	0.00	0.00	0.00	0.00	0.41	0.00	0.41	0.09	0.00	0.09
Demo Off Road Diesel	0.98	6.77	4.49	0.00	0.00	0.49	0.49	0.00	0.45	0.45
Demo On Road Diesel	0.03	0.34	0.13	0.00	0.00	0.01	0.02	0.00	0.01	0.01
Demo Worker Trips	0.03	0.05	0.91	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 1/16/2012-3/30/2012 Active Days: 55	1.06	**8.02**	5.34	0.00	0.01	0.49	0.50	0.00	0.45	0.45
Building 01/16/2012-03/31/2012	1.06	8.02	5.34	0.00	0.01	0.49	0.50	0.00	0.45	0.45
Building Off Road Diesel	1.03	7.87	4.56	0.00	0.00	0.49	0.49	0.00	0.45	0.45
Building Vendor Trips	0.01	0.10	0.09	0.00	0.00	0.00	0.01	0.00	0.00	0.00
Building Worker Trips	0.02	0.04	0.69	0.00	0.00	0.00	0.01	0.00	0.00	0.00

Phase Assumptions

Phase: Demolition 11/1/2011 - 1/15/2012 - Default Demolition Description

Building Volume Total (cubic feet): 52022

Building Volume Daily (cubic feet): 980.1

On Road Truck Travel (VMT): 13.61

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Building Construction 1/16/2012 - 3/31/2012 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Marina Del Rey Hotel and Anchorage Project
Maximum Daily Marine Vessel Emissions

Tugboat Operating Data	
	Within California Coastal Waters
Main Engine (1)	**South Coast**
Total Engine Size (kW)	19
Total Engine Size (hp)	25
Arrival Manuevering Fractional Load	0.5
Arrival Manuevering Load (kW)	9
Arrival Manuevering (hr/call)[a]	3.26
Number of Tugs During Arrival	1
Departure Manuevering Fractional Load	0.75
Departure Manuevering Load (kW)	14
Departure Manuevering (hr/call)[b]	9.26
Number of Tugs During Departure	1
Maximum calls per day	1
Idling Hours	8
Idling Fractional Load[c]	0.5

Sources:
1. Port of Los Angeles, *Inventory of Air Emissions 2005*, (September 2007).
2. U.S. Environmental Protection Agency, *Analysis of Commercial Marine Vessels Emissions and Fuel Consumption Data*, (February 2000).
Notes:
a. Assumes the tugboat arrives from the Port of Los Angeles at a speed consistent with the SCAQMD marine vessel speed reduction target of 12 knots.
b. Assumes the tugboat departs at a speed of 7 knots in California Coasta Waters adjacent to the South Coast Air Basin.
c. Assumes the same fractional load as arrival manuevering.

Tugboat Emission Factors									
				Load Factor			Emission Rate (g/kW-hr)		
Pollutant	**Exponent (x)**	**Intercept (b)**	**Coefficient (a)**	**Arrival**	**Departure**	**Idling**	**Arrival**	**Departure**	**Idling**
VOC	1.5	0.3859	0.0667	0.5	0.75	0.5	0.57	0.49	0.57
CO	1.0	0.1548	0.8378	0.5	0.75	0.5	1.83	1.27	1.83
NO_X	1.5	10.4496	0.1255	0.5	0.75	0.5	10.80	10.64	10.80
SO_2	--	-0.4792	1.9980	0.5	0.75	0.5	1.50	1.44	1.50
PM_{10}	1.5	0.2551	0.0059	0.5	0.75	0.5	0.27	0.26	0.27

Source: U.S. Environmental Protection Agency, *Analysis of Commercial Marine Vessels Emissions and Fuel Consumption Data*, (February 2000).
Note: SO_2 emission factors assume use of 0.2% sulfur fuel, which is in use at the Port of Los Angeles.

Maximum Daily Tugboat Emissions				
	South Coast Air Basin (pounds/day)			
Pollutant	**Arrival**	**Departure**	**Idling**	**Total**
VOC	0.04	0.14	0.16	0.18
CO	0.12	0.36	0.52	0.49
NO_X	0.72	3.04	3.08	3.76
SO_2	0.10	0.41	0.43	0.51
PM_{10}	0.02	0.08	0.08	0.09
$PM_{2.5}$[a]	--	--	--	0.09

Source: Impact Sciences, Inc., (February 2010).
Note:
a. $PM_{2.5}$ emissions are based on particulate matter speciation profiles from the California Emissions Inventory and Reporting System (CEIDARS).
Profiles are available online at: http://www.arb.ca.gov/ei/speciate/pmsize_11_21_07.xls

APPENDIX B

Localized Significance Thresholds

Marina Del Rey Hotel - Landside
Localized Significance Thresholds
Based on SCAQMD Screening Tables for Construction and Operational Emissions

Pollutant	SRA	Distance (meters)	Emission Thresholds for Project Sizes (pounds per day)		
			2-Acre	5-Acre	2.08-Acre*
PM_{10} - Construction	2	25	6	13	6.19
$PM_{2.5}$ - Construction	2	25	4	6	4.05
PM_{10} - Operational	2	25	2	3	2.03
$PM_{2.5}$ - Operational	2	25	1	2	1.03
NO_X - Construction/Operational	2	25	164	246	166.19
CO - Construction/Operational	2	25	815	1509	833.51

Source:

South Coast Air Quality Management District, *Final Localized Significance Threshold Metholodolgy*, Appendix C - Mass Rate LST Lookup Tables, (2008).

Note:

* The LSTs for a 2.08-acre site were interpolated based on the 2-acre and 5-acre values.

Marina Del Rey Hotel - Waterside
Localized Significance Thresholds
Based on SCAQMD Screening Tables for Construction and Operational Emissions

Pollutant	SRA	Distance (meters)	Emission Thresholds for Project Sizes (pounds per day)		
			1-Acre	2-Acre	1.78-Acre*
PM_{10} - Construction	2	25	4	6	5.56
$PM_{2.5}$ - Construction	2	25	3	4	3.78
PM_{10} - Operational	2	25	1	2	1.78
$PM_{2.5}$ - Operational	2	25	1	1	1.00
NO_X - Construction/Operational	2	25	114	164	153.00
CO - Construction/Operational	2	25	554	815	757.58

Source:
South Coast Air Quality Management District, *Final Localized Significance Threshold Metholodolgy*, Appendix C - Mass Rate LST Lookup Tables, (2008).

Note:
* The LSTs for a 1.78-acre site were interpolated based on the 1-acre and 2-acre values.

Marina Del Rey Hotel - Landside and Waterside
Localized Significance Thresholds
Based on SCAQMD Screening Tables for Construction and Operational Emissions

Pollutant	SRA	Distance (meters)	Emission Thresholds for Project Sizes (pounds per day)		
			2-Acre	5-Acre	3.86-Acre*
PM_{10} - Construction	2	25	6	13	10.34
$PM_{2.5}$ - Construction	2	25	4	6	5.24
PM_{10} - Operational	2	25	2	3	2.62
$PM_{2.5}$ - Operational	2	25	1	2	1.62
NO_X - Construction/Operational	2	25	164	246	214.84
CO - Construction/Operational	2	25	815	1509	1245.28

Source:
South Coast Air Quality Management District, *Final Localized Significance Threshold Metholodolgy*, Appendix C - Mass Rate LST Lookup Tables, (2008).

Note:
* The LSTs for a 3.86-acre site were interpolated based on the 2-acre and 5-acre values.

APPENDIX C

Evaluation of Global Climate Change Impacts

Marina Del Rey Hotel Anchorage
Evaluation of Global Climate Change Impacts

Table GHG-1
Construction GHG Emission Factors

Equipment Type	CO_2 Emission Factor[1] (kg/gal)	CH_4 Emission Factor[2,3] (kg/gal)	N_2O Emission Factor[2,3] (kg/gal)	CO_2 to CO_2e Ratio (GWP CH_4 = 21) (GWP N_2O = 310)
Off-Road	10.15	0.000580	0.000260	0.991
On-Road	10.15	0.000031	0.000029	0.999
Vendor	10.15	0.000031	0.000029	0.999
Autos[4]	n/a	n/a	n/a	0.950

Sources:

1. California Climate Action Registry, *General Reporting Protocol: Reporting Entity-Wide Greenhouse Gas Emissions Version 3.1*, (2009) 96.
2. California Climate Action Registry, *General Reporting Protocol: Reporting Entity-Wide Greenhouse as Emissions Version 3.1*, (2009) 98, 100.
3. California Energy Commission, *Diesel Use in California, Remarks by Commissioner James D. Boyd, (*2002). It was assumed that heavy duty on-road trucks have a fuel economy of 6 miles per gallon based on this data source.
4. U.S. Environmental Protection Agency, Office of Transportation and Air Quality, *Emission Facts - Greenhouse Gas Emissions from a Typical Passenger Vehicle (EPA420-F-05-004)*, (2005) 4. Passenger vehicle CO_2 emissions are assumed to be 95% of GHG emissions on a CO_2 equivalent basis.

Marina Del Rey Hotel Anchorage
Evaluation of Global Climate Change Impacts

Table GHG-2
Construction GHG Emissions

Construction Phase	Equipment Type	Annual CO_2 Emissions[1] (Tons CO_2/yr)	Annual CO_2 Emissions (MT CO_2/yr)	CO_2 to CO_2e Ratio	Annual CO_2e Emissions (MT CO_2e/yr)
Phase I	Off-Road	42.70	38.74	0.991	39.09
Phase I	On-Road	5.18	4.70	0.999	4.70
Phase I	Vendor	2.35	2.13	0.999	2.13
Phase I	Worker/Autos	13.84	12.56	0.950	13.22
Total Phase I		**64.07**	**58.12**		**59.14**
Phase II	Off-Road	43.64	39.59	0.991	39.95
Phase II	On-Road	5.21	4.73	0.999	4.73
Phase II	Vendor	2.63	2.39	0.999	2.39
Phase II	Worker/Autos	15.14	13.73	0.950	14.46
Total Phase II		**66.62**	**60.44**		**61.53**
Phase III	Off-Road	43.19	39.18	0.991	39.54
Phase III	On-Road	5.06	4.59	0.999	4.59
Phase III	Vendor	1.70	1.54	0.999	1.54
Phase III	Worker/Autos	11.25	10.21	0.950	10.74
Total Phase III		**61.20**	**55.52**		**56.42**

Total Construction GHG Emissions	**177.09**

Sources:
1. Estimated CO_2 emissions from URBEMIS2007.

Where:

CH_4	Methane	kg	Kilograms
CO_2	Carbon dioxide	MT	Metric ton
CO_2e	Carbon dioxide equivalent	N_2O	Nitrous oxide
gal	Gallons	yr	Year
GWP	Global warming potential		

Marina Del Rey Hotel Anchorage
Evaluation of Global Climate Change Impacts

Table GHG-3
Construction GHG Emissions

Construction Phase	Equipment Type	Annual CO_2 Emissions[1] (Tons CO_2/yr)	Annual CO_2 Emissions (MT CO_2/yr)	CO_2 to CO_2e Ratio	Annual CO_2e Emissions (MT CO_2e/yr)
Phase I	Off-Road	43.48	39.44	0.991	39.80
Phase I	On-Road	1.56	1.42	0.999	1.42
Phase I	Vendor	0.67	0.61	0.999	0.61
Phase I	Worker/Autos	5.96	5.41	0.950	5.69
Total Phase I		**51.67**	**46.87**		**47.52**
Phase II	Off-Road	42.58	38.63	0.991	38.98
Phase II	On-Road	1.56	1.42	0.999	1.42
Phase II	Vendor	0.64	0.58	0.999	0.58
Phase II	Worker/Autos	5.86	5.32	0.950	5.60
Total Phase II		**50.64**	**45.94**		**46.57**
Phase III	Off-Road	42.58	38.63	0.991	38.98
Phase III	On-Road	1.56	1.42	0.999	1.42
Phase III	Vendor	0.64	0.58	0.999	0.58
Phase III	Worker/Autos	5.86	5.32	0.950	5.60
Total Phase III		**50.64**	**45.94**		**46.57**
Phase IV	Off-Road	42.58	38.63	0.991	38.98
Phase IV	On-Road	1.56	1.42	0.999	1.42
Phase IV	Vendor	0.64	0.58	0.999	0.58
Phase IV	Worker/Autos	5.86	5.32	0.950	5.60
Total Phase IV		**50.64**	**45.94**		**46.57**
Phase V	Off-Road	43.38	39.35	0.991	39.71
Phase V	On-Road	1.59	1.44	0.999	1.44
Phase V	Vendor	0.66	0.60	0.999	0.60
Phase V	Worker/Autos	5.97	5.42	0.950	5.70
Total Phase V		**51.60**	**46.81**		**47.46**

Total Construction GHG Emissions	**234.70**

Sources:
1. Estimated CO_2 emissions from URBEMIS2007.

Where:

CH_4	Methane	kg	Kilograms
CO_2	Carbon dioxide	MT	Metric ton
CO_2e	Carbon dioxide equivalent	N_2O	Nitrous oxide
gal	Gallons	yr	Year
GWP	Global warming potential		

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Combined Annual Emissions Reports (Tons/Year)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Landside Renovations\Phase I\Phase I - South Wing.urb924

Project Name: Marina Del Rey Hotel

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	CO2
2010 TOTALS (tons/year unmitigated)	64.07

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	CO2
2010	64.07
Demolition 04/01/2010-05/17/2010	18.38
Fugitive Dust	0.00
Demo Off Road Diesel	11.55
Demo On Road Diesel	4.77
Demo Worker Trips	2.05
Building 05/18/2010-07/26/2010	33.80
Building Off Road Diesel	22.33
Building Vendor Trips	2.35
Building Worker Trips	9.12

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Coating 06/28/2010-07/26/2010	0.71
Architectural Coating	0.00
Coating Worker Trips	0.71
Asphalt 07/01/2010-07/26/2010	11.18
Paving Off-Gas	0.00
Paving Off Road Diesel	8.81
Paving On Road Diesel	0.40
Paving Worker Trips	1.96

Phase Assumptions

Phase: Demolition 4/1/2010 - 5/17/2010 - Type Your Description Here
Building Volume Total (cubic feet): 163350
Building Volume Daily (cubic feet): 4913
On Road Truck Travel (VMT): 68.24
Off-Road Equipment:
1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day
1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Paving 7/1/2010 - 7/26/2010 - Default Paving Description
Acres to be Paved: 0.53
Off-Road Equipment:
4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

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Phase: Building Construction 5/18/2010 - 7/26/2010 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 6/28/2010 - 7/26/2010 - Default Architectural Coating Description

Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100

Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50

Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250

Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100

Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Combined Annual Emissions Reports (Tons/Year)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Landside Renovations\Phase II\Phase II - North Wing.urb924

Project Name: Phase II - North Wing

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	CO2
2010 TOTALS (tons/year unmitigated)	66.62

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	CO2
2010	66.62
Demolition 08/01/2010-09/15/2010	18.38
Fugitive Dust	0.00
Demo Off Road Diesel	11.55
Demo On Road Diesel	4.77
Demo Worker Trips	2.05
Building 09/16/2010-11/25/2010	35.65
Building Off Road Diesel	22.78
Building Vendor Trips	2.63
Building Worker Trips	10.23

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Coating 10/25/2010-11/25/2010	0.78
Architectural Coating	0.00
Coating Worker Trips	0.78
Asphalt 11/01/2010-11/25/2010	11.81
Paving Off-Gas	0.00
Paving Off Road Diesel	9.30
Paving On Road Diesel	0.44
Paving Worker Trips	2.07

Phase Assumptions

Phase: Demolition 8/1/2010 - 9/15/2010 - Default Demolition Description
Building Volume Total (cubic feet): 163350
Building Volume Daily (cubic feet): 4913
On Road Truck Travel (VMT): 68.24
Off-Road Equipment:
1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day
1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Paving 11/1/2010 - 11/25/2010 - Default Paving Description
Acres to be Paved: 0.58
Off-Road Equipment:
4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

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Phase: Building Construction 9/16/2010 - 11/25/2010 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 10/25/2010 - 11/25/2010 - Default Architectural Coating Description

Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100

Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50

Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250

Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100

Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Combined Annual Emissions Reports (Tons/Year)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Landside Renovations\Phase III\Phase III - West Wing.urb924

Project Name: Phase III - West Wing

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	CO2
2010 TOTALS (tons/year unmitigated)	12.81
2011 TOTALS (tons/year unmitigated)	48.39

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	CO2
2010	12.81
Demolition 12/01/2010-01/15/2011	12.81
Fugitive Dust	0.00
Demo Off Road Diesel	8.05
Demo On Road Diesel	3.33
Demo Worker Trips	1.43

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2011	48.39
Demolition 12/01/2010-01/15/2011	5.57
Fugitive Dust	0.00
Demo Off Road Diesel	3.50
Demo On Road Diesel	1.45
Demo Worker Trips	0.62
Building 01/16/2011-03/25/2011	30.65
Building Off Road Diesel	22.33
Building Vendor Trips	1.70
Building Worker Trips	6.61
Coating 02/25/2011-03/25/2011	0.52
Architectural Coating	0.00
Coating Worker Trips	0.52
Asphalt 03/01/2011-03/25/2011	11.66
Paving Off-Gas	0.00
Paving Off Road Diesel	9.30
Paving On Road Diesel	0.29
Paving Worker Trips	2.07

Phase Assumptions

Phase: Demolition 12/1/2010 - 1/15/2011 - Default Demolition Description

Building Volume Total (cubic feet): 163350

Building Volume Daily (cubic feet): 4913

On Road Truck Travel (VMT): 68.24

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

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Phase: Paving 3/1/2011 - 3/25/2011 - Default Paving Description
Acres to be Paved: 0.38
Off-Road Equipment:
4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 1/16/2011 - 3/25/2011 - Default Building Construction Description
Off-Road Equipment:
1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day
2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 2/25/2011 - 3/25/2011 - Default Architectural Coating Description
Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100
Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50
Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250
Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100
Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250
Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Combined Annual Emissions Reports (Tons/Year)

File Name:

Project Name: Marina Del Rey Hotel - Docks

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	CO2
2011 TOTALS (tons/year unmitigated)	19.41
2012 TOTALS (tons/year unmitigated)	32.25

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	CO2
2011	19.41
Demolition 11/01/2011-01/15/2012	19.41
Fugitive Dust	0.00
Demo Off Road Diesel	15.41
Demo On Road Diesel	1.27
Demo Worker Trips	2.74

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2012	32.25
Demolition 11/01/2011-01/15/2012	4.41
Fugitive Dust	0.00
Demo Off Road Diesel	3.50
Demo On Road Diesel	0.29
Demo Worker Trips	0.62
Building 01/16/2012-03/31/2012	27.83
Building Off Road Diesel	24.57
Building Vendor Trips	0.67
Building Worker Trips	2.60

Phase Assumptions

Phase: Demolition 11/1/2011 - 1/15/2012 - Default Demolition Description

Building Volume Total (cubic feet): 52022

Building Volume Daily (cubic feet): 980.1

On Road Truck Travel (VMT): 13.61

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Building Construction 1/16/2012 - 3/31/2012 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

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Urbemis 2007 Version 9.2.4

Combined Annual Emissions Reports (Tons/Year)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Waterside Renovations\Docks Renovation.urb924

Project Name: Marina Del Rey Hotel - Docks

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	CO2
2012 TOTALS (tons/year unmitigated)	18.97
2013 TOTALS (tons/year unmitigated)	31.68

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	CO2
2012	18.97
Demolition 11/01/2012-01/15/2013	18.97
Fugitive Dust	0.00
Demo Off Road Diesel	15.06
Demo On Road Diesel	1.24
Demo Worker Trips	2.67

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2013	31.68
Demolition 11/01/2012-01/15/2013	4.85
Fugitive Dust	0.00
Demo Off Road Diesel	3.85
Demo On Road Diesel	0.32
Demo Worker Trips	0.68
Building 01/16/2013-03/31/2013	26.82
Building Off Road Diesel	23.67
Building Vendor Trips	0.64
Building Worker Trips	2.50

Phase Assumptions

Phase: Demolition 11/1/2012 - 1/15/2013 - Default Demolition Description

Building Volume Total (cubic feet): 52022

Building Volume Daily (cubic feet): 980.1

On Road Truck Travel (VMT): 13.61

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Building Construction 1/16/2013 - 3/31/2013 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

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Urbemis 2007 Version 9.2.4

Combined Annual Emissions Reports (Tons/Year)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Waterside Renovations\Docks Renovation.urb924

Project Name: Marina Del Rey Hotel - Docks

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	CO2
2013 TOTALS (tons/year unmitigated)	18.97
2014 TOTALS (tons/year unmitigated)	31.67

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	CO2
2013	18.97
Demolition 11/01/2013-01/15/2014	18.97
Fugitive Dust	0.00
Demo Off Road Diesel	15.06
Demo On Road Diesel	1.24
Demo Worker Trips	2.67

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2014	31.67
Demolition 11/01/2013-01/15/2014	4.85
Fugitive Dust	0.00
Demo Off Road Diesel	3.85
Demo On Road Diesel	0.32
Demo Worker Trips	0.68
Building 01/16/2014-03/31/2014	26.82
Building Off Road Diesel	23.67
Building Vendor Trips	0.64
Building Worker Trips	2.50

Phase Assumptions

Phase: Demolition 11/1/2013 - 1/15/2014 - Default Demolition Description

Building Volume Total (cubic feet): 52022

Building Volume Daily (cubic feet): 980.1

On Road Truck Travel (VMT): 13.61

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Building Construction 1/16/2014 - 3/31/2014 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

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Urbemis 2007 Version 9.2.4

Combined Annual Emissions Reports (Tons/Year)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Waterside Renovations\Docks Renovation.urb924

Project Name: Marina Del Rey Hotel - Docks

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	CO2
2014 TOTALS (tons/year unmitigated)	18.97
2015 TOTALS (tons/year unmitigated)	31.67

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	CO2
2014	18.97
Demolition 11/01/2014-01/15/2015	18.97
Fugitive Dust	0.00
Demo Off Road Diesel	15.06
Demo On Road Diesel	1.24
Demo Worker Trips	2.67

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2015	31.67
Demolition 11/01/2014-01/15/2015	4.85
Fugitive Dust	0.00
Demo Off Road Diesel	3.85
Demo On Road Diesel	0.32
Demo Worker Trips	0.68
Building 01/16/2015-03/31/2015	26.82
Building Off Road Diesel	23.67
Building Vendor Trips	0.64
Building Worker Trips	2.50

Phase Assumptions

Phase: Demolition 11/1/2014 - 1/15/2015 - Default Demolition Description

Building Volume Total (cubic feet): 52022

Building Volume Daily (cubic feet): 980.1

On Road Truck Travel (VMT): 13.61

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Building Construction 1/16/2015 - 3/31/2015 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

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Urbemis 2007 Version 9.2.4

Combined Annual Emissions Reports (Tons/Year)

File Name: Z:\Alan Sako\1049.01 Marina del Rey Hotel Anchorage\Emissions\Waterside Renovations\Docks Renovation.urb924

Project Name: Marina Del Rey Hotel - Docks

Project Location: South Coast AQMD

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	CO2
2015 TOTALS (tons/year unmitigated)	19.41
2016 TOTALS (tons/year unmitigated)	32.18

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	CO2
2015	19.41
Demolition 11/01/2015-01/15/2016	19.41
Fugitive Dust	0.00
Demo Off Road Diesel	15.41
Demo On Road Diesel	1.27
Demo Worker Trips	2.73

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2016	32.18
Demolition 11/01/2015-01/15/2016	4.85
Fugitive Dust	0.00
Demo Off Road Diesel	3.85
Demo On Road Diesel	0.32
Demo Worker Trips	0.68
Building 01/16/2016-03/31/2016	27.33
Building Off Road Diesel	24.12
Building Vendor Trips	0.66
Building Worker Trips	2.55

Phase Assumptions

Phase: Demolition 11/1/2015 - 1/15/2016 - Default Demolition Description

Building Volume Total (cubic feet): 52022

Building Volume Daily (cubic feet): 980.1

On Road Truck Travel (VMT): 13.61

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Building Construction 1/16/2016 - 3/31/2016 - Default Building Construction Description

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

APPENDIX D

Noise and Vibration Study

For the Marina Del Rey Hotel and Anchorage Renovation Project

In Los Angeles County, California

Prepared for:

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Prepared by:

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January 2010

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NOISE AND VIBRATION STUDY

INTRODUCTION

Impact Sciences, Inc., prepared this noise and vibration study to forecast future anticipated renovation and redevelopment generated noise and vibrations as the Marina del Rey Hotel and surface parking lot (referred in this study as landside renovations) and Hotel's Anchorage (referred in this study as waterside redevelopment) are renovated and redeveloped, in the community of Marina del Rey, in the County of Los Angeles. These estimated levels are compared to the exterior and interior noise level standards for residential uses surrounding the project site and for businesses as defined in the County of Los Angeles Noise Ordinance for Construction Noise. The vibration levels are compared to the vibration level standards for people and sensitive structures as developed by the Federal Transit Administration[1](FTA), since the County of Los Angeles does not have standards for construction vibration impacts for people or sensitive land uses. Additionally this noise and vibration study determines the estimated noise that surrounding sensitive land uses will experience from sporadically used haul trucks during the 45-week landside renovation period and the 5-year waterside redevelopment period. .

PROJECT DESCRIPTION

The proposed project would include the refurbishment of the Marina del Rey Hotel Property (consisting of Lease Parcel Number 42 and Lease Parcel Number 43) located at the terminus of Bali Way in the community of Marina del Rey, as shown in **Figure 1, Regional Location** and **Figure 2, Proposed Project Location**. The proposed project would include the complete renovation of all landside facilities and the replacement of the out-dated wet-slip marina on the Marina del Rey Hotel Property. Renovation of the landside amenities would commence on or about April 4, 2011 and would end 45-weeks later on or about February 10, 2012. Redevelopment of the waterside amenities would commence on or about October 31, 2011 and would continue over a 5-year period (the waterside redevelopment period would occur in 5-phases with each phase lasting approximately 5 months each, with a lag-time of 7-months between the start of each phase to allow boat owners to move their boats out of the affected docks) ending on or about April 1, 2016. Therefore, the redevelopment of the waterside amenities would occur simultaneously for the first 15-weeks, as the renovation of the landside amenities comes to an end. **Figure 3, Renovation and Redevelopment Schedule** depicts the estimated time line of renovation of the landside and redevelopment of the waterside amenities on the project site.

1 Federal Transit Administration, Department of Transportation United States of America, Transit Noise and Vibration Impact Assessment, Chapter 12 Noise and Vibration During Construction, May 2006.

Figure 1 Regional Location

Figure 2 Proposed Project Location

Figure 3 Renovation and Redevelopment Schedule

The following provides a short description of the landside renovations and waterside redevelopments and construction activities that would occur on the Marina del Rey Hotel Property during this time frame:

The Marina del Rey Hotel

The Marina del Rey Hotel would undergo a complete renovation wherein all interior and exterior surfaces, fixtures, appurtenances and non-structural elements would be replaced, resurfaced or upgraded.

Renovation items would include new paint and carpet, the installation of a new fire sprinkler system, elevator cab and equipment upgrades, replacement of windows and glass-doors, new deck waterproofing, the installation of new poolside cabanas, new irrigation and landscaping and the refurbishment of the entry porte-cochere.

This renovation would not expand the floor area of the existing Marina del Rey Hotel nor would it result in a significant re-working of the interior uses of the existing Marina del Rey Hotel. As described above, the renovation would be conducted in three phase, generally one wing of the hotel at a time (the Hotel currently has three wings: The North Wing, The South Wing, and The East Wing), over an approximate 45-week period.

The Marina del Rey Hotel Surface Parking Lot

The existing design of the surface parking lot associated with the Marina del Rey Hotel and marina operations would be adjusted to optimize its functionality. The new surface parking lot design would be enhanced with upgraded decorative paving along the main entrance (the main driveway entrance at the termination of Bali Way) and an improved landscape treatment to create a resort feel upon guests arrival. In order to improve interior vehicular circulation and parking and drive aisle orientation/layout, the parking spaces on the surface parking lot would be reduced from the existing total of 380 to the renovated total of 322. This parking space improvement would include 61 compact spaces. The bulk of the parking space reduction during renovation is due to the elimination of unpermitted, Code-incompliant parking that was developed along the waterfront promenade over the years of the hotel and marina's operation.

The Public Promenade

The public promenade, located on the waterfront perimeter of the Marina del Rey Hotel, would be upgraded with decorative paving treatment, upgraded lighting, a waterfront overlook and walkway amenities such as water fountains, shaded benches, trash receptacles and landscape elements. The upgrade of the waterfront public pedestrian promenade around the hotel would take place within the

existing 24-foot-width of the promenade. The existing use of the promenade area by automobiles would be terminated with its renovation and the existing vehicle parking along the 24-foot wide promenade area around the hotel would be eliminated. Along the Basin F side of the existing parking lot, a five-foot wide promenade would be added to extend the public walkway to the property boundary. The limited width of the promenade in this area is necessary to retain the functionality of the required driveway circulation pattern as well as the capacity of the existing surface parking lot.

Renovation Schedule of Landside Amenities

As described above, renovation of the landside portion of the proposed project site is expected to begin on or about the April 4, 2011 and be completed, in approximately 45 weeks, on or about February 10, 2012. The following is the expected phasing of the proposed project over the 45-week period.

- **Phase 1:** Phase 1 of the proposed project will begin on or about April 4, 2011 and will end 15-weeks later, on or about July 15, 2011. During this time renovation of the south wing of the hotel will occur, including the renovation of 57-guest rooms and the renovation of the exercise area, spa area, and office wing. This demolition process would include the demolition of interior partitions and finishes, demolition of exterior concrete haunches, extended trellis, beams, and metal trims; the creation of a "Shell Only" for future tenant improvement; and, the complete repainting of the exterior of the hotel.

- **Phase 2:** Phase 2 of the proposed project would begin on or about July 18, 2011 and end 15-weeks later, on or about October 28, 2011. This phase will include renovation of 63-hotel rooms in the north wing of the hotel, renovation of the northern portion of the pool and spa, and the partial renovation of the lobby of the hotel and back of house (BOH) operations of the hotel. Renovations would include replacement of exterior balcony, windows, doors, and development of a new trellis and partial pool deck upgrades. Renovation would also include a new Porte-Cochere and would include the painting of the exterior stucco on the hotel's exterior.

- **Phase 3:** Phase 3 of the proposed project would begin on or about October 31, 2011 and end 15-weeks later, on or about February 10, 2012. During this time renovation of the West Wing of the hotel would take place. This renovation would include the renovation of 37 hotel-guest rooms, the renovation of the remaining portion of the lobby and BOH, renovation of the restaurant, kitchen, and bar (however, this renovation would involve the shell of the restaurant, kitchen and bar, and would be left for future tenant improvements), renovations of the pool, spa and pool deck, and renovation and upgrades of the meeting rooms within the hotel.

Additionally, **Table 1, Renovation Equipment Usage**, shows the type of construction equipment that would be used during each phase of the proposed project.

Table 1
Landside Renovation Equipment Usage

Phase	Equipment	Quantity of Equipment	Period Equipment will be Used	Hours per Day Equipment will be Used
Phase 1	Forklift	1	10-days (Date) to (Date)	3
	Lull/Arial work platforms	1	15-days (Date) to (Date)	4
	Demolition hammers/saws	1	10-days (Date) to (Date)	8
	Backhoe/Loader	1	10-days (Date) to (Date)	8
	Concrete trucks and pumps	1	7-days (Date) to (Date)	6
Phase 2	Forklift	1	10-days (Date) to (Date)	3
	Lull/Arial work platforms	1	15-days (Date) to (Date)	4
	Demolition hammers/saws	1	15-days (Date) to (Date)	8
	Backhoe/Loader	1	10-days (Date) to (Date)	8
	Concrete trucks and pumps	1	7-days (Date) to (Date)	6
Phase 3	Forklift	1	10-days (Date) to (Date)	3
	Lull/Arial work platforms	1	15-days (Date) to (Date)	4
	Demolition hammers/saws	1	15-days (Date) to (Date)	8
	Backhoe/Loader	1	12-days (Date) to (Date)	8
	Concrete trucks and pumps	1	10-days (Date) to (Date)	6

Source: McGuire Builders, Inc. 2009.

Waterside Redevelopment

The existing Marina del Rey Hotel Marina has been in use for the past 50-years without any extensive upgrading. During the renovation of the existing Marina, the existing wet slip marina would be brought up to date. The redevelopment of the Marina includes the replacement of the existing 349 slip marina in five phases over a period of five years. Each phase would take an estimated five months to complete. When renovation of the Marina is completed, the new Marina would include 277 wet slips plus 14 end and side tie spaces.

A significant portion of the new slips (71 slips, plus 2 side ties) would be provided along a new gangway, increasing the marina footprint along the main Marina del Rey Marina Channel. The new concrete dock system would address current Department of Boating and Waterways (DBAW) standards for walkway and fairway dimensions, provide updated utility hookups, and incorporate American Disability Act (ADA) compatible access for each gangway. One side or end tie would be reserved for the marina-wide water taxi service and another side or end tie would be reserved as a transient dock for hourly or daily rentals.

In addition to the landside improvements discussed above (the renovation of the Marina del Rey Hotel, Hotel Parking Lot, and Hotel Public Promenade), the marina improvements would include the renovation of the landside Dock Master Facility and Marina Restrooms located in the parking lot of the Marina del Rey Hotel Property. The building footprints would remain unchanged.

Redevelopment Schedule of Waterside Amenities

As described above, redevelopment of the waterside portion of the proposed project site is expected to begin on or about October 31, 2011 and be completed, in approximately 5-years, on or about April 1, 2016. Redevelopment of the Hotel's Marina would occur in 5-phase, with each phase lasting approximately 5-months. There would be a lag-period of 7-months between each waterside redevelopment phase, to allow owners of the boats docked at Hotel's Marina to relocate their boats. The following is the expected phasing of the waterside redevelopment of the proposed project over the 5-year period.

- **Phase 1:** Phase 1 of the waterside redevelopment would occur simultaneously for 15 weeks during Phase 3 of the landside renovations. Phase 1 would commence on or about October 31, 2011 and would continue simultaneously until the conclusion of Phase 3 of the landside renovations on or about February 10, 2012. Upon conclusion of the Phase 3, 15-week period of the landside renovations, Phase 1 of the waterside redevelopment would continue until its conclusion on or about March 16, 2012. During Phase 1, redevelopment of the northern dock system would occur with the deletion of the existing docks and gangways with replacement of updated docks and gangways. To ease redevelopment issues and noise issues associated redevelopment, the new docks and gangways would be constructed off the project site, and brought to the project site. Phase 1 would also entail the removal and replacement (with new anchorages) of the anchorages that secure the dock and gangway system of the northern portion of the Hotel's Marina. A mobile floating crane with a impact pile driver system on its boom would be used during this redevelopment phase to pound the anchorages into place in the sea-floor bottom. Upon conclusion of the Phase 1 waterside redevelopment of the northern portion of the Hotel's Marina, a lag-time of 7-months would occur prior to the commencement of Phase 2 of the waterside redevelopment.

- **Phase 2:** Phase 2 of the waterside redevelopment would commence on or about December 18, 2012 following the lag-time period of 7-months from the conclusion of Phase 1. Phase 2 of the waterside redevelopment would entail the redevelopment of the existing western portion of the Hotel's Marina with the removal of the existing docks and gangways. New docks and gangways would replace the existing docks and gangways, providing an up-to-date dock and gangway system. Development of the new docks and gangways would occur off-site in order to ease redevelopment issues and noise issues. Once completed, the new docks and gangways would be delivered to the project site for placement in the western portion of the Hotel's Marina. The existing anchorages in the western portion of the Hotel's Marina would be removed and replaced with new anchorages, allowing the new docks and gangways to be attached. A mobile floating crane with an impact pile driver system on its boom would be used during this redevelopment phase to pound the anchorages into place in the sea-floor bottom. Phase 2 of the waterside redevelopment of the western portion of the Hotel's Marina would conclude on or about May 6, 2013. Upon conclusion of the Phase 2 waterside

redevelopment of the western portion of the Hotel's Marina, a lag-time of 7-months would occur prior to the commencement of Phase 3 of the waterside redevelopment.

- **Phase 3:** Phase 3 of the waterside redevelopment would commence on or about November 19, 2013, following the lag-time period of 7-months from the conclusion of Phase 2. Phase 3 of the waterside redevelopment would entail the development of a new dock and gangway system that would be attached to the western docks of the Hotel's Marina. This would provide 71 new wet slips to the Hotel's Marina and increase the footprint of the western portion of the Hotel's Marina. New docks and gangways would be developed providing an up-to-date dock and gangway system. Development of the new docks and gangways would occur off-site in order to ease development issues and noise issues. Once completed, the new docks and gangways would be delivered to the project site for placement in the western portion of the Hotel's Marina. New anchorages would be pounded into the sea-floor through the use of a mobile floating crane with an impact pile driver system on its boom during Phase 3. Phase 3 of the development of the new dock system on the western portion of the Hotel's Marina would conclude on or about April 7, 2014. Upon conclusion of the Phase 3 development of the new dock system on the western portion of the Hotel's Marina, a lag-time of 7-months would occur prior to the commencement of Phase 4 of the waterside redevelopment.

- **Phase 4:** Phase 4 of the waterside redevelopment would commence on or about November 11, 2014, following the lag-time period of 7-months from the conclusion of Phase 3. Phase 4 of the waterside redevelopment would entail the redevelopment of the existing four western-most dock/anchorages of the southern portion of the Hotel's Marina with the removal of the existing docks and gangways. New docks and gangways would replace the existing docks and gangways, providing an up-to-date dock and gangway system. Development of the new docks and gangways would occur off-site in order to ease redevelopment issues and noise issues. Once completed, the new docks and gangways would be delivered to the project site for placement in the southern portion of the Hotel's Marina. The existing anchorages in the of the four western-most docks on the southern portion of the Hotel's Marina would be removed and replaced with new anchorages, allowing the new docks and gangways to be attached. A mobile floating crane with an impact pile driver system on its boom would be used during this redevelopment phase to pound the anchorages into place in the sea-floor bottom. Phase 4 of the waterside redevelopment of the four western-most docks and anchorages of the southern portion of the Hotel's Marina would conclude on or about April 14, 2-15. Upon conclusion of the Phase 4 waterside redevelopment of the four western-most docks and anchorages of the southern portion of the Hotel's Marina, a lag-time of 7-months would occur prior to the commencement of Phase 5 of the waterside redevelopment.

- **Phase 5:** Phase 5 of the waterside redevelopment would commence on or about November 16, 2015, following the lag-time period of 7-months from the conclusion of Phase 4. Phase 5 of the waterside redevelopment would entail the redevelopment of the existing five eastern-most dock/anchorages of the southern portion of the Hotel's Marina with the removal of the existing docks and gangways. New docks and gangways would replace the existing docks and gangways, providing an up-to-date dock and gangway system. Development of the new docks and gangways would occur off-site in order to ease redevelopment issues and noise issues. Once completed, the new docks and gangways would be delivered to the project site for placement in the southern portion of the Hotel's Marina. The existing anchorages in the of the five eastern-most docks on the southern portion of the Hotel's Marina would be removed and replaced with new anchorages, allowing the new docks and gangways to be attached. A mobile floating crane with an impact pile driver system on its boom

would be used during this redevelopment phase to pound the anchorages into place in the sea-floor. Phase 5 of the waterside redevelopment of the five eastern-most docks and anchorages of the southern portion of the Hotel's Marina would conclude on or about April 1, 2016.

Additionally, **Table 2, Redevelopment Equipment Usage**, shows the type of construction equipment that would be used during each waterside redevelopment phase of the proposed project.

Table 2
Waterside Redevelopment Equipment Usage

Phase	Equipment	Quantity of Equipment	Period Equipment will be Used	Hours per Day Equipment will be Used
Phase 1	Mobile Crane	1	4 months out of 5 month period	8
	Impact Pile Driver	1	4 months out of 5 month period	8
Phase 2	Mobile Crane	1	4 months out of 5 month period	8
	Impact Pile Driver	1	4 months out of 5 month period	8
Phase 3	Mobile Crane	1	4 months out of 5 month period	8
	Impact Pile Driver	1	4 months out of 5 month period	8
Phase 4	Mobile Crane	1	4 months out of 5 month period	8
	Impact Pile Driver	1	4 months out of 5 month period	8
Phase 5	Mobile Crane	1	4 months out of 5 month period	8
	Impact Pile Driver	1	4 months out of 5 month period	8

Source: McGuire Builders, Inc. 2009.

FUNDAMENTALS OF NOISE AND VIBRATION

Introduction to Noise

Noise is ordinarily described as unwanted sound. Sound is generally undesirable when it interferes with normal activities, causes actual physical harm, or has an adverse effect on health. The definition of noise as unwanted sound implies that it has an adverse effect on, or causes a substantial annoyance to, people and their environment.

Sound pressure level alone is not a reliable indicator of loudness because the human ear does not respond uniformly to sounds at all frequencies. For example, the human ear is less sensitive to low and high frequencies than to the medium frequencies that more closely correspond to human speech. In response to the human ear's sensitivity, or lack thereof, to different frequencies, the A-weighted noise level, referenced in units of dB (A), was developed to better correspond with people's subjective

judgment of sound levels. In general, changes in a noise level of less than 3.0 dB (A) are not noticed by the human ear.[2]

Changes from 3.0 to 5.0 dB (A) may be noticed by some individuals who are extremely sensitive to changes in noise. An increase of greater than 5.0 dB (A) is readily noticeable, while the human ear perceives a 10.0 dB (A) increase in sound level to be a doubling of sound volume. A doubling of sound energy results in a 3.0 dB (A) increase in sound, which means that a doubling of sound wave energy (e.g., doubling the volume of traffic on a roadway) would result in a barely perceptible change in sound level. Common noise levels associated with certain activities are shown on **Figure 4, Common Noise Levels**.

Noise sources occur in two forms: (1) point sources, such as stationary equipment or individual motor vehicles; and (2) line sources, such as a roadway with a large number of mobile point sources (motor vehicles).

Sound generated by a stationary point source typically diminishes (attenuates) at a rate of dB (A) for each doubling of distance from the source to the receptor at acoustically hard sites and at a rate of 7.5 dB (A) at acoustically soft sites.[3]

A hard, or reflective, site does not provide any excess ground-effect attenuation and is characteristic of asphalt, concrete, and very hard-packed soil. An acoustically soft or absorptive site is characteristic of normal earth and most ground with vegetation.

As an example, a 60.0 dB (A) noise level measured at 50 feet from a point source at an acoustically hard site would be 54.0 dB (A) at 100 feet from the source and it would be 48.0 dB (A) at 200 feet from the source. Noise from the same point source at an acoustically soft site would be 52.5 dB (A) at 100 feet and 45.0 dB (A) at 200 feet from the source. Sound generated by a line source typically attenuates at a rate of 3.0 dB (A) and 4.5 dB (A) per doubling of distance from the source to the receptor for hard and soft sites, respectively. Sound levels can also be attenuated by manmade or natural barriers, as illustrated in **Figure 5, Noise Attenuation by Barriers**. Solid walls, berms, or elevation differences typically reduce noise levels by 5.0 to 10.0 dB (A).[4]

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2 US Department of Transportation, Federal Highway Administration, *Highway Noise Fundamentals*, (Springfield, Virginia: US Department of Transportation, Federal Highway Administration, September 1980), p. 81.

3 US Department of Transportation, Federal Highway Administration, *Highway Noise Fundamentals*, (Springfield, Virginia: US Department of Transportation, Federal Highway Administration, September 1980), p. 97.

4 *Highway Noise Mitigation* (Springfield, Virginia: U.S. Department of Transportation, Federal Highway Administration, September 1980), p. 18.

Figure 4 Common Noise Levels

Figure 5 Noise Attenuation by Barriers

The minimum attenuation of exterior to interior noise provided by typical structures in California is provided in **Table 3, Outside to Inside Noise Attenuation (dB (A)).**

Table 3
Outside to Inside Noise Attenuation (dB (A))

Building Type	Open Windows	Closed Windows[1]
Residences	17	25
Schools	17	25
Places of Worship	20	30
Hospitals/Convalescent	17	25
Offices	17	25
Theaters	20	30
Hotels/Motels	17	25

Source: Transportation Research Board, National Research Council, Highway Noise: A Design Guide for Highway Engineers, National Cooperative Highway Research Program Report 117.
[1] As shown, structures with closed windows can attenuate exterior noise by a minimum of 25.0 to 30.0 dB (A).

When assessing community reaction to noise, there is an obvious need for a scale that averages sound pressure levels over time and quantifies the result in terms of a single numerical descriptor. Several scales have been developed that address community noise levels.

When assessing community reaction to noise, there is an obvious need for a scale that averages sound pressure levels over time and quantifies the result in terms of a single numerical descriptor. Several scales have been developed that address community noise levels. Those that are applicable to this analysis are the L_{eq} and community noise equivalent level (CNEL). L_{eq} is the average A-weighted sound level measured over a given interval.

L_{eq} can be measured over any period, but is typically measured for 1-minute, 15-minute, 1-hour, or 24-hour periods. CNEL is another average A-weighted sound level measured over a 24-hour period. However, this noise scale is adjusted to account for some individuals' increased sensitivity to noise levels during the evening and nighttime hours. A CNEL noise measurement is obtained by adding 5 decibels to sound levels occurring during the evening from 7:00 PM to 10:00 PM, and 10 decibels to sound levels occurring during the nighttime from 10:00 PM to 7:00 AM. The 5 and 10 decibel penalties are applied to account for increased noise sensitivity during the evening and nighttime hours. The logarithmic effect of

adding these penalties to the 1-hour L_{eq} measurements typically results in a CNEL measurement that is within approximately 3.0 dB (A) of the peak-hour L_{eq}.[5]

INTRODUCTION TO VIBRATION

Vibration is a unique form of noise in that its energy is carried through structures and the earth, whereas noise is carried through the air. Thus, vibration is generally felt and heard. Some vibration effects can be caused by noise; for example, the rattling of windows from truck pass-bys. This phenomenon is related to the coupling of the acoustic energy at frequencies that are close to the resonant frequency of the material being vibrated. Typically, ground-borne vibration generated by man-made activities attenuates rapidly with distance from the source of the vibration.

In general, vibration can be described in terms of displacement, velocity or acceleration. For the purpose of this analysis, vibration will be described in terms of velocity. The peak velocity (PPV) or the root mean square (RMS) velocities are usually used to describe vibration amplitudes. PPV is defined as the maximum instantaneous peak of the vibration signal, while RMS is defined as the square root of the average of the squared amplitude of the signal. Units for PPV and RMS are described in inches per second. Vibration in terms of velocity can also be described in a decibel notation – the purpose of which is to compress the range of numbers required to describe vibration. **Figure 6, Typical Levels of Ground-Borne Vibration**, indentifies typical groundborne vibration levels in decibels, RMS velocity amplitude and PPV.

For evaluating potential annoyance or interference with vibration-sensitive activities due to construction vibration is primarily concerned with potential damage effects to buildings located near the vibration source. Guideline vibration criteria thresholds for different building categories are provided below in **Table 4, Construction Vibration Damage Criteria.** The Marina del Rey Hotel and the Dolphin Marina Apartment Complex are considered Building Category II structures.

The effect of vibration on structures and individuals varies depending on the soil type, ground strata and receptor location. Sensitivity to vibration varies from person to person. Peak velocities of 0.01 inches per second RMS are not generally noticeable, while velocities of 0.1 inches per second RMS can be troublesome to persons near the vibration source. Damage to structures can occur above 0.04 inches per second RMS.

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5 California Department of Transportation, *Technical Noise Supplement: A Technical Supplement to the Traffic Noise Analysis Protocol*, (Sacramento, California: October 1998), pp. N51–N54.

Figure 6 Typical Levels of Ground-Borne Vibration

Table 4
Construction Vibration Damage Criteria

Building Category	PPV (in/sec)	Approximate L_v[1]
I. Reinforced-concrete, steel or timber (no plaster)	0.5	102
II. Engineered concrete and masonry (no plaster)	0.3	98
III. Non-engineered timber and masonry buildings	0.2	94
IV. Buildings extremely susceptible to vibration damage	0.12	90

Source: Federal Transit Administration, Traffic Noise and Vibration Assessment, Chapter 12, Noise and Vibration During Construction, pg. 12-13 May 2006.
[1] RMS velocity in decibels (VdB) re 1 micro-inch/second.

REGULATORY FRAMEWORK

Plans and policies that are applicable to this noise study include (1) the State of California Department of Health Services, Environmental Health Division Noise Exposure Guidelines, and (2) the Riverside County General Plan; both are discussed below.

State of California Noise Standards

The State of California, Office of Planning and Research has published, with regards to community noise exposure, recommended guidelines for land use compatibility.

These guidelines rate land use compatibility in terms of being "normally acceptable," "conditionally acceptable," "normally unacceptable," and "clearly unacceptable." Each jurisdiction is required to consider these guidelines when developing its General Plan Noise Element and when determining acceptable noise levels within its community. These guidelines are representative of various land uses that include residential, commercial/mixed-use, industrial, and public facilities.

In addition, the California Commission of Housing and Community Development officially adopted interior noise standards in 1974. In 1988, the Building Standards Commission approved revisions to the standards (Title 24, Part 2, California Code of Regulations). As revised, Title 24 establishes an interior noise standard of 45.0 dB (A) CNEL for residential space.

County of Los Angeles General Plan Noise Element

The General Plan Noise Element outlines basic goals and policies for the County and its constituent municipalities to follow. It states as a general goal that noise mitigation costs should be assessed to the producers of the noise. Policy 16 of the Noise Element states that the county "should encourage cities to adopt definitive noise ordinances and policies that are consistent throughout the county." The Noise Element does not prescribe any specific standard for acceptable noise or vibration levels. Because the Marina del Rey area is in unincorporated Los Angeles County, the specific and applicable noise standards are addressed in the County Noise Control Ordinance (County Code Section 12.08). The Noise Control Ordinance prescribes standards for point and stationary source noise and construction-related noise, as well as general standards for vibration.

County of Los Angeles Noise Control Ordinance (For Point and Stationary Source Noise)

The County Noise Control Ordinance (County code Section 12.08) provides standards for both interior and exterior noise standards and sets guidelines for a variety of activities. Section 12.08.390 identifies exterior noise standards for stationary and point noise sources, specific noise restrictions, exemptions and variances for exterior point or stationary noise sources. Several of these standards are applicable to the project and are discussed below.

The County Noise Control Ordinance states that exterior noise levels caused by stationary or point noise sources shall not exceed the levels identified below in **Table 5, County of Los Angeles Exterior Noise Standards for Stationary and Point Noise Sources**, or the ambient noise level,[6] whichever is greater. The Noise Control Ordinance (Section 12.08.400 of the County Code) also states that interior noise levels (resulting from outside point or stationary sources) within multi-family residential units shall not exceed 45.0 dB (A) L_{eq} between 7:00 AM and 10:00 PM and 40.0 dB (A) L_{eq} between 10:00 PM and 7:00 AM. Conventional construction of building with the inclusion of fresh air supply systems or air conditioning will normally ensure that interior noise levels are acceptable. The table also includes the County's standards for acceptable exterior noise levels near receptor properties.

6 Ambient noise level is defined as the existing background noise level at the time of measurement or prediction.

Table 5
County of Los Angeles Exterior Noise Standards for Stationary and Point Noise sources

Noise Zone	Designated Noise Zone Land Use (Receptor Property)	Time Interval	Exterior Noise Level d(B(A) L_{eq}[1]
I	Noise Sensitive Area[2]	Anytime	45
II	Residential Properties	10:00 PM to 7:00 AM	45
		7:00 AM to 10:00 PM	50
III	Commercial Properties	10:00 PM to 7:00 AM	55
		7:00 AM to 10:00 PM	60
IV	Industrial Properties	Anytime	70

Source: County of Los Angeles Noise Control Ordinance, County Code Section 12.08.390.

[1] ***Standard No. 1*** *shall be the exterior noise level which may not be exceeded for a cumulative period of more than 30 minutes in any hour. Standard No. 1 shall be the applicable noise level; or, if the ambient L_{50} exceeds the forgoing level, then the ambient L_{50} becomes the exterior noise level for Standard No. 1.*
Standard No. 2 *shall be the exterior noise level which may not be exceeded for a cumulative period of more than 15 minutes in any hour. Standard No. 2 shall be the applicable noise level from Standard No. 1 plus 5 dB (A); or, if the ambient L_{25} exceeds the forgoing level, then the ambient L_{25} becomes the exterior noise level for Standard No. 2.*
Standard No. 3 *shall be the exterior noise level which may not be exceeded for a cumulative period of more than five minutes in any hour. Standard No. 3 shall be the applicable noise level from Standard No. 1 plus 10 dB (A); or, if the ambient $L_{8.3}$ exceeds the forgoing level, then the ambient $L_{8.3}$ becomes the exterior noise level for Standard No. 3.*
Standard No. 4 *shall be the exterior noise level which may not be exceeded for a cumulative period of more than one minute in any hour. Standard No. 4 shall be the applicable noise level from Standard No. 1 plus 15 dB (A); or, if the ambient $L_{1.7}$ exceeds the forgoing level, then the ambient $L_{1.7}$ becomes the exterior noise level for Standard No. 4.*
Standard No. 5 *shall be the exterior noise level which may not be exceeded for any period of time. Standard No. 5 shall be the applicable noise level from Standard No. 1 plus 20 dB (A); or, if the ambient L_0 exceeds the forgoing level, then the ambient L_0 becomes the exterior noise level for Standard No. 5.*

[2] *Not defined in the County Noise Ordinance. To be designated by the County Health Officer.*

County of Los Angeles Noise Ordinance (For Construction Noise)

The County Noise Control Ordinance (County Code Section 12.08.440) identifies specific restrictions regarding construction noise. The 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.[7] The Noise Control Ordinance further states that the contractor shall conduct construction activities in such a manger that the maximum noise levels at the affected buildings will not exceed those listed in **Table 6, County of Los Angeles Construction Equipment Noise**

7 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.

Restrictions. All mobile stationary internal-combustion-powered equipment and machinery is also required to be equipped with suitable exhaust and air-intake silencers in proper working order.

Table 6
County of Los Angeles Construction Equipment Noise Restrictions

Residential Structures	Single-Family Residential	Multi-Family Residential	Commercial[1]
Mobile Equipment: Maximum noise level 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	75.0 dB (A) L_{eq}	80.0 dB (A) L_{eq}	85.0 dB (A) L_{eq}
Daily, 8:00 PM to 7:00 AM and all day Sunday and legal holidays	60.0 dB (A) L_{eq}	64.0 dB (A) L_{eq}	70.0 dB (A) L_{eq}
Stationary Equipment: Maximum noise level for repetitively scheduled and relatively long-term operation (periods of 10 days or more) of stationary equipment:			
Daily, except Sundays and legal holidays, 7:00 AM to 8:00 PM	60.0 dB (A) L_{eq}	65.0 dB (A) L_{eq}	70.0 dB (A) L_{eq}
Daily, 8:00 PM to 7:00 AM and all day Sunday and legal holidays	50.0 dB (A) L_{eq}	55.0 dB (A) L_{eq}	60.0 dB (A) L_{eq}
Business Structures			
Mobile Equipment: Maximum noise levels for nonscheduled, intermittent, short-term operation of mobile equipment:			
Daily, including Sunday and legal holidays, all hours		85.0 dB (A) L_{eq}	

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.*

EXISTING CONDITIONS

Existing Project Site

The proposed project site is located on Parcel 42 at the terminus of Bali Way mole road, on the eastern, predominantly commercial side of the community of Marina del Rey. Parcel 42 contains approximately 6.23 acres of land area and 8.9 acres of water area. Parcel 42 is bordered by Marina Basin F to the north, Marina Basin G to the south, the main channel of Marina Del Rey to the west, and parking lots to the east

(beyond the parking lots is Admiralty Way and beyond Admiralty Way, further to the east, there are commercial buildings).

The existing project site (Marina del Rey Hotel and Anchorage), was originally constructed in 1960s, and consists of 153 hotel rooms within a 3-story tall building. The building of the hotel is shaped like a "three-blade propeller", with a south wing that contains 57 hotel rooms, a north wing that contains 63 hotel rooms and a west wing that contains 33 hotel rooms. The Marina del Rey Hotel Marina is located around Parcel 42, along the northern, western and southern boundaries of the parcel. The existing marina is composed of 349 boat-slips and 16 end ties (boat slips on the end of docks, where boats can be anchored to). The proposed project site is developed with a landside Dock Master facility building and boater restroom building that serves the Hotel's Marina.

The proposed project site is also developed with a surface parking lot that is shared by the Marina del Rey Hotel and Hotel's Marina. The surface parking lot consists of 380 parking spaces and landscaped medians. Internal circulation on the project site consists of a single driveway at the terminus of Bali Way that provides ingress and egress to motorists accessing the project site. Parking lot lanes provide access to the entrance of the Marina del Rey Hotel where a round-about exists that allows smoother internal circulation in and around the entrance to the Marina del Rey Hotel. A travel lane exists on the northern, western and southern side of the Marina del Rey Hotel between the building and the waterfront providing circulation access to motorists and emergency access vehicles.

Existing Surrounding Sensitive Uses

As described above, the proposed project site is located in a commercial area of Marina del Rey. The closest sensitive receptor (an existing 3-story apartment building complex-The Dolphin Marina Apartment Complex) to the project site is located approximately 971 feet to the west, across the main Marina Del Rey Channel. The Dolphin Marina Apartment Complex is constructed so that balconies of existing units face toward the main channel of Marina del Rey, towards the proposed project site. Additionally, Burton Chase Park is located directly south of the project site, approximately 761 feet across Marina Basin G. During redevelopment of the dock/gangway and anchorage system the Marina del Rey Hotel would be considered a sensitive receptor as well, since guests would be staying at the Marina del Rey Hotel while redevelopment of the Hotel's Marina occurs over the 5-year period.

Monitored Noise Levels

Noise monitoring was completed on January 5, 2010 to January 6, 2010. **Figure 7, Noise Monitoring Locations**, depicts the two 24-hour noise measurements and the one 15-minute noise measurement that was conducted around the project site.

Figure 7 Noise Monitoring Locations

Long term noise monitoring was conducted between the hours of 10:00 AM on January 5, 2010 to 10:00 AM on January 6, 2010 and consisted of one 24-hour monitoring sample at Location 1 and Location 2. Short-term noise monitoring (Location 3) was conducted on January 5, 2010 for a period of 15-minutes beginning at 10:00 AM and ending at 10:15 AM.

The first noise monitor (Location 1) was set up across the main channel of the Marina from the proposed project site on the eastern side of the Dolphin Marina Apartment Complex. The Dolphin Marina Apartment Complex, approximately 971 feet west of the proposed project site, is the closest sensitive receptor to the proposed project site. The primary source of noise at this location is noise associated with the marina activities (boat engines, bilge pumps, etc.) adjacent to the Dolphin Marina Apartment Complex. Noise monitoring at Location 2 was conducted at Burton W. Chace Park, approximately 761 feet south of the proposed project site. The primary source of noise at this location is people talking as they use the park for recreational uses.

As shown in **Table 7, Monitored Noise Levels,** noise levels at monitoring Locations 1 and 2 were measured at 51.0 and 52.0 dB (A) L_{eq} for a 24-hour period, respectively. Location 1 had noise levels that were measured at 54.0 dB (A) L_{eq} during morning peak hours; 51.0 dB (A) L_{eq} during evening peak hours; 49.0 dB (A) L_{eq} during nighttime hours; and, 52.0 dB (A) L_{eq} during daytime hours. Location 2 had noise levels that were measured at 54.0 dB (A) L_{eq} during the morning peak hour period; 50.0 dB (A) L_{eq} during the evening peak hour period; 49.0 dB (A) L_{eq} during the nighttime period; and, 53.0 dB (A) L_{eq} during the daytime period. Noise monitoring Location 3 was a short-term (15-minute period) measurement that was taken on the project site to determine the estimated ambient noise level for a 24-hour period at this location. This location was consistent with the ambient noise level at Location 1 and Location 2 and consisted of a 24-hour ambient noise measurement of 53.0 dB (A) L_{eq}.

Table 7
Monitored Noise Levels

Monitoring Location	L_{eq} Morning Peak Hour (7:00 AM to 10:00 AM)	L_{eq} Evening Peak Hour (4:00 PM to 8:00 PM)	L_{eq} Nighttime (10:00 PM to 7:00 AM)	L_{eq} Daytime (7:00 AM to 10:00 PM)	L_{eq} 24-Hour
Location 1[1]	54.0	51.0	49.0	52.0	51.0
Location 2[1]	54.0	50.0	49.0	53.0	52.0
Location 3[2]	--	--	--	--	53.0

Source: Impact Sciences, Inc. June 25, 2009. Calculations are presented in ***Appendix A****.*
Notes: [1] Long-term noise monitoring was conducted.
[2] Short-term noise monitoring was conducted.

As can be seen in **Table 6**, the ambient noise level at all three of the monitored locations currently exceed the noise standards for residential (during the hours of 7:00 AM to 10:00 PM and 10:00 PM to 7:00 AM) and sensitive area uses (anytime) as set forth by the County of Los Angeles.

METHODOLOGY

Analysis of the existing noise conditions was completed through noise monitoring near the proposed project site on January 5, 2010 to January 6, 2010. Two noise monitors were set up to record 24-hour measurements and one noise monitor was set up to record ambient noise levels for a 15-minute period. Information was than gathered as to the renovation and redevelopment schedule of the proposed project, along with the expected renovation and redevelopment equipment that will be used during the 45-week period of the renovation of the Marina del Rey Hotel and surface parking lot and the 5-year period of the redevelopment of the Hotel's Marina. Noise modeling procedures involved the calculation of future noise levels emanating from the renovation and redevelopment equipment that will be used over the three phases that the landside portion of the proposed project is expected to be completed in, and the five phases that the waterside portion of the proposed project is expected to be completed in, using the Federal Highway Administration (FHWA) Construction Equipment Noise Levels and Ranges from the Highway Construction Noise Handbook (please see **Appendix A** for calculations). These modeled noise levels were than compared to the County of Los Angeles Noise Ordinance for Construction Noise (Chapter 12.09), standard of 80.0 dB (A) L_{eq} for multi-family residential units (the Dolphin Marina Apartment Complex, the closest sensitive receptor to the project site) and the standard of 85.0 dB (A) L_{eq} for business structures (the Marina del Rey Hotel) to determine if the renovation and redevelopment equipment used will exceed the threshold standards. It should be noted that in order to analyze a worst-case scenario, renovation and redevelopment noise levels were estimated assuming that all the pieces of equipment identified below during each phase were operating simultaneously. This assumption is not likely since renovation and redevelopment activities during each phase would vary.

Vibration impacts of renovation and redevelopment equipment was analyzed using a model that was developed through information gathered from the Federal Transit Administration[8] (please see **Appendix X** for calculations). Upon completion of the vibration models for each phase of renovation of the Marina del Rey Hotel and surface parking lot and each phase of the redevelopment of the Hotel's Marina, vibration impacts were evaluated from two perspectives using standards developed by the Federal Transit Administration. The first standard involves human response to vibrations. The effect of vibration on individuals varies depending on the soil type, ground strata and receptor location.

8 Federal Transit Administration, Department of Transportation United States of America, Transit Noise and Vibration Impact Assessment, Chapter 12 Noise Vibration During Construction, May 2006.

Sensitivity to vibration varies from person to person. Peak velocities of 0.01 inches per second RMS are not generally noticeable, while velocities of 0.1 inches per second RMS can be troublesome to persons near the vibration source. Damage to structures can occur above 0.04 inches per second RMS. Therefore, equipment used during each phase of renovation and redevelopment of the proposed project were evaluated by the standard of 0.1 inches per second RMS to determine the impact associated with vibration from renovation and redevelopment equipment on a person. The second standard involves structural responses to vibrations. Buildings such as the Marina del Rey Hotel and the Dolphin Marina Apartment Complex are engineered concrete and masonry buildings. Under the vibration standards developed by the Federal Transit Administration, buildings of this type can withstand vibration levels up to 98 VdB without structural damage occurring to the building. Based on this criterion, vibration levels generated by the renovation and redevelopment equipment that will be used during phases of the proposed project, were evaluated to determine if vibrations levels will exceed this threshold.

IMPACT ANALYSIS

Landside Renovation Noise and Vibration – Phase 1 and Phase 2

The proposed project is to begin renovation starting at an estimated date of April 4, 2011, beginning with Phase 1. Phase 1 will include the renovation of the south wing of the Marina del Rey Hotel (approximately 57 guest-rooms) over a period of 15 weeks. Phase 1 will include demolition of interior partitions and finishes, demolition of exterior concrete haunches, extended trellis, beams, and metal trims; development of the "shell" for future tenants in office uses, and the complete repainting of the exterior of the south wing. This phase of renovation will not overlap with the other two phases of renovation. As discussed above, the closest sensitive receptor to the proposed project site is the Dolphin Marina Apartment Complex located approximately 971 feet, across the main Harbor Channel, west of the proposed project site. Furthermore, Burton W. Chace Park is located south of the south wing of the Marina del Rey Hotel, approximately 761-feet across Basin G of the Harbor. During Phase 1 of the renovation of the Marina Del Rey Hotel, it is expected that the demolition and construction equipment that will be used on the project site will include a forklift, demolition hammers/saws, a backhoe/loader, a concrete truck, and a concrete pump.

The proposed project will commence with Phase 2 of the renovation process beginning at the estimated date of July 18, 2011, after completion of Phase 1 of the renovation process. Phase 2 will include renovation of the north wing of the Marina del Rey Hotel over a 15-week period. During Phase 2, the northern portion of the pool and spa area will be renovated, along with the partial renovation of the hotel lobby and back of house (BOH) area. Furthermore, 63-guest rooms within the north wing of the Marina del Rey Hotel will be renovated. The closest sensitive receptor to the north wing of the Marina del Rey

Hotel is the Dolphin Marina Apartment Complex, across the main Harbor channel from the project site, approximately 1,108 feet west of the northern wing of the Marina del Rey Hotel. Furthermore, Burton W. Chace Park is located south of the south wing of the Marina del Rey Hotel on the proposed project site approximately 930-feet across Basin G of the Harbor. During Phase 2 of the renovation of the Marina del Rey Hotel, it is expected that the renovation equipment that will be used on the project site will include the use of a forklift, demolition hammers and saws, backhoe/loader, a concrete truck and concrete pump. **Table 8, Estimated Construction Equipment Noise and Vibration for Phase 1 and Phase 2 of Landside Renovation**, shows the loudest noise and strongest vibrations that renovation activities will produce during Phase 1 and Phase 2 of the landside renovation process, as experienced from the Dolphin Marina Apartment Complex to the west of the project site and Burton W. Chace Park to the south of the project (Please see **Appendix A** for calculations). Distance measurements that were used to conduct noise and vibration analysis for each of the phases as experienced from each of the sensitive uses are also discussed in **Table 7**.

Table 8
Estimated Construction Equipment Noise and Vibration for Phase 1 and Phase 2 of Landside Renovation

Impact	Equipment Used	Noise as Experienced from the Dolphin Marina Apartment Complex[1]	Vibration as Experienced from the Dolphin Marina Apartment Complex[1]	Noise as Experienced from the Burton W. Chace Park[2]	Vibration as Experienced from the Burton W. Chace Park[2]
Measurements		**dB (A) L_{eq}**	**RMS inches per second/VdB**	**dB (A) L_{eq}**	**RMS inches per second/VdB**
Phase 1	Forklift	56.0	N/A	58.0	N/A
	Concrete Pumps	56.0	0.00003/29.3	58.0	0.0004/32.5
	Demolition Hammers/ saws	50.0	0.00002/25.3	52.0	0.00003/28.5
	Backhoe/Loader	59.0	0.00007/37.3	61.0	0.0001/40.5
	Concrete Trucks	62.0	0.00008/37.9	64.0	0.0001/41.1
Total L_{eq} During Normal Operations		**63.0**	**N/A**	**65.0**	**N/A**

Phase 2	Forklift	55.0	N/A	57.0	N/A
	Concrete Pumps	55.0	0.00002/27.6	57.0	0.00003/29.9
	Demolition Hammers/ saws	49.0	0.00002/23.6	51.0	0.00002/25.9
	Backhoe/Loader	58.0	0.00006/35.6	60.0	0.00008/37.9
	Concrete Trucks	61.0	0.00006/36.2	63.0	0.00008/38.5
Total L_{eq} During Normal Operations		**61.0**	**N/A**	**63.0**	**N/A**

Source: Impact Sciences, Inc. January 2010.
Notes: [1] Distance to the Dolphin Marina Apartment Complex was measure from the Marina del Rey Hotel to the Dolphin Marina Apartment Complex at 971 feet during landside renovations under Phase 1. Distance to the Dolphin Marina Apartment Complex was measured from the Marina del Rey Hotel to the Dolphin Marina Apartment Complex at 1,108 feet during landside renovations under Phase 2.
[2] Distance to Burton W. Chace Park was measured from the Marina del Rey Hotel to Burton W. Chace Park at 761 feet during landside renovations under Phase 1. Distance to Burton W. Chace Park was measured from the Marina del Rey Hotel to Burton W. Chace Park at 1,108 feet during landside renovations under Phase 2.

As can be seen above in **Table 8**, the loudest expected noise reading and strongest vibration that residents living at the Dolphin Marina Apartment Complex would experience during Phase 1 and Phase 2 of the landside renovation process, will be no louder than 63.0 dB (A) L_{eq} and no stronger than 0.00008 RMS inches per second or 37.9 VdB, respectively. The loudest expected noise reading and strongest vibration that people visiting Burton W. Chace Park would experience during Phase 1 and Phase 2 of the landside renovation process, will be no louder than 65.0 dB (A) L_{eq} and no stronger than 0.001 RMS inches per second or 41.1 VdB.

As described above, the County of Los Angeles Noise Construction Standard indicates that construction noise cannot exceed 80.0 dB (A) L_{eq} during the hours of 7:00 AM and 8:00 PM during the weekdays at sensitive uses, such as multi-family residential buildings. Noise associated with the renovation equipment that will be used during Phase 1 and Phase 2 of the renovation of the proposed project site will be well below the level of 80.0 dB (A) L_{eq}, as set forth by the County of Los Angeles Noise Construction Standard for construction noise experienced by sensitive receptors such as multi-family residential units. The County of Los Angeles does not provide a noise standard for maximum construction noise levels allowed to be experienced by people using a park or recreation facility. During Phase 1 and Phase 2 of the renovation of the proposed project site, people visiting the Burton W. Chace Park will experience noise levels that are approximately 13.0 dB (A) L_{eq} above what is currently experienced at the park, thus resulting in an intermittent temporary increase in noise levels at Burton W. Chace Park. Construction vibrations during Phase 1 and Phase 2 of the renovation of the Marina del Rey Hotel and surface parking lots will not exceed vibration standards of 0.1 inches per second RMS for

human receptors or 98.0 VdB for structures classified as building category II, and impacts will be less than significant. Since the proposed project during Phase 1 and Phase 2 landside renovations will not produce noise or vibrations that will be above the standards as set forth by the County of Los Angeles for construction noise and construction vibration, impacts during Phase 1 and Phase 2 will be less than significant.

Landside Renovation/Waterside Redevelopment Noise and Vibration – Phase 3 and Phase 1

The proposed project is expected to commence with Phase 3 of the landside renovation of the Marina del Rey Hotel property beginning at the estimated date of October 31, 2011, following the completion of Phase 2 of the landside renovation process. As described above, Phase 1 of the redevelopment of the waterside portion of the Marina del Rey Hotel Property (redevelopment of the dock/anchorages along the northern boundary of the landside Marina del Rey Hotel Property) will commence and will occur simultaneously during the remaining 15-week period of the Phase 3 renovation process of the Marina del Rey Hotel and surface parking lot.

Phase 3 of the landside renovation on the Marina del Rey Property would include renovation of the east wing of the Hotel. Approximately 37-guest rooms in the east wing will be renovated, partial hotel lobby and back of house areas will be renovated, the "shell" of the restaurant, kitchen, and bar area will be renovated for future tenant improvements, the remaining portion of the pool, spa and pool deck area will be renovated and the meeting rooms within the hotel will be renovated. Phase 1 of the redevelopment of the Marina would occur simultaneously for the first 15-weeks of the scheduled 5-month period with Phase 3 of the landside renovations of the Marina del Rey Hotel Property. During this time the existing dock/anchorage system on the northern boundary of the project site, in Basin F, of the Marina Del Rey Harbor, would be removed and replaced with pre-manufactured docks (docks that are put together off-site) connected to new anchorages. The new anchorages will be pounded into the sea floor by a mobile-floating crane with an impact pile driver on its boom.

The closest sensitive receptor to the east wing of the Marina del Rey Hotel is the Dolphin Marina Apartment Complex, across the main harbor channel from the project site, approximately 1,218 feet west of the east wing of the Marina del Rey Hotel. The existing dock/anchorage of the northern portion of the Hotel's Marina is located approximately 1,085 feet to the east of the Dolphin Marina Apartment Complex. Furthermore, Burton W. Chace Park is located approximately 833 feet south of the east wing of the Marina del Rey Hotel and approximately 1,100 feet south of the southern edge of the northern dock/anchorage of the Hotel's Marina.

During the overlapping period of the Phase 3 renovation of the Marina del Rey Hotel and surface parking lot and Phase 1 of the redevelopment of the northern portion of the Hotel's Marina, it is expected that the renovation equipment that will be used on the project site will include the use of one forklift, demolition hammers and saws, a backhoe/loader, a concrete truck, concrete pump, mobile floating crane, and an impact pile driver. **Table 9, Estimated Noise and Vibration during Phase 3 Landside Renovations and Phase 1 Redevelopment,** shows the loudest noise and strongest vibrations that renovation activities will produce during Phase 3 of the landside renovations and Phase 1 of the waterside redevelopment process, as experienced from the Dolphin Marina Apartment Complex to the west of the project site and Burton W. Chace Park to the south of the project (Please see **Appendix A** for calculations). Distance measurements that were used to conduct noise and vibration analysis for each of the phases as experienced from each of the sensitive uses are also discussed in **Table 8**

Table 9
Estimated Noise and Vibration during Phase 3 Landside Renovations and Phase 1 Redevelopment

Impact	Equipment Used	Noise as Experienced from the Dolphin Marina Apartment Complex[1]	Vibration as Experienced from the Dolphin Marina Apartment Complex[1]	Noise as Experienced from the Burton W. Chace Park[2]	Vibration as Experienced from the Burton W. Chace Park[2]
Measurements		**dB (A) L_{eq}**	**RMS inches per second/VdB**	**dB (A) L_{eq}**	**RMS inches per second/VdB**
Phase 3 Landside and Phase 1 Waterside	Forklift	54.0	N/A	58.0	N/A
	Concrete Pumps	54.0	0.00002/26.4	58.0	0.00004/31.3
	Demolition Hammers/ saws	48.0	0.00001/22.4	52.0	0.00002/27.3

Backhoe/Loader	57.0	0.00005/34.4	61.0	0.00009/39.3
Concrete Trucks	60.0	0.00006/34.9	64.0	0.001/39.9
Mobile Crane	54.0	0.00005/33.9	54.0	0.00005/33.7
Pile Driver-Impact	74.0	0.001/62.5	74.0	0.001/62.3
Total L_{eq} During Normal Operations	**74.0**	**N/A**	**75.0**	**N/A**

Source: Impact Sciences, Inc. January 2010.
Notes: [1] Distance to the Dolphin Marina Apartment Complex was measure from the Marina del Rey Hotel to the Dolphin Marina Apartment Complex at 1,218 feet during landside renovations. Distance to the Dolphin Marina Apartment Complex was measured from the Hotel's western most dock on the northern dock system of the Marina to the Dolphin Marina Apartment Complex for waterside redevelopment and is 1,085 feet.
[2] Distance to Burton W. Chace Park was measured from the Marina del Rey Hotel to the Dolphin Marina Apartment Complex at 833 feet during landside renovations. Distance to Burton W. Chace Park was measured from the southern portion of the northern docks of the Hotel's Marina to the Dolphin Marina Apartment Complex for waterside redevelopment and is 1,100 feet..

As can be seen above in **Table 8**, the loudest expected noise reading and strongest vibration that residents living at the Dolphin Marina Apartment Complex would experience during Phase 3 of the landside renovation and Phase 1 of the waterside redevelopment process, will be no louder than 74.0 dB (A) L_{eq} and no stronger than 0.001 RMS inches per second or 62.5 VdB, respectively. The loudest expected noise reading and strongest vibration that people visiting Burton W. Chace Park would experience during Phase 3 landside renovation and Phase 1 of the waterside redevelopment process, will be no louder than 75.0 dB (A) L_{eq} and no stronger than 0.001 RMS inches per second or 62.3 VdB.

Noise associated with the renovation equipment that will be used during Phase 3 of the landside renovation and Phase 1 of the waterside redevelopment of the proposed project site will be well below the level of 80.0 dB (A) L_{eq}, as set forth by the County of Los Angeles Noise Construction Standard for construction noise experienced by sensitive receptors such as multi-family residential units. The County of Los Angeles does not provide a noise standard for maximum construction noise levels allowed to be experienced by people using a park or recreation facility. During Phase 3 of the landside renovation and Phase 1 of the waterside redevelopment of the proposed project site, people visiting the Burton W. Chace Park will experience noise levels that are approximately 23.0 dB (A) L_{eq} above what is currently experienced at the park, thus resulting in an intermittent temporary increase in noise levels at Burton W. Chace Park. Construction vibrations during Phase 3 of the landside renovations and Phase 2 of the waterside redevelopment will not exceed vibration standards of 0.1 inches per second RMS for human receptors or 98.0 VdB for structures classified as building category II. Since the proposed project during Phase 3 of the landside renovation and Phase 1 of the waterside redevelopment will not produce noise or vibrations that will be above the standards as set forth by the County of Los Angeles for construction

noise and as set forth by the FTA for construction vibration, impacts during Phase 3 of the landside renovations and Phase 1 of the waterside redevelopment will be less than significant.

Waterside Redevelopment Noise and Vibration – Phase 1 through Phase 5

The redevelopment of the Hotel's Marina (waterside redevelopment) will commence on the estimated date of October 31, 2011 and end on April 1, 2016, a period of 5-years. The redevelopment of the Hotel's Marina will occur in five phases. Phase 1 will begin on October 31, 2011 and end on March 16, 2012, and will focus on the redevelopment of the northern dock and anchorage system of the Hotel's Marina[9]. Phase 2 of the waterside redevelopment will commence 7-months after the completion of Phase 1, beginning on or about December 18, 2012 and ending on or about May 6, 2013. Phase 2 of the waterside redevelopment will focus on redevelopment of the dock and anchorages located in the western portion of the Hotel's Marina. Phase 3 of the waterside redevelopment will commence 7-months after the completion of Phase 2, beginning on or around November 19, 2013 and ending on or around April 7, 2014. Phase 3 of the waterside redevelopment will focus on the development of the new dock and anchorage system, on the western portion of the Hotel's Marina, beyond the western docks that currently exist. Phase 4 of the waterside redevelopment will commence 7 months after the completion of Phase 3, beginning or around November 26, 2014 and ending on or about April 14, 2015. Phase 4 of the waterside redevelopment will focus on the four most western docks along the southern portion of the Hotel's Marina. Phase 5 of the waterside redevelopment will commence 7 months after completion of Phase 4, beginning on or around November 16, 2015 and ending on or around April 1, 2016. Phase 5 will focus on the redevelopment of the five most eastern docks along the southern portion o f the Hotel's Marina.

During the five phases of the waterside redevelopment, construction of new dock and gangways will occur off-site to minimize noise pollution and maintain water quality in the harbor. Once completed, the new docks and gangways will be brought in and new pilings will be driven into the sea floor to support the new docks and gangways. During the 5-year redevelopment process, redevelopment of the Hotel's Marina will include the use of a mobile floating crane with a hydraulic impact pile driver attached to its boom to replace the anchorages into the sea floor. **Table 10, Estimated Noise and Vibration Phase 1 through Phase 5 of Waterside Redevelopment,** shows the loudest noise and strongest vibrations that redevelopment activities will produce during Phase 1 through Phase 5 of the waterside redevelopment process, as experienced from the, Marina del Rey Hotel, Dolphin Marina Apartment Complex to the west of the project site and Burton W. Chace Park to the south of the project (Please see **Appendix A** for

9 The analysis below, for Phase 1, only covers the latter part of Phase 1, between February 13, 2012 to March 16, 2012. This is due to the previous analysis that was provided for the overlapping of Phase 3 of the landside renovations during the first 15-weeks of Phase 1 of the waterside redevelopment.

calculations). Distance measurements that were used to conduct noise and vibration analysis for each of the phases as experienced from each of the sensitive uses are also discussed in **Table 9**.

Table 10
Estimated Noise and Vibration Phase 1 through Phase 5 of Waterside Redevelopment

Impact	Equipment Used	Noise as Experienced from the Marina Del Rey Hotel[1]	Vibration as Experienced from the Marina Del Rey Hotel[1]	Noise as Experienced from the Dolphin Marina Apartment Complex[2]	Vibration as Experienced from the Dolphin Marina Apartment Complex[2]	Noise as Experienced from the Burton W. Chace Park[3]	Vibration as Experienced from the Burton W. Chace Park[3]
Measurements		**dB (A) L_{eq}**	**RMS inches per second/VdB**	**dB (A) L_{eq}**	**RMS inches per second/VdB**	**dB (A) L_{eq}**	**RMS inches per second/VdB**
Phase 1	Mobile Crane	65.0	0.0003/50.4	54.0	0.00005/33.8	54.0	0.00005/33.3
	Pile Driver-Impact	85.0	0.0089/79.0	74.0	0.001/62.4	74.0	0.001/61.9
Total L_{eq} During Normal Operations		**85.0**		**74.0**		**74.0**	
Phase 2	Mobile Crane	73.0	0.001/61.2	55.0	0.0001/35.4	57.0	0.0001/38.4
	Pile Driver-Impact	93.0	0.031/89.8	75.0	0.002/64.0	77.0	0.002/67.0
Total L_{eq} During Normal Operations		**93.0**	**N/A**	**75.0**	**N/A**	**77.0**	**N/A**
Phase 3	Mobile Crane	68.0	0.001/54.0	57.0	0.0001/37.8	63.0	0.0002/47.0
	Pile Driver-Impact	88.0	0.01/82.6	77.0	0.002/66.3	83.0	0.006/75.6
Total L_{eq} During Normal Operations		**88.0**	**N/A**	**77.0**	**N/A**	**83.0**	**N/A**
Phase 4	Mobile Crane	75.0	0.002/64.8	56.0	0.0001/35.8	60.0	0.0001/43.2
	Pile Driver-Impact	95.0	0.05/93.4	76.0	0.002/64.4	80.0	0.004/71.8
Total L_{eq} During Normal Operations		**95.0**	**N/A**	**76.0**	**N/A**	**81.0**	**N/A**
Phase 5	Mobile Crane	67.0	0.0004/52.6	52.0	0.00003/30.6	59.0	0.0001/41.6
	Pile Driver-Impact	87.0	0.01/81.2	72.0	0.0009/59.2	79.0	0.003/70.2
Total L_{eq} During Normal Operations		**87.0**	**N/A**	**72.0**	**N/A**	**79.0**	**N/A**

Source: Impact Sciences, Inc. January 2010.

Notes: [1] The distance used was 305 feet as measured from the southern most part of the northern Hotel Marina Dock to the Marina del Rey Hotel for Phase 1 of waterside redevelopment. The distance used was 133 feet as measured from the eastern most part of the western Hotel Marina Dock to the Marina del Rey Hotel for Phase 2 of the waterside redevelopment. The distance used was 231 feet as measured from the estimated eastern most portion of the new dock system that will be developed on the western side of the Hotel's Marina during Phase 3 waterside redevelopment. The distance used was 101 feet as measured from the northern most part of the four most western docks along the southern portion of the Hotel's Marina to the Marina del Rey Hotel during Phase 4 of the waterside redevelopment. The distance used was 258 feet as measured from the northern most part of the five most eastern docks along the southern portion of the Hotel's Marina to the Marina del Rey Hotel during Phase 5 of the waterside redevelopment.

[2] The distance used was 1,090 feet as measured from the southern most part of the northern Hotel Marina Dock to the Dolphin Marina Apartment Complex for Phase 1 of waterside redevelopment. The distance used was 966 feet as measured from the eastern most part of the western Hotel Marina Dock to the Dolphin Marina Apartment Complex for Phase 2 of the waterside redevelopment. The distance used was 805 feet as measured from the estimated eastern most portion of the new dock system that will be developed on the western side of the Hotel's Marina to Dolphin Marina Apartment Complex during Phase 3 waterside redevelopment. The distance used was 935 feet as measured from the northern most part of the four most western docks along the southern portion of the Hotel's Marina to the Dolphin Marina Apartment Complex during Phase 4 of the waterside redevelopment. The distance used was 1,398 feet as measured from the northern most part of the five most eastern docks along the southern portion of the Hotel's Marina to the Dolphin Marina Apartment Complex during Phase 5 of the waterside redevelopment.

[3] The distance used was 1,133 feet as measured from the southern most part of the northern Hotel Marina Dock to Burton W. Chace Park for Phase 1 of waterside redevelopment. The distance used was 766 feet as measured from the eastern most part of the western Hotel Marina Dock to Burton W. Chace Park for Phase 2 of the waterside redevelopment. The distance used was 397 feet as measured from the estimated eastern most portion of the new dock system that will be developed on the western side of the Hotel's Marina to Dolphin Marina Apartment Complex to Burton W. Chace Park during Phase 3 waterside redevelopment. The distance used was 530 feet as measured from the northern most part of the four most western docks along the southern portion of the Hotel's Marina to Burton W. Chace Park during Phase 4 of the waterside redevelopment. The distance used was 599 feet as measured from the northern most part of the five most eastern docks along the southern portion of the Hotel's Marina to Burton W. Chace Park during Phase 5 of the waterside redevelopment.

As can be seen above in **Table 10**, the loudest expected noise reading and strongest vibration that visitors staying at the Marina del Rey Hotel would experience during the five phases of the waterside redevelopment process, will be no louder than 95.0 dB (A) L_{eq} and no stronger than 0.05 RMS inches per second or 93.4 VdB, respectively. However, as shown above in **Table 2**, hotels are typically constructed to attenuate noise levels by a minimum of 17.0 dB (A) L_{eq} when hotel windows are open and by a minimum of 25.0 dB (A) L_{eq} when hotel windows are closed. Therefore, noise levels as experienced by visitors staying at the Marina del Rey Hotel will experience maximum noise levels of 78.0 dB (A) L_{eq} when hotel windows are open and 70.0 dB (A) L_{eq} when hotel windows are closed during redevelopment of the Hotel's Marina. The loudest expected noise reading and strongest vibration that residents living at the Dolphin Marina Apartment Complex would experience during the five phases of the waterside redevelopment process, will be no louder than 77.0 dB (A) L_{eq} and no stronger than 0.002 RMS inches per second or 66.3 VdB. The loudest expected noise reading and strongest vibration that people visiting Burton W. Chace Park would experience during the five phases of the waterside redevelopment process, will be no louder than 81.0 dB (A) L_{eq} and no stronger than 0.004 RMS inches per second or 71.8 VdB.

Noise associated with the redevelopment equipment that will be used during the five phases of the waterside redevelopment of the proposed project site will be below the level of 80.0 dB (A) L_{eq}, as set forth by the County of Los Angeles Noise Construction Standard for construction noise experienced by sensitive receptors such as multi-family residential units and 85.0 dB (A) L_{eq} for businesses such as hotels. The County of Los Angeles does not provide a noise standard for maximum construction noise levels allowed to be experienced by people using a park or recreation facility. During the five phases of the waterside redevelopment of the proposed project site, people visiting the Burton W. Chace Park will experience maximum noise levels that are approximately 29.0 dB (A) L_{eq} above what is currently experienced at the park, thus resulting in an intermittent temporary increase in noise levels at Burton W. Chace Park. Construction vibrations during the five phases of the waterside redevelopment will not exceed vibration standards of 0.1 inches per second RMS for human receptors or 98.0 VdB for structures classified as building category II. Since the proposed project during the five phases of the waterside redevelopment will not produce noise or vibrations that will be above the standards as set forth by the County of Los Angeles for construction noise and as set forth by the FTA for construction vibration, impacts during the five phases of the waterside redevelopment will be less than significant.

Haul Route Noise Impacts

Project construction and renovation will require the use of heavy trucks to haul equipment and materials to the site, as well as transport debris during renovations and remodeling on the project site. To limit noise impacts associated with construction traffic on nearby land uses, a truck haul route will be established which will route vehicles away from sensitive uses to the maximum extent feasible.

To minimize potential neighborhood disruption and conflicts along the haul route, a construction traffic control plan will be developed for use during the construction and renovation activities. The plan will identify all traffic control measures, signs and time limits to be implemented by the construction contractor during the duration of the renovation and redevelopment activities. Measures likely to be used to reduce noise impacts include limitations on the hours and days in which renovation and redevelopment activities may occur. All vehicles will be staged either within the property lines or at designated areas as established by a County approved haul route plan.

Trucks on average are expected to enter and leave the site on a daily basis over the renovation and redevelopment period, but only during working hours. The trips associated with trucks traveling off site are based on the URBEMIS 2007 assumptions associated with proposed land uses proposed for the project. According to URBEMIS 2007 calculations prepared for the project, one haul truck per day is expected to make one round trip per day, on average, during the renovation and redevelopment process of the proposed project over the 45-week period of landside renovations and the 5-year period for waterside redevelopment. The Los Angeles County Department of Public Works (LACDPW), Construction Division, limits construction activities to between the hours of 6:30 AM and 8:00 PM daily and prohibits work on Sundays and legal holidays. This reduces the impact on local residents by restricting most construction-based noise generation to hours when most residents are at work and not generally home. The number of truck trips traveling along the proposed haul route will vary daily, depending on the nature of the renovation and redevelopment activity. Employment of standard noise attenuation practices will be implemented as required by the LACDPW. As previously discussed, noise sensitive land uses located near and adjacent to the project site are primarily commercial in nature, specifically, along Bali Way. Uses within 50 feet of the haul route developed by the proposed project could experience temporary noise events of approximately 76.0 dB (A) from the truck as it passes by[10], which does not exceed County standards as outlined above. Therefore, impacts are expected to be less than significant.

Operational Impacts

The project will not include an increase in intensity that will generate vehicle trips but rather include a renovation and upgrade of an existing use. Consequently, the project will not result in an increase in noise level on the surrounding roadway network due to increase vehicle trips upon completion. Furthermore, the proposed project will not include an increase in vibration generated during its operation, anymore than what is currently experienced over existing conditions. Therefore, operational

10 Please see Appendix B, Haul Truck Noise estimate calculation.

noise and vibration impacts from the renovated Marina del Rey Hotel Property will not effect adjacent sensitive receptors, and operational impacts will be less than significant.

SUGGESTED MITIGATION

No mitigation measures are required beyond compliance with the Los Angeles County Noise Ordinance (Section 12.08).

CONCLUSION

The proposed project consists of the renovation of the existing Marina del Rey Hotel and surface parking lot (landside renovations) and the redevelopment of the Hotel's Marina (waterside redevelopment. Landside renovations are expected to occur over a 45-week period, in three phases (each phase will occur over a 15-week period), while the waterside redevelopment is expected to occur over a five year period in five phases (each phase will occur over a 5-month period, with a 7-month lag period between the start of each phase). Phase 3 of the landside renovations and Phase 1 of the waterside renovations will occur simultaneously for the 15-week period of the Phase 3 landside renovation period. During the landside renovation period of 45-weeks, construction equipment such as forklifts, concrete pumps, demolition hammers and saws, backhoes/loaders, and concrete trucks will be used on the project site. During the 15-week period where Phase 3 of the landside renovations will overlap with Phase 1 of the waterside renovations, construction equipment such as forklifts, concrete pumps, demolition hammers and saws, backhoes/loaders, concrete trucks, a mobile crane, and an impact pile driver will be used on the project site. Finally, during the five year period of redevelopment of the waterside amenities, construction equipment such as a mobile crane and an impact pile driver will be used on the project site.

Analysis was conducted, as described above, for the three different phases during the landside renovations, the overlapping Phase 3 landside renovations with Phase 1 waterside redevelopment, and the five phases during the waterside redevelopment to determine if the noise generated by the renovation and redevelopment equipment would exceed the Los Angeles County Noise Ordinance Construction Standard of 80.0 dB (A) L_{eq} for multi-family residential uses and 85.0 dB (A) L_{eq} for business structures. Analysis was conducted, as described above, for the three different phases during the landside renovations, the overlapping Phase 3 landside renovations with Phase 1 waterside redevelopment, and the five phases during the waterside redevelopment to determine if the vibration generated by the renovation and redevelopment equipment will exceed the vibration threshold of 0.1 inches per second RMS for human perspectives and 98.0 VdB for structural integrity of buildings.

The loudest expected noise reading and strongest vibration that residents living at the Dolphin Marina Apartment Complex would experience during Phase 1 and Phase 2 of the landside renovation process, will be no louder than 63.0 dB (A) L_{eq} and no stronger than 0.00008 RMS inches per second or 37.9 VdB, respectively. The loudest expected noise reading and strongest vibration that people visiting Burton W. Chace Park would experience during Phase 1 and Phase 2 of the landside renovation process, will be no louder than 65.0 dB (A) L_{eq} and no stronger than 0.001 RMS inches per second or 41.1 VdB.

The loudest expected noise reading and strongest vibration that residents living at the Dolphin Marina Apartment Complex would experience during Phase 3 of the landside renovation and Phase 1 of the waterside redevelopment process, will be no louder than 74.0 dB (A) L_{eq} and no stronger than 0.001 RMS inches per second or 62.5 VdB, respectively. The loudest expected noise reading and strongest vibration that people visiting Burton W. Chace Park would experience during Phase 3 landside renovation and Phase 1 of the waterside redevelopment process, will be no louder than 75.0 dB (A) L_{eq} and no stronger than 0.001 RMS inches per second or 62.3 VdB.

The loudest expected noise reading and strongest vibration that visitors staying at the Marina del Rey Hotel would experience during the five phases of the waterside redevelopment process, will be no louder than 95.0 dB (A) L_{eq} and no stronger than 0.05 RMS inches per second or 93.4 VdB, respectively. However, as shown above in **Table 2**, hotels are typically constructed to attenuate noise levels by a minimum of 17.0 dB (A) L_{eq} when hotel windows are open and by a minimum of 25.0 dB (A) L_{eq} when hotel windows are closed. Therefore, noise levels as experienced by visitors staying at the Marina del Rey Hotel will experience maximum noise levels of 78.0 dB (A) L_{eq} when hotel windows are open and 70.0 dB (A) L_{eq} when hotel windows are closed during redevelopment of the Hotel's Marina. The loudest expected noise reading and strongest vibration that residents living at the Dolphin Marina Apartment Complex would experience during the five phases of the waterside redevelopment process, will be no louder than 77.0 dB (A) L_{eq} and no stronger than 0.002 RMS inches per second or 66.3 VdB. The loudest expected noise reading and strongest vibration that people visiting Burton W. Chace Park would experience during the five phases of the waterside redevelopment process, will be no louder than 81.0 dB (A) L_{eq} and no stronger than 0.004 RMS inches per second or 71.8 VdB

Noise generated by the redevelopment equipment that will be used during the renovation and redevelopment of the proposed project site will be below the level of 80.0 dB (A) L_{eq}, as set forth by the County of Los Angeles Noise Construction Standard for construction noise experienced by sensitive receptors such as multi-family residential units and 85.0 dB (A) L_{eq} for businesses such as hotels. Construction vibrations during the renovation and redevelopment of the proposed project site will not

exceed vibration standards of 0.1 inches per second RMS for human receptors or 98.0 VdB for structures classified as building category II. Since construction equipment used during the renovation and redevelopment of the proposed project site will not produce noise or vibrations that will be above the standards as set forth by the County of Los Angeles for construction noise and as set forth by the FTA for construction vibration, impacts during the renovation and redevelopment of the project site will be less than significant.

The proposed project consists of a renovation and redevelopment of the landside and waterside amenities on the project site. No new uses will be developed on the project site, and the intensity of the proposed project site will remain similar to existing conditions upon completion of the proposed project. Therefore, noise generated during the operation of the proposed project will not exceed levels that are currently generated on the project site under existing conditions. Impacts during operation of the proposed project will be less than significant.

Additionally, it was estimated that one haul truck will be used, on average, every day over the 45-week period, making one round trip per day to the project site and from the project site. Analysis concluded that sensitive structures located specifically along Bali Way will experience noise generated from this truck of no greater than 76.0 dB (A) L_{eq}, which is below the standard of 80.0 dB (A) L_{eq} as set forth by the County of Los Angeles. This is primarily due to the fact that the truck will be more than 50 feet from the sensitive uses (residential uses) as it travels along the haul route, and the fact that speed limits in the residential areas are 25 mph hour or less, thus reducing the sound generated by the haul truck. Therefore, the haul truck associated with the construction and renovation of the proposed project is expected to create a less than significant noise impact on surrounding sensitive land uses.

APPENDIX A

Renovation and Redevelopment of the Marina del Rey Hotel and Anchorages: Equipment Noise Model

Marina Del Rey Hotel Renovation Phase 1-As Experienced from Dolphin Marina Apartments

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	1	1	82	971	56
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile	0	1	81	50	#N/A
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	1	1	82	971	56
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	1	1	85	971	59
Paver	0	1	77	50	#N/A
Pile Driver - Impact	0	1	101	50	#N/A
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	1	1	76	971	50
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	1	1	88	971	62

TOTAL Leq DURING NORMAL OPERATIONS: **63**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook

Marina Del Rey Hotel Renovation Phase 1- As Experienced from Burton W. Chace Park

Assumed Attenuation 6 dBA per doubling of distanc

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Drill/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	1	1	82	761	58
Concrete Vibrator	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile	0	1	81	50	#N/A
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	1	1	82	761	58
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	1	1	85	761	61
Paver	0	1	77	50	#N/A
Pile Driver - Impac	0	1	101	50	#N/A
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	1	1	76	761	52
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	1	1	88	761	64

TOTAL Leq DURING NORMAL OPERATIONS: **65**

Note: NA = Not Applicabl
Sources: Federal Transit Adminidstration (May 2006)*Transit Noise and Vibration*
Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges
Highway Construction Noise Handbook

Marina Del Rey Hotel Renovation Phase 2 - As Experienced from Dolphin Marina Apartment Complex

Assumed Attenuation 6 dBA per doubling of distanc

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Drill/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	1	1	82	1108	55
Concrete Vibratotı	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile	0	1	81	50	#N/A
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	1	1	82	1108	55
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	1	1	85	1108	58
Paver	0	1	77	50	#N/A
Pile Driver - Impac	0	1	101	50	#N/A
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	1	1	76	1108	49
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	1	1	88	1108	61

TOTAL Leq DURING NORMAL OPERATIONS: **61**

Note: NA = Not Applicabl
Sources: Federal Transit Adminidstration (May 2006)*Transit Noise and Vibration*
Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges
Highway Construction Noise Handbook

Marina Del Rey Hotel Renovation Phase 2 - As Experienced at Burton W. Chase Park

Assumed Attenuation 6 dBA per doubling of distanc

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	1	1	82	930	57
Concrete Vibratotı	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile	0	1	81	50	#N/A
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Dril	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	1	1	82	930	57
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	1	1	85	930	60
Paver	0	1	77	50	#N/A
Pile Driver - Impac	0	1	101	50	#N/A
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	1	1	76	930	51
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	1	1	88	930	63

TOTAL Leq DURING NORMAL OPERATIONS: **63**

Note: NA = Not Applicabl
Sources: Federal Transit Adminidstration (May 2006)*Transit Noise and Vibration*
Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges
Highway Construction Noise Handbook

Hotel Renovation Phase 3 and Marina Redevelopment Phase 1 - As Experienced from Dolphin Marina Apart Complex

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	1	1	82	1218	54
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	1085	54
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	1	1	82	1218	54
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	1	1	85	1218	57
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	1085	74
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	1	1	76	1218	48
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	1	1	88	1218	60

TOTAL Leq DURING NORMAL OPERATIONS: **74**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (April 1995), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumption was made that work on the Marina (waterside) of the project site will commence on the dock and anchorage system located on the northern end of the property, approximately 1,085 feet east of the Dolphin Marin Apartments.

Hotel Renovation Phase 3 and Marina Redevelopment Phase 1 - As Experienced at Burton W. Chace Park

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Drill/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	1	1	82	833	58
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	1100	54
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	1	1	82	833	58
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	1	1	85	833	61
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	1100	74
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	1	1	76	833	52
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	1	1	88	833	64
TOTAL Leq DURING NORMAL OPERATIONS:					**75**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumption was made that work on the Marina (waterside) of the project site will commence on the dock and anchorage system located on the northern end of the property, approximately 1,100 feet north of Burton W. Chace Park.

Marina Redevelopment Phase 1-As Experienced from Marina Del Rey Hotel

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	305	65
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	305	85
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**85**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (April 1995), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that Marina Redevelopment during Phase 1 will occur on the dock and anchorage system on the northernside of the project site in "Basin F". Therefore, a distance of 305 feet was measured from the middle of the northern dock/anchorage area to the middle of the building of the Marina Del Rey Hotel.

Marina Redevelopment Phase 1-As Experienced from Dolphin Marina Apartments

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	1090	54
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	1090	74
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**74**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that Marina Redevelopment during Phase 1 will occur on the dock and anchorage system on the northernside of the project site in "Basin F". Therefore, a distance of 1,090 feet was measured from the eastern end of the northern dock/anchoragearea to the western side of the building of the Dolphin Marina Apartment Complex.

Marina Redevelopment Phase 1-As Experienced from Burton W. Chace Park

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	1133	54
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	1133	74
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A

TOTAL Leq DURING NORMAL OPERATIONS: **74**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that Marina Redevelopment during Phase 1 will occur on the dock and anchorage system on the northern side of the project site in "Basin F". Therefore, a distance of 1,133 feet was measured from the middle of the northern dock/anchorage area to the middle of the northern edge of Burton W. Chace Park.

Marina Redevelopment Phase 2 - As Experienced from the Marina Del Rey Hotel

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	133	73
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	133	93
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**93**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that redevelopment of the Marina dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 2. Therefore, the measurement of 133 feet was taken from the western edge of the dock/anchorage system on the eastern side of the project site to the middle of the Marina Del Rey Hotel on its western side.

Marina Redevelopment Phase 2 - As Experienced from the Dolphin Marina Apartment Complex

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	966	55
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	966	75
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**75**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that redevelopment of the Marina dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 2. Therefore, the measurement of 966 feet was taken from the eastern edge of the dock/anchorage system on the eastern side of the project site to the middle of the Dolphin Marina Apartment Complex on its western side.

Marina Redevelopment Phase 2 - As Experienced from the Burton W. Chace Park

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	766	57
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	766	77
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A

TOTAL Leq DURING NORMAL OPERATIONS: **77**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that redevelopment of the Marina dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 2. Therefore, the measurement of 7 feet was taken from the southern edge of the dock/anchorage system on the eastern side of the project site to the middle of the Burton W. Chase Park on its northern side.

Marina Redevelopment Phase 3 - As Experienced from the Marina Del Rey Hotel

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	231	68
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	231	88
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**88**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that the new addition of the dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 3. Therefore, the measurement of 231 feet was taken from the estimated western edge of the new dock/anchorage system on the eastern side of the project site to the middle of the Marina Del Rey Hotel on its western side.

Marina Redevelopment Phase 3 - As Experienced from the Dolphin Marina Hotel Complex

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	805	57
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	805	77
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**77**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that the new addition of the dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 3. Therefore, the measurement of 805 feet was taken from the estimated eastern edge of the new dock/anchorage system on the eastern side of the project site to the middle of the Dolphin Marina Apartment Complex on its western side.

Marina Redevelopment Phase 3 - As Experienced from the Burton W. Chase Park

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	397	63
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	397	83
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A

TOTAL Leq DURING NORMAL OPERATIONS: **83**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook

* An assumtion was made that the new addition of the dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 3. Therefore, the measurement of 397 feet was taken from the estimated southern edge of the new dock/anchorage system on the eastern side of the project site to the western side of the Burton W. Chace Park on its northern side.

Marina Redevelopment Phase 4 - As Experienced from the Marina Del Rey Hotel

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	101	75
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	101	95
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**95**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that the redevelopment of the dock/anchorage system on the souther side of the project site in the "Basin G" (the four most western existing docks/acnhorages) will occur during Phase 4. Therefore, the measurement of 101 feet wastaken from the southern edge of the dock/anchorage system on the southern side of the project site to the southern side of the Marina Del Rey Hotel on its southern side.

Marina Redevelopment Phase 4 - As Experienced from the Dolphin Marina Hotel Complex

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	935	56
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	935	76
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**76**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in "Basin G" (the four most western existing docks/acnhorages) will occur during Phase 4. Therefore, the measurement of 935 feet was taken from the western edge of the dock/anchorage system on the southern side of the project site to the eastern side of the Dolphin Marina Apartemnt Complex on its eastern side.

Marina Redevelopment Phase 4 - As Experienced from the Burton W. Chace Park

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	530	60
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	530	80
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A

TOTAL Leq DURING NORMAL OPERATIONS: **81**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook

* An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in "Basin G" (the four most western existing docks/acnhorages) will occur during Phase 4. Therefore, the measurement of 530 feet was taken from the southern edge of the dock/anchorage system on the southern side of the project site to the middle of the Burton W. Chase Park on its northern side.

Marina Redevelopment Phase 5 - As Experienced from the Marina Del Rey Hotel

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	258	67
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	258	87
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**87**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in "Basin G" (the five most eastern existing docks/acnhorages) will occur during Phase 5. Therefore, the measurement of 258 feet was taken from the northern edge of the dock/anchorage system on the southern side of the project site to the eastern side of the Marina Del Rey Hotel on its southeastern side.

Marina Redevelopment Phase 5 - As Experienced from the Dolphin Marina Apartment Complex

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	1398	52
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	1398	72
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A
TOTAL Leq DURING NORMAL OPERATIONS:					**72**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in "Basin G" (the five most eastern existing docks/acnhorages) will occur during Phase 5. Therefore, the measurement of 1,398 feet was taken from the western edge of the dock/anchorage system on the southern side of the project site to the middle of the Dolphin Marina Apartment Complex on its eastern side.

Marina Redevelopment Phase 5 - As Experienced from the Burton W. Chace Park

Assumed Attenuation: 6 dBA per doubling of distance

NOISE SOURCE	NUMBER OF UNITS	ASSUMED USE FACTOR	TYPICAL PRESSURE LEVEL @ 50 FT (dBA)	DISTANCE (Feet)	NOISE LEVEL Leq (dBA)
Auger/Bore Drill Rig	0	1	81	50	#N/A
Backhoe	0	1	78	50	#N/A
Ballast Equilzer	0	1	82	50	#N/A
Ballast Tamper	0	1	83	50	#N/A
Bore Driil/Rig	0	1	83	50	#N/A
Compactor	0	1	82	50	#N/A
Concrete Mixer	0	1	79	50	#N/A
Concrete Pump	0	1	82	50	#N/A
Concrete Vibratotr	0	1	76	50	#N/A
Crane Derrick	0	1	88	50	#N/A
Crane Mobile*	1	1	81	599	59
Dozer	0	1	82	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Dump Truck	0	1	76	50	#N/A
Electric Drill	0	1	56	50	#N/A
Excavtor CAT 963	0	1	77	50	#N/A
Excavator CAT 973	0	1	81	50	#N/A
Forklift, 40 HP	0	1	82	50	#N/A
Generator	0	1	81	50	#N/A
Grader	0	1	85	50	#N/A
Impact Wrench	0	1	85	50	#N/A
Jack Hammer	0	1	89	50	#N/A
Loader	0	1	85	50	#N/A
Paver	0	1	77	50	#N/A
Pile Driver - Impact*	1	1	101	599	79
Pile Driver- Sonic	0	1	96	50	#N/A
Pneunatic Tools	0	1	85	50	#N/A
Pump	0	1	76	50	#N/A
Rail Saw	0	1	90	50	#N/A
Rock Drill	0	1	98	50	#N/A
Roller	0	1	74	50	#N/A
Saw	0	1	76	50	#N/A
Scarifier	0	1	83	50	#N/A
Scraper	0	1	84	50	#N/A
Shovel	0	1	82	50	#N/A
Spike Driver	0	1	77	50	#N/A
Tie Cutter	0	1	84	50	#N/A
Tie Handler	0	1	80	50	#N/A
Tie Inserter	0	1	85	50	#N/A
Off-highway Truck	0	1	88	50	#N/A

TOTAL Leq DURING NORMAL OPERATIONS: **79**

Note: NA = Not Applicable
Sources: Federal Transit Adminidstration (May 2006), *Transit Noise and Vibration* Impact Asessment, p. 12-3. and FWWA Construction Equipment Noise Levels and Ranges - Highway Construction Noise Handbook
* An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in "Basin G" (the five most eastern existing docks/acnhorages) will occur during Phase 5. Therefore, the measurement of 599 feet was taken from the southern edge of the dock/anchorage system on the southern side of the project site to the eastern side of the Burton W. Chace Park on its northern side.

APPENDIX B

Renovation and Redevelopment of the Marina del Rey Hotel and Anchorages : Equipment Vibration Generation Models

Hotel Renovation Vibration-Phase 1 as Experienced from the Dolphin Marina Apartment Complex

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]
Air Compressor		0	0.090	25	0.000000	0.00000
Backhoe		0	0.040	25	0.000000	0.00000
Caisson drilling		0	0.089	25	0.000000	0.00000
Clam shovel drop (slurry wall)		0	0.202	25	0.000000	0.00000
Compactor		0	0.050	25	0.000000	0.00000
Compressor		0	0.045	25	0.000000	0.00000
Concrete Mixer		0	0.040	25	0.000000	0.00000
Concrete Pump		1	0.028	971	0.000117	0.00003
Concrete Vibrator		0	0.014	25	0.000000	0.00000
Crane (Derrick)		0	0.057	25	0.000000	0.00000
Crane (Mobile)		0	0.057	25	0.000000	0.00000
Generator		0	0.018	25	0.000000	0.00000
Grader		0	0.040	25	0.000000	0.00000
Hydromill (slurry wall)	in soil	0	0.008	25	0.000000	0.00000
	in rock	0	0.017	25	0.000000	0.00000
Jackhammer		0	0.035	25	0.000000	0.00000
Large bulldozer		0	0.089	25	0.000000	0.00000
Loaded trucks		1	0.076	971	0.000314	0.00008
Loader		1	0.071	971	0.000294	0.00007
Pavement Breaker		0	0.100	25	0.000000	0.00000
Paver		0	0.063	25	0.000000	0.00000
Pile Driver (impact)	upper range	0	1.518	25	0.000000	0.00000
	typical	0	0.644	25	0.000000	0.00000
Pile Driver (sonic)	upper range	0	0.734	25	0.000000	0.00000
	typical	0	0.170	25	0.000000	0.00000
Pneumatic Tool		0	0.040	25	0.000000	0.00000
Pump		0	0.014	25	0.000000	0.00000
Roller		0	0.020	25	0.000000	0.00000
Saw		1	0.018	971	0.000074	0.00002
Scraper		0	0.057	25	0.000000	0.00000
Shovel		0	0.028	25	0.000000	0.00000
Tub Grinder		0	0.252	25	0.000000	0.00000
Small bulldozer		0	0.003	25	0.000000	0.00000

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above

RMS Vibration level in VdB at adjusted distance
0.0
0.0
0.0
0.0
0.0
0.0
0.0
29.3
0.0
0.0
0.0
0.0
0.0
0.0
0.0
0.0
0.0
37.9
37.3
0.0
0.0
0.0
0.0
0.0
0.0
0.0
0.0
0.0
25.3
0.0
0.0
0.0
0.0

s

e.

Hotel Renovation Vibration-Phase 1 as Experienced from the Burton W. Chace Park

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.00000	0.0
Backhoe		0	0.040	25	0.0000	0.00000	0.0
Caisson drilling		0	0.089	25	0.0000	0.00000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.00000	0.0
Compactor		0	0.050	25	0.0000	0.00000	0.0
Compressor		0	0.045	25	0.0000	0.00000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.00000	0.0
Concrete Pump		1	0.028	761	0.0002	0.00004	32.5
Concrete Vibrator		0	0.014	25	0.0000	0.00000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.00000	0.0
Crane (Mobile)		0	0.057	25	0.0000	0.00000	0.0
Generator		0	0.018	25	0.0000	0.00000	0.0
Grader		0	0.040	25	0.0000	0.00000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.00000	0.0
	in rock	0	0.017	25	0.0000	0.00000	0.0
Jackhammer		0	0.035	25	0.0000	0.00000	0.0
Large bulldozer		0	0.089	25	0.0000	0.00000	0.0
Loaded trucks		1	0.076	761	0.0005	0.00011	41.1
Loader		1	0.071	761	0.0004	0.00011	40.5
Pavement Breaker		0	0.100	25	0.0000	0.00000	0.0
Paver		0	0.063	25	0.0000	0.00000	0.0
Pile Driver (impact)	upper range	0	1.518	25	0.0000	0.00000	0.0
	typical	0	0.644	25	0.0000	0.00000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.00000	0.0
	typical	0	0.170	25	0.0000	0.00000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.00000	0.0
Pump		0	0.014	25	0.0000	0.00000	0.0
Roller		0	0.020	25	0.0000	0.00000	0.0
Saw		1	0.018	761	0.0001	0.00003	28.5
Scraper		0	0.057	25	0.0000	0.00000	0.0
Shovel		0	0.028	25	0.0000	0.00000	0.0
Tub Grinder		0	0.252	25	0.0000	0.00000	0.0
Small bulldozer		0	0.003	25	0.0000	0.00000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Hotel Renovation Vibration-Phase 2 as Experienced from the Dolphin Marina Apartment Complex

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.00000	0.00000	0.0
Backhoe		0	0.040	25	0.00000	0.00000	0.0
Caisson drilling		0	0.089	25	0.00000	0.00000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.00000	0.00000	0.0
Compactor		0	0.050	25	0.00000	0.00000	0.0
Compressor		0	0.045	25	0.00000	0.00000	0.0
Concrete Mixer		0	0.040	25	0.00000	0.00000	0.0
Concrete Pump		1	0.028	1108	0.00010	0.00002	27.6
Concrete Vibrator		0	0.014	25	0.00000	0.00000	0.0
Crane (Derrick)		0	0.057	25	0.00000	0.00000	0.0
Crane (Mobile)		0	0.057	25	0.00000	0.00000	0.0
Generator		0	0.018	25	0.00000	0.00000	0.0
Grader		0	0.040	25	0.00000	0.00000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.00000	0.00000	0.0
	in rock	0	0.017	25	0.00000	0.00000	0.0
Jackhammer		0	0.035	25	0.00000	0.00000	0.0
Large bulldozer		0	0.089	25	0.00000	0.00000	0.0
Loaded trucks		1	0.076	1108	0.00026	0.00006	36.2
Loader		1	0.071	1108	0.00024	0.00006	35.6
Pavement Breaker		0	0.100	25	0.00000	0.00000	0.0
Paver		0	0.063	25	0.00000	0.00000	0.0
Pile Driver (impact)	upper range	0	1.518	25	0.00000	0.00000	0.0
	typical	0	0.644	25	0.00000	0.00000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.00000	0.00000	0.0
	typical	0	0.170	25	0.00000	0.00000	0.0
Pneumatic Tool		0	0.040	25	0.00000	0.00000	0.0
Pump		0	0.014	25	0.00000	0.00000	0.0
Roller		0	0.020	25	0.00000	0.00000	0.0
Saw		1	0.018	1108	0.00006	0.00002	23.6
Scraper		0	0.057	25	0.00000	0.00000	0.0
Shovel		0	0.028	25	0.00000	0.00000	0.0
Tub Grinder		0	0.252	25	0.00000	0.00000	0.0
Small bulldozer		0	0.003	25	0.00000	0.00000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Hotel Renovation Vibration-Phase 2 as Experienced from the Burton W. Chace Park

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.00000	0.0
Backhoe		0	0.040	25	0.0000	0.00000	0.0
Caisson drilling		0	0.089	25	0.0000	0.00000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.00000	0.0
Compactor		0	0.050	25	0.0000	0.00000	0.0
Compressor		0	0.045	25	0.0000	0.00000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.00000	0.0
Concrete Pump		1	0.028	930	0.0001	0.00003	29.9
Concrete Vibrator		0	0.014	25	0.0000	0.00000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.00000	0.0
Crane (Mobile)		0	0.057	25	0.0000	0.00000	0.0
Generator		0	0.018	25	0.0000	0.00000	0.0
Grader		0	0.040	25	0.0000	0.00000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.00000	0.0
	in rock	0	0.017	25	0.0000	0.00000	0.0
Jackhammer		0	0.035	25	0.0000	0.00000	0.0
Large bulldozer		0	0.089	25	0.0000	0.00000	0.0
Loaded trucks		1	0.076	930	0.0003	0.00008	38.5
Loader		1	0.071	930	0.0003	0.00008	37.9
Pavement Breaker		0	0.100	25	0.0000	0.00000	0.0
Paver		0	0.063	25	0.0000	0.00000	0.0
Pile Driver (impact)	upper range	0	1.518	25	0.0000	0.00000	0.0
	typical	0	0.644	25	0.0000	0.00000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.00000	0.0
	typical	0	0.170	25	0.0000	0.00000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.00000	0.0
Pump		0	0.014	25	0.0000	0.00000	0.0
Roller		0	0.020	25	0.0000	0.00000	0.0
Saw		1	0.018	930	0.0001	0.00002	25.9
Scraper		0	0.057	25	0.0000	0.00000	0.0
Shovel		0	0.028	25	0.0000	0.00000	0.0
Tub Grinder		0	0.252	25	0.0000	0.00000	0.0
Small bulldozer		0	0.003	25	0.0000	0.00000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise & Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg.12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Hotel Renovation Vibration-Phase 3 and Marina Redevelopment Phase 1 as Experienced from the Dolphin Marina Apartment Complex

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.00000	0.00000	0.0
Backhoe		0	0.040	25	0.00000	0.00000	0.0
Caisson drilling		0	0.089	25	0.00000	0.00000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.00000	0.00000	0.0
Compactor		0	0.050	25	0.00000	0.00000	0.0
Compressor		0	0.045	25	0.00000	0.00000	0.0
Concrete Mixer		0	0.040	25	0.00000	0.00000	0.0
Concrete Pump		1	0.028	1218	0.00008	0.00002	26.4
Concrete Vibrator		0	0.014	25	0.00000	0.00000	0.0
Crane (Derrick)		0	0.057	25	0.00000	0.00000	0.0
Crane (Mobile)		1	0.057	1085	0.00020	0.00005	33.9
Generator		0	0.018	25	0.00000	0.00000	0.0
Grader		0	0.040	25	0.00000	0.00000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.00000	0.00000	0.0
	in rock	0	0.017	25	0.00000	0.00000	0.0
Jackhammer		0	0.035	25	0.00000	0.00000	0.0
Large bulldozer		0	0.089	25	0.00000	0.00000	0.0
Loaded trucks		1	0.076	1218	0.00022	0.00006	34.9
Loader		1	0.071	1218	0.00021	0.00005	34.4
Pavement Breaker		0	0.100	25	0.00000	0.00000	0.0
Paver		0	0.063	25	0.00000	0.00000	0.0
Pile Driver (impact)	upper range	1	1.518	1085	0.00531	0.00133	62.5
	typical	0	0.644	25	0.00000	0.00000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.00000	0.00000	0.0
	typical	0	0.170	25	0.00000	0.00000	0.0
Pneumatic Tool		0	0.040	25	0.00000	0.00000	0.0
Pump		0	0.014	25	0.00000	0.00000	0.0
Roller		0	0.020	25	0.00000	0.00000	0.0
Saw		1	0.018	1218	0.00005	0.00001	22.4
Scraper		0	0.057	25	0.00000	0.00000	0.0
Shovel		0	0.028	25	0.00000	0.00000	0.0
Tub Grinder		0	0.252	25	0.00000	0.00000	0.0
Small bulldozer		0	0.003	25	0.00000	0.00000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise & Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg.12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Hotel Renovation Vibration-Phase 3 and Marina Redevelopment Phase 1 as Experienced from the Burton W. Chace Park

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.00000	0.00000	0.0
Backhoe		0	0.040	25	0.00000	0.00000	0.0
Caisson drilling		0	0.089	25	0.00000	0.00000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.00000	0.00000	0.0
Compactor		0	0.050	25	0.00000	0.00000	0.0
Compressor		0	0.045	25	0.00000	0.00000	0.0
Concrete Mixer		0	0.040	25	0.00000	0.00000	0.0
Concrete Pump		1	0.028	833	0.00015	0.00004	31.3
Concrete Vibrator		0	0.014	25	0.00000	0.00000	0.0
Crane (Derrick)		0	0.057	25	0.00000	0.00000	0.0
Crane (Mobile)		1	0.057	1100	0.00019	0.00005	33.7
Generator		0	0.018	25	0.00000	0.00000	0.0
Grader		0	0.040	25	0.00000	0.00000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.00000	0.00000	0.0
	in rock	0	0.017	25	0.00000	0.00000	0.0
Jackhammer		0	0.035	25	0.00000	0.00000	0.0
Large bulldozer		0	0.089	25	0.00000	0.00000	0.0
Loaded trucks		1	0.076	833	0.00040	0.00010	39.9
Loader		1	0.071	833	0.00037	0.00009	39.3
Pavement Breaker		0	0.100	25	0.00000	0.00000	0.0
Paver		0	0.063	25	0.00000	0.00000	0.0
Pile Driver (impact)	upper range	1	1.518	1100	0.00520	0.00130	62.3
	typical	0	0.644	25	0.00000	0.00000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.00000	0.00000	0.0
	typical	0	0.170	25	0.00000	0.00000	0.0
Pneumatic Tool		0	0.040	25	0.00000	0.00000	0.0
Pump		0	0.014	25	0.00000	0.00000	0.0
Roller		0	0.020	25	0.00000	0.00000	0.0
Saw		1	0.018	833	0.00009	0.00002	27.3
Scraper		0	0.057	25	0.00000	0.00000	0.0
Shovel		0	0.028	25	0.00000	0.00000	0.0
Tub Grinder		0	0.252	25	0.00000	0.00000	0.0
Small bulldozer		0	0.003	25	0.00000	0.00000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 1 as Experienced from the Marina Del Rey Hotel

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.000	0.0000	0.0
Backhoe		0	0.040	25	0.000	0.0000	0.0
Caisson drilling		0	0.089	25	0.000	0.0000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.000	0.0000	0.0
Compactor		0	0.050	25	0.000	0.0000	0.0
Compressor		0	0.045	25	0.000	0.0000	0.0
Concrete Mixer		0	0.040	25	0.000	0.0000	0.0
Concrete Pump		0	0.028	25	0.000	0.0000	0.0
Concrete Vibrator		0	0.014	25	0.000	0.0000	0.0
Crane (Derrick)		0	0.057	25	0.000	0.0000	0.0
Crane (Mobile)		1	0.057	305	0.001	0.0003	50.4
Generator		0	0.018	25	0.000	0.0000	0.0
Grader		0	0.040	25	0.000	0.0000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.000	0.0000	0.0
	in rock	0	0.017	25	0.000	0.0000	0.0
Jackhammer		0	0.035	25	0.000	0.0000	0.0
Large bulldozer		0	0.089	25	0.000	0.0000	0.0
Loaded trucks		0	0.076	25	0.000	0.0000	0.0
Loader		0	0.071	25	0.000	0.0000	0.0
Pavement Breaker		0	0.100	25	0.000	0.0000	0.0
Paver		0	0.063	25	0.000	0.0000	0.0
Pile Driver (impact)	upper range	1	1.518	305	0.036	0.0089	79.0
	typical	0	0.644	25	0.000	0.0000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.000	0.0000	0.0
	typical	0	0.170	25	0.000	0.0000	0.0
Pneumatic Tool		0	0.040	25	0.000	0.0000	0.0
Pump		0	0.014	25	0.000	0.0000	0.0
Roller		0	0.020	25	0.000	0.0000	0.0
Saw		0	0.018	25	0.000	0.0000	0.0
Scraper		0	0.057	25	0.000	0.0000	0.0
Shovel		0	0.028	25	0.000	0.0000	0.0
Tub Grinder		0	0.252	25	0.000	0.0000	0.0
Small bulldozer		0	0.003	25	0.000	0.0000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

****An assumtion was made that Marina Redevelopment during Phase 1 will occur on the dock and anchorage system on the northernside of the project site in "Basin F". Therefore, a distance of 305 feet was measured from the middle of the northern dock/anchorage area to the middle of the building of the Marina Del Rey Hotel.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 1 as Experienced from the Dolphin Marina Apartment Complex

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.00000	0.00000	0.0
Backhoe		0	0.040	25	0.00000	0.00000	0.0
Caisson drilling		0	0.089	25	0.00000	0.00000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.00000	0.00000	0.0
Compactor		0	0.050	25	0.00000	0.00000	0.0
Compressor		0	0.045	25	0.00000	0.00000	0.0
Concrete Mixer		0	0.040	25	0.00000	0.00000	0.0
Concrete Pump		0	0.028	25	0.00000	0.00000	0.0
Concrete Vibrator		0	0.014	25	0.00000	0.00000	0.0
Crane (Derrick)		0	0.057	25	0.00000	0.00000	0.0
Crane (Mobile)		1	0.057	1090	0.00020	0.00005	33.8
Generator		0	0.018	25	0.00000	0.00000	0.0
Grader		0	0.040	25	0.00000	0.00000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.00000	0.00000	0.0
	in rock	0	0.017	25	0.00000	0.00000	0.0
Jackhammer		0	0.035	25	0.00000	0.00000	0.0
Large bulldozer		0	0.089	25	0.00000	0.00000	0.0
Loaded trucks		0	0.076	25	0.00000	0.00000	0.0
Loader		0	0.071	25	0.00000	0.00000	0.0
Pavement Breaker		0	0.100	25	0.00000	0.00000	0.0
Paver		0	0.063	25	0.00000	0.00000	0.0
Pile Driver (impact)	upper range	1	1.518	1090	0.00527	0.00132	62.4
	typical	0	0.644	25	0.00000	0.00000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.00000	0.00000	0.0
	typical	0	0.170	25	0.00000	0.00000	0.0
Pneumatic Tool		0	0.040	25	0.00000	0.00000	0.0
Pump		0	0.014	25	0.00000	0.00000	0.0
Roller		0	0.020	25	0.00000	0.00000	0.0
Saw		0	0.018	25	0.00000	0.00000	0.0
Scraper		0	0.057	25	0.00000	0.00000	0.0
Shovel		0	0.028	25	0.00000	0.00000	0.0
Tub Grinder		0	0.252	25	0.00000	0.00000	0.0
Small bulldozer		0	0.003	25	0.00000	0.00000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

****An assumtion was made that Marina Redevelopment during Phase 1 will occur on the dock and anchorage system on the northern side of the project site in "Basin F". Therefore, a distance of 1,090 feet was measured from the eastern end of the northern dock/anchorage area to the western side of the building of the Dolphin Marina Apartment Complex.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 1 as Experienced from the Burton W. Chace Park

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.00000	0.00000	0.0
Backhoe		0	0.040	25	0.00000	0.00000	0.0
Caisson drilling		0	0.089	25	0.00000	0.00000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.00000	0.00000	0.0
Compactor		0	0.050	25	0.00000	0.00000	0.0
Compressor		0	0.045	25	0.00000	0.00000	0.0
Concrete Mixer		0	0.040	25	0.00000	0.00000	0.0
Concrete Pump		0	0.028	25	0.00000	0.00000	0.0
Concrete Vibrator		0	0.014	25	0.00000	0.00000	0.0
Crane (Derrick)		0	0.057	25	0.00000	0.00000	0.0
Crane (Mobile)		1	0.057	1133	0.00019	0.00005	33.3
Generator		0	0.018	25	0.00000	0.00000	0.0
Grader		0	0.040	25	0.00000	0.00000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.00000	0.00000	0.0
	in rock	0	0.017	25	0.00000	0.00000	0.0
Jackhammer		0	0.035	25	0.00000	0.00000	0.0
Large bulldozer		0	0.089	25	0.00000	0.00000	0.0
Loaded trucks		0	0.076	25	0.00000	0.00000	0.0
Loader		0	0.071	25	0.00000	0.00000	0.0
Pavement Breaker		0	0.100	25	0.00000	0.00000	0.0
Paver		0	0.063	25	0.00000	0.00000	0.0
Pile Driver (impact)	upper range	1	1.518	1133	0.00498	0.00124	61.9
	typical	0	0.644	25	0.00000	0.00000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.00000	0.00000	0.0
	typical	0	0.170	25	0.00000	0.00000	0.0
Pneumatic Tool		0	0.040	25	0.00000	0.00000	0.0
Pump		0	0.014	25	0.00000	0.00000	0.0
Roller		0	0.020	25	0.00000	0.00000	0.0
Saw		0	0.018	25	0.00000	0.00000	0.0
Scraper		0	0.057	25	0.00000	0.00000	0.0
Shovel		0	0.028	25	0.00000	0.00000	0.0
Tub Grinder		0	0.252	25	0.00000	0.00000	0.0
Small bulldozer		0	0.003	25	0.00000	0.00000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

****An assumtion was made that Marina Redevelopment during Phase 1 will occur on the dock and anchorage system on the northern side of the project site in "Basin F". Therefore, a distance of 1,133 feet was measured from the middle of the northern dock/anchorage area to the middle of the northern edge of Burton W. Chace Park.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 2 as Experienced from the Marina Del Rey Hotel

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.000	0.000	0.0
Backhoe		0	0.040	25	0.000	0.000	0.0
Caisson drilling		0	0.089	25	0.000	0.000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.000	0.000	0.0
Compactor		0	0.050	25	0.000	0.000	0.0
Compressor		0	0.045	25	0.000	0.000	0.0
Concrete Mixer		0	0.040	25	0.000	0.000	0.0
Concrete Pump		0	0.028	25	0.000	0.000	0.0
Concrete Vibrator		0	0.014	25	0.000	0.000	0.0
Crane (Derrick)		0	0.057	25	0.000	0.000	0.0
Crane (Mobile)		1	0.057	133	0.005	0.001	61.2
Generator		0	0.018	25	0.000	0.000	0.0
Grader		0	0.040	25	0.000	0.000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.000	0.000	0.0
	in rock	0	0.017	25	0.000	0.000	0.0
Jackhammer		0	0.035	25	0.000	0.000	0.0
Large bulldozer		0	0.089	25	0.000	0.000	0.0
Loaded trucks		0	0.076	25	0.000	0.000	0.0
Loader		0	0.071	25	0.000	0.000	0.0
Pavement Breaker		0	0.100	25	0.000	0.000	0.0
Paver		0	0.063	25	0.000	0.000	0.0
Pile Driver (impact)	upper range	1	1.518	133	0.124	0.031	89.8
	typical	0	0.644	25	0.000	0.000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.000	0.000	0.0
	typical	0	0.170	25	0.000	0.000	0.0
Pneumatic Tool		0	0.040	25	0.000	0.000	0.0
Pump		0	0.014	25	0.000	0.000	0.0
Roller		0	0.020	25	0.000	0.000	0.0
Saw		0	0.018	25	0.000	0.000	0.0
Scraper		0	0.057	25	0.000	0.000	0.0
Shovel		0	0.028	25	0.000	0.000	0.0
Tub Grinder		0	0.252	25	0.000	0.000	0.0
Small bulldozer		0	0.003	25	0.000	0.000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

****An assumtion was made that redevelopment of the Marina dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 2. Therefore, the measurement of 133 feet was taken from the western edge of the dock/anchorage system on the eastern side of the project site to the middle of the Marina Del Rey Hotel on its western side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 2 as Experienced from the Dolphin Marina Apartment Complex

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.0000	0.0
Backhoe		0	0.040	25	0.0000	0.0000	0.0
Caisson drilling		0	0.089	25	0.0000	0.0000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.0000	0.0
Compactor		0	0.050	25	0.0000	0.0000	0.0
Compressor		0	0.045	25	0.0000	0.0000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.0000	0.0
Concrete Pump		0	0.028	25	0.0000	0.0000	0.0
Concrete Vibrator		0	0.014	25	0.0000	0.0000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.0000	0.0
Crane (Mobile)		1	0.057	966	0.0002	0.0001	35.4
Generator		0	0.018	25	0.0000	0.0000	0.0
Grader		0	0.040	25	0.0000	0.0000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.0000	0.0
	in rock	0	0.017	25	0.0000	0.0000	0.0
Jackhammer		0	0.035	25	0.0000	0.0000	0.0
Large bulldozer		0	0.089	25	0.0000	0.0000	0.0
Loaded trucks		0	0.076	25	0.0000	0.0000	0.0
Loader		0	0.071	25	0.0000	0.0000	0.0
Pavement Breaker		0	0.100	25	0.0000	0.0000	0.0
Paver		0	0.063	25	0.0000	0.0000	0.0
Pile Driver (impact)	upper range	1	1.518	966	0.0063	0.0016	64.0
	typical	0	0.644	25	0.0000	0.0000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.0000	0.0
	typical	0	0.170	25	0.0000	0.0000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.0000	0.0
Pump		0	0.014	25	0.0000	0.0000	0.0
Roller		0	0.020	25	0.0000	0.0000	0.0
Saw		0	0.018	25	0.0000	0.0000	0.0
Scraper		0	0.057	25	0.0000	0.0000	0.0
Shovel		0	0.028	25	0.0000	0.0000	0.0
Tub Grinder		0	0.252	25	0.0000	0.0000	0.0
Small bulldozer		0	0.003	25	0.0000	0.0000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that redevelopment of the Marina dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 2. Therefore, the measurement of 966 feet was taken from the eastern edge of the dock/anchorage system on the eastern side of the project site to the middle of the Dolphin Marina Apartment Complex on its western side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 2 as Experienced from the Burton W. Chase Park

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.0000	0.0
Backhoe		0	0.040	25	0.0000	0.0000	0.0
Caisson drilling		0	0.089	25	0.0000	0.0000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.0000	0.0
Compactor		0	0.050	25	0.0000	0.0000	0.0
Compressor		0	0.045	25	0.0000	0.0000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.0000	0.0
Concrete Pump		0	0.028	25	0.0000	0.0000	0.0
Concrete Vibrator		0	0.014	25	0.0000	0.0000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.0000	0.0
Crane (Mobile)		1	0.057	766	0.0003	0.0001	38.4
Generator		0	0.018	25	0.0000	0.0000	0.0
Grader		0	0.040	25	0.0000	0.0000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.0000	0.0
	in rock	0	0.017	25	0.0000	0.0000	0.0
Jackhammer		0	0.035	25	0.0000	0.0000	0.0
Large bulldozer		0	0.089	25	0.0000	0.0000	0.0
Loaded trucks		0	0.076	25	0.0000	0.0000	0.0
Loader		0	0.071	25	0.0000	0.0000	0.0
Pavement Breaker		0	0.100	25	0.0000	0.0000	0.0
Paver		0	0.063	25	0.0000	0.0000	0.0
Pile Driver (impact)	upper range	1	1.518	766	0.0090	0.0022	67.0
	typical	0	0.644	25	0.0000	0.0000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.0000	0.0
	typical	0	0.170	25	0.0000	0.0000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.0000	0.0
Pump		0	0.014	25	0.0000	0.0000	0.0
Roller		0	0.020	25	0.0000	0.0000	0.0
Saw		0	0.018	25	0.0000	0.0000	0.0
Scraper		0	0.057	25	0.0000	0.0000	0.0
Shovel		0	0.028	25	0.0000	0.0000	0.0
Tub Grinder		0	0.252	25	0.0000	0.0000	0.0
Small bulldozer		0	0.003	25	0.0000	0.0000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that redevelopment of the Marina dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 2. Therefore the measurement of 766 feet was taken from the southern edge of the dock/anchorage system on the eastern side of the project site to the middle of the Burton W. Chace Park on its**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 3 as Experienced from the Marina Del Rey Hotel

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.000	0.000	0.0
Backhoe		0	0.040	25	0.000	0.000	0.0
Caisson drilling		0	0.089	25	0.000	0.000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.000	0.000	0.0
Compactor		0	0.050	25	0.000	0.000	0.0
Compressor		0	0.045	25	0.000	0.000	0.0
Concrete Mixer		0	0.040	25	0.000	0.000	0.0
Concrete Pump		0	0.028	25	0.000	0.000	0.0
Concrete Vibrator		0	0.014	25	0.000	0.000	0.0
Crane (Derrick)		0	0.057	25	0.000	0.000	0.0
Crane (Mobile)		1	0.057	231	0.002	0.001	54.0
Generator		0	0.018	25	0.000	0.000	0.0
Grader		0	0.040	25	0.000	0.000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.000	0.000	0.0
	in rock	0	0.017	25	0.000	0.000	0.0
Jackhammer		0	0.035	25	0.000	0.000	0.0
Large bulldozer		0	0.089	25	0.000	0.000	0.0
Loaded trucks		0	0.076	25	0.000	0.000	0.0
Loader		0	0.071	25	0.000	0.000	0.0
Pavement Breaker		0	0.100	25	0.000	0.000	0.0
Paver		0	0.063	25	0.000	0.000	0.0
Pile Driver (impact)	upper range	1	1.518	231	0.054	0.014	82.6
	typical	0	0.644	25	0.000	0.000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.000	0.000	0.0
	typical	0	0.170	25	0.000	0.000	0.0
Pneumatic Tool		0	0.040	25	0.000	0.000	0.0
Pump		0	0.014	25	0.000	0.000	0.0
Roller		0	0.020	25	0.000	0.000	0.0
Saw		0	0.018	25	0.000	0.000	0.0
Scraper		0	0.057	25	0.000	0.000	0.0
Shovel		0	0.028	25	0.000	0.000	0.0
Tub Grinder		0	0.252	25	0.000	0.000	0.0
Small bulldozer		0	0.003	25	0.000	0.000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that the new addition of the dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 3. Therefore, the measurement of 231 feet was taken from the estimated western edge of the new dock/anchorage system on the eastern side of the project site to the middle of the Marina Del Rey Hotel on its western side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 3 as Experienced from the Dolphin Marina Apartment Complex

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.0000	0.0
Backhoe		0	0.040	25	0.0000	0.0000	0.0
Caisson drilling		0	0.089	25	0.0000	0.0000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.0000	0.0
Compactor		0	0.050	25	0.0000	0.0000	0.0
Compressor		0	0.045	25	0.0000	0.0000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.0000	0.0
Concrete Pump		0	0.028	25	0.0000	0.0000	0.0
Concrete Vibrator		0	0.014	25	0.0000	0.0000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.0000	0.0
Crane (Mobile)		1	0.057	805	0.0003	0.0001	37.8
Generator		0	0.018	25	0.0000	0.0000	0.0
Grader		0	0.040	25	0.0000	0.0000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.0000	0.0
	in rock	0	0.017	25	0.0000	0.0000	0.0
Jackhammer		0	0.035	25	0.0000	0.0000	0.0
Large bulldozer		0	0.089	25	0.0000	0.0000	0.0
Loaded trucks		0	0.076	25	0.0000	0.0000	0.0
Loader		0	0.071	25	0.0000	0.0000	0.0
Pavement Breaker		0	0.100	25	0.0000	0.0000	0.0
Paver		0	0.063	25	0.0000	0.0000	0.0
Pile Driver (impact)	upper range	1	1.518	805	0.0083	0.0021	66.3
	typical	0	0.644	25	0.0000	0.0000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.0000	0.0
	typical	0	0.170	25	0.0000	0.0000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.0000	0.0
Pump		0	0.014	25	0.0000	0.0000	0.0
Roller		0	0.020	25	0.0000	0.0000	0.0
Saw		0	0.018	25	0.0000	0.0000	0.0
Scraper		0	0.057	25	0.0000	0.0000	0.0
Shovel		0	0.028	25	0.0000	0.0000	0.0
Tub Grinder		0	0.252	25	0.0000	0.0000	0.0
Small bulldozer		0	0.003	25	0.0000	0.0000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that the new addition of the dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 3. Therefore, the measurement of 805 feet was taken from the estimated eastern edge of the new dock/anchorage system on the eastern side of the project site to the middle of the Dolphin Marina Apartment Complex on its western side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 3 as Experienced from the Burton W. Chase Park

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.0000	0.0
Backhoe		0	0.040	25	0.0000	0.0000	0.0
Caisson drilling		0	0.089	25	0.0000	0.0000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.0000	0.0
Compactor		0	0.050	25	0.0000	0.0000	0.0
Compressor		0	0.045	25	0.0000	0.0000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.0000	0.0
Concrete Pump		0	0.028	25	0.0000	0.0000	0.0
Concrete Vibrator		0	0.014	25	0.0000	0.0000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.0000	0.0
Crane (Mobile)		1	0.057	397	0.0009	0.0002	47.0
Generator		0	0.018	25	0.0000	0.0000	0.0
Grader		0	0.040	25	0.0000	0.0000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.0000	0.0
	in rock	0	0.017	25	0.0000	0.0000	0.0
Jackhammer		0	0.035	25	0.0000	0.0000	0.0
Large bulldozer		0	0.089	25	0.0000	0.0000	0.0
Loaded trucks		0	0.076	25	0.0000	0.0000	0.0
Loader		0	0.071	25	0.0000	0.0000	0.0
Pavement Breaker		0	0.100	25	0.0000	0.0000	0.0
Paver		0	0.063	25	0.0000	0.0000	0.0
Pile Driver (impact)	upper range	1	1.518	397	0.0240	0.0060	75.6
	typical	0	0.644	25	0.0000	0.0000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.0000	0.0
	typical	0	0.170	25	0.0000	0.0000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.0000	0.0
Pump		0	0.014	25	0.0000	0.0000	0.0
Roller		0	0.020	25	0.0000	0.0000	0.0
Saw		0	0.018	25	0.0000	0.0000	0.0
Scraper		0	0.057	25	0.0000	0.0000	0.0
Shovel		0	0.028	25	0.0000	0.0000	0.0
Tub Grinder		0	0.252	25	0.0000	0.0000	0.0
Small bulldozer		0	0.003	25	0.0000	0.0000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that the new addition of the dock/anchorage system on the eastern side of the project site in the main Marina Del Rey Harbor Channel will occur during Phase 3. Therefore, the measurement of 397 feet was taken from the estimated southern edge of the new dock/anchorage system on the eastern side of the project site to the western side of the Burton W. Chase Park on its northern side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 4 as Experienced from the Marina Del Rey Hotel

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.000	0.000	0.0
Backhoe		0	0.040	25	0.000	0.000	0.0
Caisson drilling		0	0.089	25	0.000	0.000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.000	0.000	0.0
Compactor		0	0.050	25	0.000	0.000	0.0
Compressor		0	0.045	25	0.000	0.000	0.0
Concrete Mixer		0	0.040	25	0.000	0.000	0.0
Concrete Pump		0	0.028	25	0.000	0.000	0.0
Concrete Vibrator		0	0.014	25	0.000	0.000	0.0
Crane (Derrick)		0	0.057	25	0.000	0.000	0.0
Crane (Mobile)		1	0.057	101	0.007	0.002	64.8
Generator		0	0.018	25	0.000	0.000	0.0
Grader		0	0.040	25	0.000	0.000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.000	0.000	0.0
	in rock	0	0.017	25	0.000	0.000	0.0
Jackhammer		0	0.035	25	0.000	0.000	0.0
Large bulldozer		0	0.089	25	0.000	0.000	0.0
Loaded trucks		0	0.076	25	0.000	0.000	0.0
Loader		0	0.071	25	0.000	0.000	0.0
Pavement Breaker		0	0.100	25	0.000	0.000	0.0
Paver		0	0.063	25	0.000	0.000	0.0
Pile Driver (impact)	upper range	1	1.518	101	0.187	0.047	93.4
	typical	0	0.644	25	0.000	0.000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.000	0.000	0.0
	typical	0	0.170	25	0.000	0.000	0.0
Pneumatic Tool		0	0.040	25	0.000	0.000	0.0
Pump		0	0.014	25	0.000	0.000	0.0
Roller		0	0.020	25	0.000	0.000	0.0
Saw		0	0.018	25	0.000	0.000	0.0
Scraper		0	0.057	25	0.000	0.000	0.0
Shovel		0	0.028	25	0.000	0.000	0.0
Tub Grinder		0	0.252	25	0.000	0.000	0.0
Small bulldozer		0	0.003	25	0.000	0.000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that the redevelopment of the dock/anchorage system on the souther side of the project site in the Basin G (the four most western existing docks/acnhorages) will occur during Phase 4. Therefore, the measurement of 101 feet was taken from the southern edge of the dock /anchorage system on the southern side of the project site to the southern side of the Marina Del Rey Hotel on its southern side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 4 as Experienced from the Dolphin Marina Apartment Complex

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.0000	0.0
Backhoe		0	0.040	25	0.0000	0.0000	0.0
Caisson drilling		0	0.089	25	0.0000	0.0000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.0000	0.0
Compactor		0	0.050	25	0.0000	0.0000	0.0
Compressor		0	0.045	25	0.0000	0.0000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.0000	0.0
Concrete Pump		0	0.028	25	0.0000	0.0000	0.0
Concrete Vibrator		0	0.014	25	0.0000	0.0000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.0000	0.0
Crane (Mobile)		1	0.057	935	0.0002	0.0001	35.8
Generator		0	0.018	25	0.0000	0.0000	0.0
Grader		0	0.040	25	0.0000	0.0000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.0000	0.0
	in rock	0	0.017	25	0.0000	0.0000	0.0
Jackhammer		0	0.035	25	0.0000	0.0000	0.0
Large bulldozer		0	0.089	25	0.0000	0.0000	0.0
Loaded trucks		0	0.076	25	0.0000	0.0000	0.0
Loader		0	0.071	25	0.0000	0.0000	0.0
Pavement Breaker		0	0.100	25	0.0000	0.0000	0.0
Paver		0	0.063	25	0.0000	0.0000	0.0
Pile Driver (impact)	upper range	1	1.518	935	0.0066	0.0017	64.4
	typical	0	0.644	25	0.0000	0.0000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.0000	0.0
	typical	0	0.170	25	0.0000	0.0000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.0000	0.0
Pump		0	0.014	25	0.0000	0.0000	0.0
Roller		0	0.020	25	0.0000	0.0000	0.0
Saw		0	0.018	25	0.0000	0.0000	0.0
Scraper		0	0.057	25	0.0000	0.0000	0.0
Shovel		0	0.028	25	0.0000	0.0000	0.0
Tub Grinder		0	0.252	25	0.0000	0.0000	0.0
Small bulldozer		0	0.003	25	0.0000	0.0000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in Basin G (the four most western existing docks/acnhorages) will occur during Phase 4. Therefore, the measurement of 935 feet wastaken from the western edge of the dock/anchorage system on the southern side of the project site to the eastern side of the Dolphin Marina Apartemnt Complex on its eastern side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 4 as Experienced from the Burton W. Chace Park

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.0000	0.0
Backhoe		0	0.040	25	0.0000	0.0000	0.0
Caisson drilling		0	0.089	25	0.0000	0.0000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.0000	0.0
Compactor		0	0.050	25	0.0000	0.0000	0.0
Compressor		0	0.045	25	0.0000	0.0000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.0000	0.0
Concrete Pump		0	0.028	25	0.0000	0.0000	0.0
Concrete Vibrator		0	0.014	25	0.0000	0.0000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.0000	0.0
Crane (Mobile)		1	0.057	530	0.0006	0.0001	43.2
Generator		0	0.018	25	0.0000	0.0000	0.0
Grader		0	0.040	25	0.0000	0.0000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.0000	0.0
	in rock	0	0.017	25	0.0000	0.0000	0.0
Jackhammer		0	0.035	25	0.0000	0.0000	0.0
Large bulldozer		0	0.089	25	0.0000	0.0000	0.0
Loaded trucks		0	0.076	25	0.0000	0.0000	0.0
Loader		0	0.071	25	0.0000	0.0000	0.0
Pavement Breaker		0	0.100	25	0.0000	0.0000	0.0
Paver		0	0.063	25	0.0000	0.0000	0.0
Pile Driver (impact)	upper range	1	1.518	530	0.0156	0.0039	71.8
	typical	0	0.644	25	0.0000	0.0000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.0000	0.0
	typical	0	0.170	25	0.0000	0.0000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.0000	0.0
Pump		0	0.014	25	0.0000	0.0000	0.0
Roller		0	0.020	25	0.0000	0.0000	0.0
Saw		0	0.018	25	0.0000	0.0000	0.0
Scraper		0	0.057	25	0.0000	0.0000	0.0
Shovel		0	0.028	25	0.0000	0.0000	0.0
Tub Grinder		0	0.252	25	0.0000	0.0000	0.0
Small bulldozer		0	0.003	25	0.0000	0.0000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in Basin G (the four most western existing docks/acnhorages) will occur during Phase 4. Therefore, the measurement of 530 feet was taken from the southern edge of the dock/ anchorage system on the southern side of the project site to the middle of the Burton W. Chace Park on its northern side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 5 as Experienced from the Marina Del Rey Hotel

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.0000	0.0
Backhoe		0	0.040	25	0.0000	0.0000	0.0
Caisson drilling		0	0.089	25	0.0000	0.0000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.0000	0.0
Compactor		0	0.050	25	0.0000	0.0000	0.0
Compressor		0	0.045	25	0.0000	0.0000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.0000	0.0
Concrete Pump		0	0.028	25	0.0000	0.0000	0.0
Concrete Vibrator		0	0.014	25	0.0000	0.0000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.0000	0.0
Crane (Mobile)		1	0.057	258	0.0017	0.0004	52.6
Generator		0	0.018	25	0.0000	0.0000	0.0
Grader		0	0.040	25	0.0000	0.0000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.0000	0.0
	in rock	0	0.017	25	0.0000	0.0000	0.0
Jackhammer		0	0.035	25	0.0000	0.0000	0.0
Large bulldozer		0	0.089	25	0.0000	0.0000	0.0
Loaded trucks		0	0.076	25	0.0000	0.0000	0.0
Loader		0	0.071	25	0.0000	0.0000	0.0
Pavement Breaker		0	0.100	25	0.0000	0.0000	0.0
Paver		0	0.063	25	0.0000	0.0000	0.0
Pile Driver (impact)	upper range	1	1.518	258	0.0458	0.0114	81.2
	typical	0	0.644	25	0.0000	0.0000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.0000	0.0
	typical	0	0.170	25	0.0000	0.0000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.0000	0.0
Pump		0	0.014	25	0.0000	0.0000	0.0
Roller		0	0.020	25	0.0000	0.0000	0.0
Saw		0	0.018	25	0.0000	0.0000	0.0
Scraper		0	0.057	25	0.0000	0.0000	0.0
Shovel		0	0.028	25	0.0000	0.0000	0.0
Tub Grinder		0	0.252	25	0.0000	0.0000	0.0
Small bulldozer		0	0.003	25	0.0000	0.0000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in Basin G (the five most eastern existing docks/acnhorages) will occur during Phase 5. Therefore, the measurement of 258 feet was taken from the northern edge of the dock/ anchorage system on the southern side of the project site to the eastern side of the Marina Del Rey Hotel on its southeastern side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 5 as Experienced from the Dolphin Marina Apartment Complex

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.00000	0.00000	0.0
Backhoe		0	0.040	25	0.00000	0.00000	0.0
Caisson drilling		0	0.089	25	0.00000	0.00000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.00000	0.00000	0.0
Compactor		0	0.050	25	0.00000	0.00000	0.0
Compressor		0	0.045	25	0.00000	0.00000	0.0
Concrete Mixer		0	0.040	25	0.00000	0.00000	0.0
Concrete Pump		0	0.028	25	0.00000	0.00000	0.0
Concrete Vibrator		0	0.014	25	0.00000	0.00000	0.0
Crane (Derrick)		0	0.057	25	0.00000	0.00000	0.0
Crane (Mobile)		1	0.057	1398	0.00014	0.00003	30.6
Generator		0	0.018	25	0.00000	0.00000	0.0
Grader		0	0.040	25	0.00000	0.00000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.00000	0.00000	0.0
	in rock	0	0.017	25	0.00000	0.00000	0.0
Jackhammer		0	0.035	25	0.00000	0.00000	0.0
Large bulldozer		0	0.089	25	0.00000	0.00000	0.0
Loaded trucks		0	0.076	25	0.00000	0.00000	0.0
Loader		0	0.071	25	0.00000	0.00000	0.0
Pavement Breaker		0	0.100	25	0.00000	0.00000	0.0
Paver		0	0.063	25	0.00000	0.00000	0.0
Pile Driver (impact)	upper range	1	1.518	1398	0.00363	0.00091	59.2
	typical	0	0.644	25	0.00000	0.00000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.00000	0.00000	0.0
	typical	0	0.170	25	0.00000	0.00000	0.0
Pneumatic Tool		0	0.040	25	0.00000	0.00000	0.0
Pump		0	0.014	25	0.00000	0.00000	0.0
Roller		0	0.020	25	0.00000	0.00000	0.0
Saw		0	0.018	25	0.00000	0.00000	0.0
Scraper		0	0.057	25	0.00000	0.00000	0.0
Shovel		0	0.028	25	0.00000	0.00000	0.0
Tub Grinder		0	0.252	25	0.00000	0.00000	0.0
Small bulldozer		0	0.003	25	0.00000	0.00000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in Basin G (the five most eastern existing docks/acnhorages) will occur during Phase 5. Therefore, the measurement of 1,398 feet was taken from the western edge of the dock/ anchorage system on the southern side of the project site to the middle of the Dolphin Marina Apartment Complex on its eastern side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

Marina Redevelopment Phase 5 as Experienced from the Burton W. Chace Park

Equipment		Pieces of Equipment	PPV at 25 feet (in/sec)	Distance from Equipment**	PPV at adjusted distance	RMS velocity amplitude in in/sec at adjusted distance[a]	RMS Vibration level in VdB at adjusted distance
Air Compressor		0	0.090	25	0.0000	0.0000	0.0
Backhoe		0	0.040	25	0.0000	0.0000	0.0
Caisson drilling		0	0.089	25	0.0000	0.0000	0.0
Clam shovel drop (slurry wall)		0	0.202	25	0.0000	0.0000	0.0
Compactor		0	0.050	25	0.0000	0.0000	0.0
Compressor		0	0.045	25	0.0000	0.0000	0.0
Concrete Mixer		0	0.040	25	0.0000	0.0000	0.0
Concrete Pump		0	0.028	25	0.0000	0.0000	0.0
Concrete Vibrator		0	0.014	25	0.0000	0.0000	0.0
Crane (Derrick)		0	0.057	25	0.0000	0.0000	0.0
Crane (Mobile)		1	0.057	599	0.0005	0.0001	41.6
Generator		0	0.018	25	0.0000	0.0000	0.0
Grader		0	0.040	25	0.0000	0.0000	0.0
Hydromill (slurry wall)	in soil	0	0.008	25	0.0000	0.0000	0.0
	in rock	0	0.017	25	0.0000	0.0000	0.0
Jackhammer		0	0.035	25	0.0000	0.0000	0.0
Large bulldozer		0	0.089	25	0.0000	0.0000	0.0
Loaded trucks		0	0.076	25	0.0000	0.0000	0.0
Loader		0	0.071	25	0.0000	0.0000	0.0
Pavement Breaker		0	0.100	25	0.0000	0.0000	0.0
Paver		0	0.063	25	0.0000	0.0000	0.0
Pile Driver (impact)	upper range	1	1.518	599	0.0129	0.0032	70.2
	typical	0	0.644	25	0.0000	0.0000	0.0
Pile Driver (sonic)	upper range	0	0.734	25	0.0000	0.0000	0.0
	typical	0	0.170	25	0.0000	0.0000	0.0
Pneumatic Tool		0	0.040	25	0.0000	0.0000	0.0
Pump		0	0.014	25	0.0000	0.0000	0.0
Roller		0	0.020	25	0.0000	0.0000	0.0
Saw		0	0.018	25	0.0000	0.0000	0.0
Scraper		0	0.057	25	0.0000	0.0000	0.0
Shovel		0	0.028	25	0.0000	0.0000	0.0
Tub Grinder		0	0.252	25	0.0000	0.0000	0.0
Small bulldozer		0	0.003	25	0.0000	0.0000	0.0

*** Suggested Vibration Thresholds per the Federal Transit Administration, United States Department of Transportation, Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06), May 2006, pg. 12-12.**

-Fragile Buildings- 0.20 in/sec

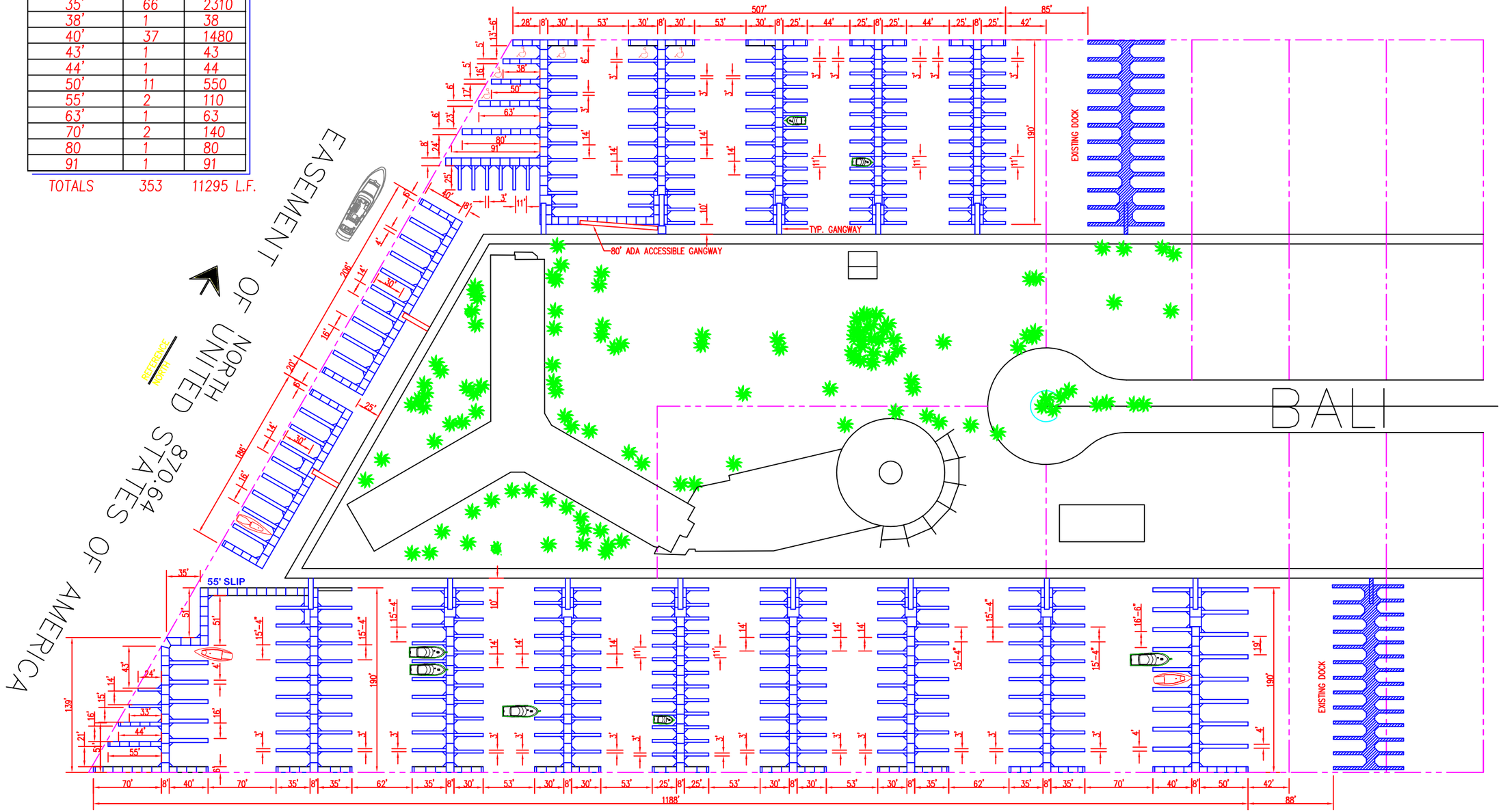
-Extremely Fragile Buildings- 0.12 in/sec

**** An assumtion was made that the redevelopment of the dock/anchorage system on the southern side of the project site in Basin G (the five most eastern existing docks/acnhorages) will occur during Phase 5. Therefore, the measurement of 599 feet wastaken from the southern edge of the dock/ anchorage system on the southern side of the project site to the eastern side of the Burton W. Chace Park on its northern side.**

a. PPV is typically a factor of 1.7 to 6 times greater than RMS vibration velocity. In this analysis a factor of 4 has been used to caulculate the apprxoimate RMS vibration velocity levels above.

SLIP MIX		
SLIP SIZE	QTY.	L.F.
25'	105	2625
28'	1	28
30'	122	3660
33'	1	33
35'	66	2310
38'	1	38
40'	37	1480
43'	1	43
44'	1	44
50'	11	550
55'	2	110
63'	1	63
70'	2	140
80	1	80
91	1	91
TOTALS	353	11295 L.F.

BASIN F



EXISTING PARCELS 42/43 BOAT ANCHORAGE LAYOUT

BASIN G

Bellingham MARINE

Innovative harbor and waterfront solutions

1813 Dennis Street
Jacksonville, FL 32204
TEL: (904) 358-3362
FAX: (904) 354-4818

UNIFLOAT

Precision engineered flotation systems

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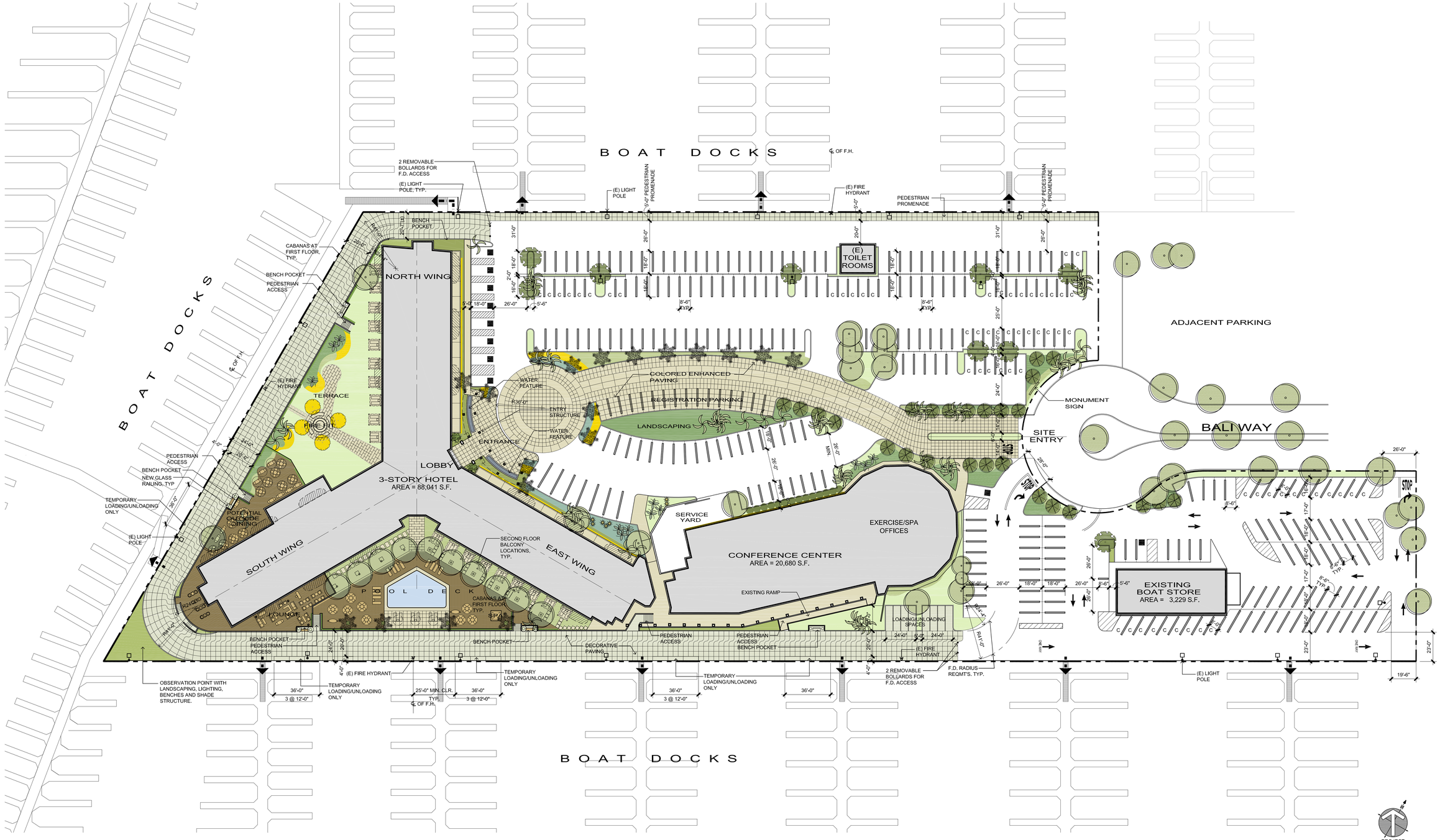
MARINA DEL REY HOTEL
FLOATING DOCKS
LAYOUT 1

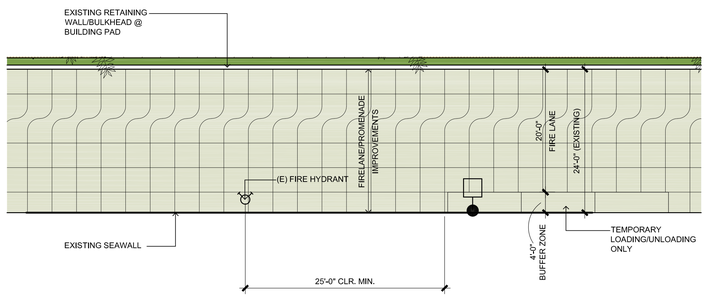
Revisions:

Drawn by: JJJ
Date: 3/23/05
Scale: NONE
Project No.

Sheet: 1 of 1



PROPOSED SITE PLAN



TYPICAL F.D. HYDRANT ACCESS/CLEARANCE

NOTE:

1. FIRE ACCESS DRIVEWAYS IN PARKING AREA TO BE 26'-0" WIDE MINIMUM, FIRE ACCESS DRIVEWAY AT PROMENADE TO BE 20'-0" WIDE MINIMUM.
2. TEMPORARY LOADING/UNLOADING AREAS AT DOCK ACCESS POINTS TO BE POSTED WITH TIME LIMITATIONS
3. PROMENADE ENHANCED PAVING TO BE PATTERNED PER MARINA WALK GUIDELINES.

LEGAL DESCRIPTION:

PARCELS 717, 718, 719 AND 720 OF L.A.C.A. MAP NO. 88, AS PER MAP RECORDED IN BOOK 1 PAGES 53 TO 70 INCLUSIVE OF LOS ANGELES COUNTY ASSESSORS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN ALL OIL, GAS AND OTHER HYDROCARBONS LYING AT OR BELOW A DEPTH OF 500 FEET FROM THE SURFACE, BUT WITHOUT ANY RIGHT OF ENTRY UPON THE SURFACE OR THE FIRST 500 FEET BELOW THE SURFACE, AS RESERVED TO THE DEFENDANTS IN THE FINAL JUDGMENTS OF CONDEMNATION BY THE COUNTY OF LOS ANGELES, CERTIFIED COPIES OF WHICH WERE RECORDED ON DECEMBER 5, 1958 IN BOOK D297 PAGE 221, OFFICIAL RECORDS, AND ON AUGUST 21, 1959 IN BOOK D580 PAGE 230, OFFICIAL RECORDS

APN: 4224-008-900(ptn) AND 8940-370-035

SQUARE FOOTAGE:	
HOTEL:	= 24,347 S.F PER FLOOR = 88,041 S.F. (BLDG. TOTAL 3-STORY)
CONFERENCE CENTER/SPA/OFFICES:	= 20,680 S.F.
RETAIL (BOAT STORE):	= 3,229 S.F.
NUMBER OF HOTEL ROOMS:	= 154 ROOMS

PARKING PROVIDED:	
STANDARD	251 STALLS
COMPACT	61 STALLS
ADA ACESSIBLE	10 STALLS
TOTAL PARKING PROVIDED:	322 STALLS

"C " - INDICATES COMPACT PARKING STALLS

kollin altomare architects
1350 coronado avenue,
long beach, ca 90804
tel 562.597.8760
fax 562.597.8022
www. kollinaltomare.com

MARINA DEL REY HOTEL

13534 BALI WAY MARINA DEL REY, CALIFORNIA

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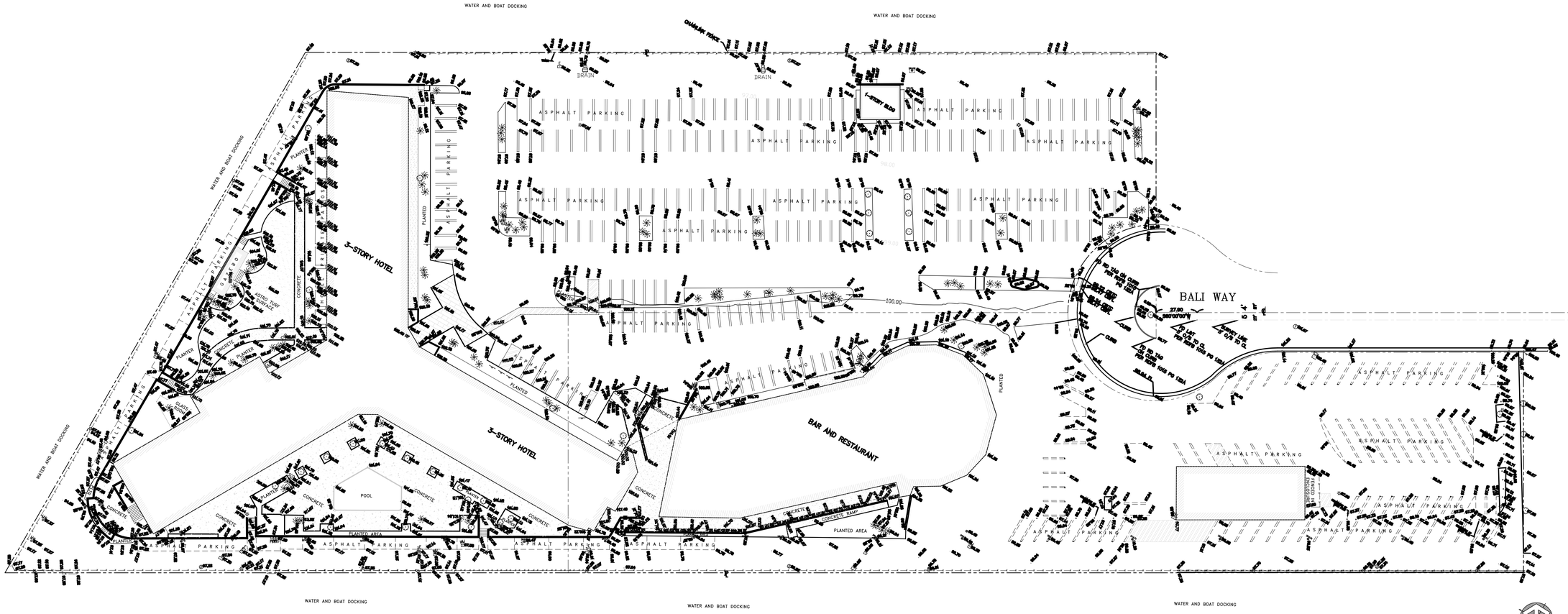
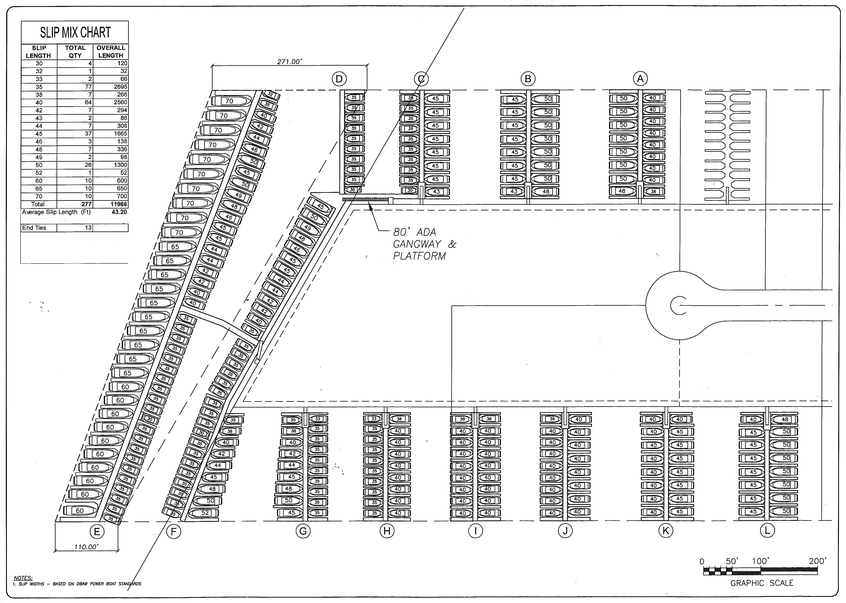
Pacifica HOTEL COMPANY
9686 e Preserve Way
Scottsdale, AZ. 85262

JOB #: 723-07
DATE: 8-25-10
PROPOSED SITE PLAN
A-1



EXISTING SITE SURVEY

SCALE 1"=30'-0"



SLIP MIX CHART

SLIP LENGTH	TOTAL QTY	OVERALL LENGTH
30	4	120
32	1	32
33	2	66
35	77	2695
38	7	266
40	64	2560
42	7	294
43	2	86
44	7	308
45	37	1665
46	3	138
48	7	336
49	2	98
50	26	1300
52	1	52
60	10	600
65	10	650
70	10	700
Total	277	11966
Average Slip Length (Ft)		43.20
End Ties	13	

NOTES:
1. SLIP WIDTHS - BASED ON 28AM POWER BOAT STANDARDS

EXISTING DOCK LAYOUT

SCALE N.T.S.

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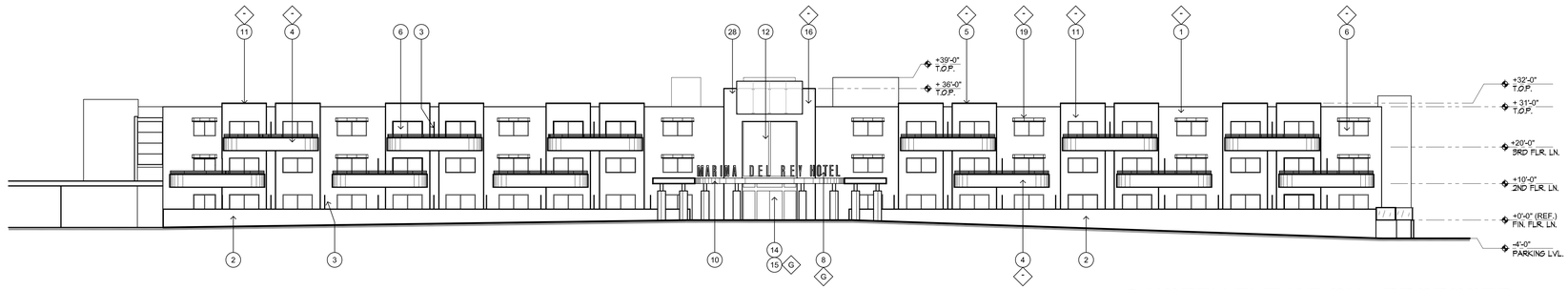
Pacifica HOTEL COMPANY
9686 e Preserve Way
Scottsdale AZ. 85262

JOB #: 723-07
DATE: 8-25-10

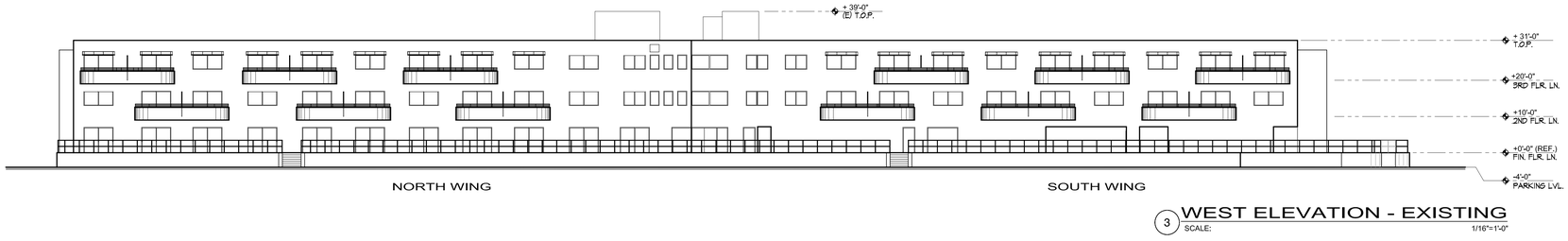
EXISTING SITE PLAN

A-1.1

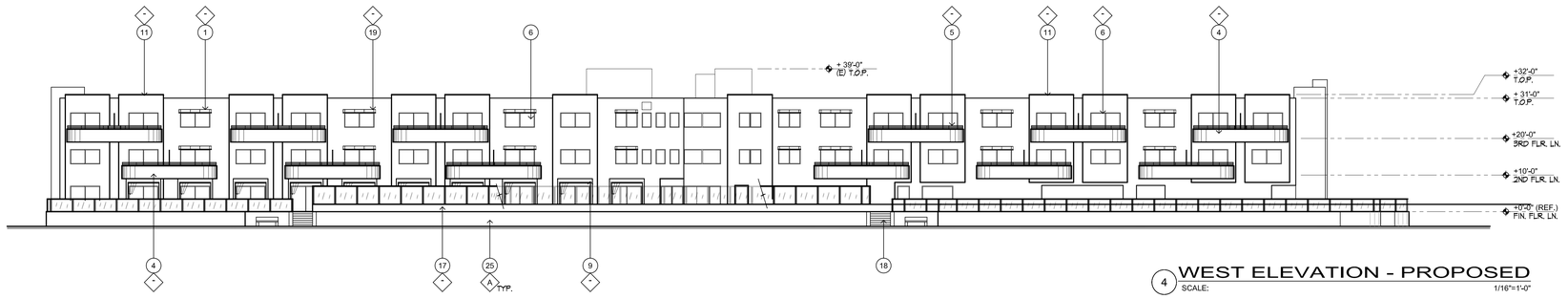
1 NORTH ELEVATION - EXISTING
SCALE: 1/16"=1'-0"



2 NORTH ELEVATION - PROPOSED
SCALE: 1/16"=1'-0"



3 WEST ELEVATION - EXISTING
SCALE: 1/16"=1'-0"



4 WEST ELEVATION - PROPOSED
SCALE: 1/16"=1'-0"

EXTERIOR COLORS

A PAINT
DUNN-EDWARDS #DEW381
"DROPLETS"

B PAINT
BENJAMIN MOORE #2119-60
"SILVER LINING"

C PAINT
DUNN-EDWARDS #DE5884
"MISTED EVE"

D METAL PANELS
BERRIDGE "ZINC-COTE"

E PAINT
DUNN-EDWARDS #DEW380
"WHITE"

F BRUSHED ANODIZED ALUMINUM CLEAR

G METAL DETAIL
BERRIDGE "COPPER COTE"

H CONCRETE ROOF TILE

J ARCHITECTURAL GLASS

K WHITE VINYL

L CABANA CURTAINS

MATERIAL FINISHES

1- STUCCO

2- PLANT SCREEN RAILING 42" HIGH

3- OBSCURE GLASS PRIVACY SCREEN

4- EXIST. STUCCO BALCONY KNEE WALL

5- ANODIZED ALUMINUM RAILING

6- NEW WINDOWS/SLIDING GLASS DOORS

7- EXISTING STAIRS BEHIND

8- BUILDING SIGNAGE

9- CABANAS WITH CURTAINS

10- METAL CANOPY AND POST SURROUNDS

11- STUCCO FAÇADE POP-OUT

12- DECORATIVE GLASS FEATURE

13- METAL TUBE SUPPORT

14- GLASS ENTRY DOORS

15- ANODIZED ALUMINUM STOREFRONT

16- VERTICAL METAL PANELS OVER ENTRY PORTAL

17- GLASS/ALUMINUM GUARDRAIL

18- EXISTING STEPS

19- CURVED ACRYLIC AND S/S CANOPY

20- NEW CONC. TILE ROOFING

21- EXIST. WOOD SIDING

22- EXISTING WINDOWS/GLAZING

23- SERVICE WALL AND GATE

24- EXISTING RAMP

25- EXIST. CMU RETAINING WALL

26- BOXED OUT STUCCO VERTICALS @ EXIST. FIN WALLS

27- STUCCO REVEALS

28- PINNED-OFF TINTED LAMINATED GLASS PANELS

29- VERTICAL METAL PANELS

30- RAISED STUCCO PARAPET

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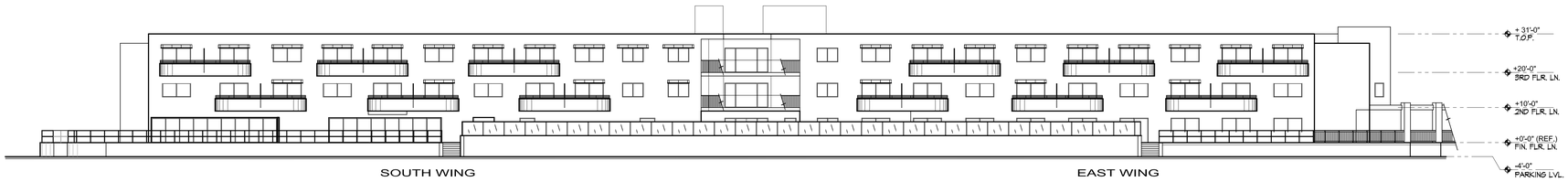
Pacifica HOTEL COMPANY
9686 e Preserve Way
Scottsdale AZ. 85262

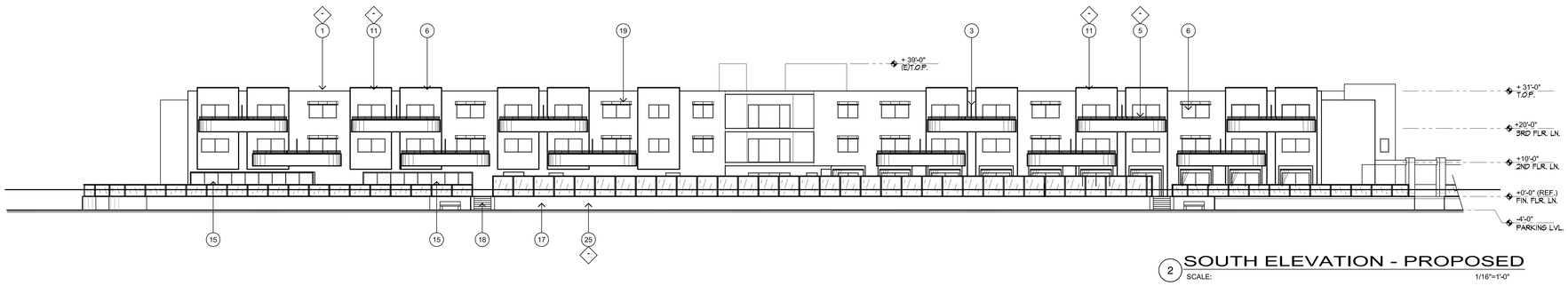
JOB #: 723-07
DATE: 8-25-10
EXTERIOR ELEVATIONS

A-2

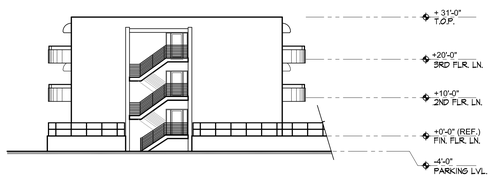
0 5' 10' 25'
GRAPHIC SCALE



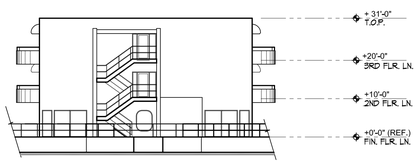
1 SOUTH ELEVATION - EXISTING
SCALE: 1/16"=1'-0"



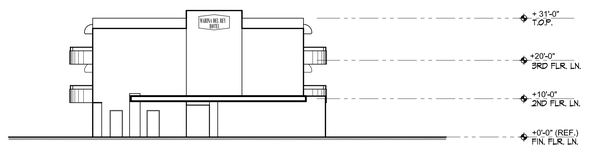
2 SOUTH ELEVATION - PROPOSED
SCALE: 1/16"=1'-0"



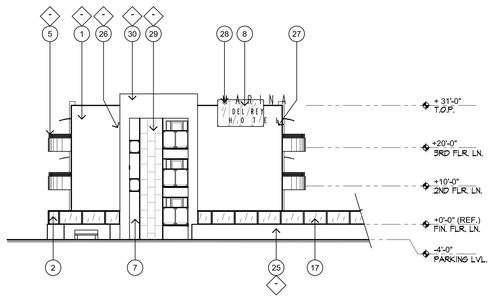
7 NORTH ENDCAP - EXISTING
SCALE: 1/16"=1'-0"



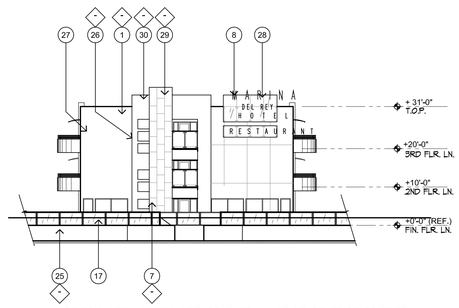
5 SOUTH ENDCAP - EXISTING
SCALE: 1/16"=1'-0"



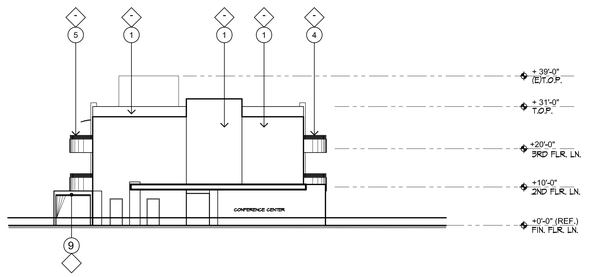
3 EAST ENDCAP - EXISTING
SCALE: 1/16"=1'-0"



8 NORTH ENDCAP - PROPOSED
SCALE: 1/16"=1'-0"



6 SOUTH ENDCAP - PROPOSED
SCALE: 1/16"=1'-0"



4 EAST ENDCAP - PROPOSED
SCALE: 1/16"=1'-0"

EXTERIOR COLORS

A PAINT
DUNN-EDWARDS #DEW381
"DROPLETS"

B PAINT
BENJAMIN MOORE #2119-60
"SILVER LINING"

C PAINT
DUNN-EDWARDS #DE5884
"MISTED EVE"

D METAL PANELS
BERRIDGE "ZINC-COTE"

E PAINT
DUNN-EDWARDS #DEW380
"WHITE"

F BRUSHED ANODIZED ALUMINUM CLEAR

G METAL DETAIL
BERRIDGE "COPPER COTE"

H CONCRETE ROOF TILE

J ARCHITECTURAL GLASS

K WHITE VINYL

L CABANA CURTAINS

MATERIAL FINISHES

1- STUCCO

2- PLANT SCREEN RAILING 42" HIGH

3- OBSCURE GLASS PRIVACY SCREEN

4- EXIST. STUCCO BALCONY KNEE WALL

5- ANODIZED ALUMINUM RAILING

6- NEW WINDOWS/SLIDING GLASS DOORS

7- EXISTING STAIRS BEHIND

8- BUILDING SIGNAGE

9- CABANAS WITH CURTAINS

10- METAL CANOPY AND POST SURROUNDS

11- STUCCO FAÇADE POP-OUT

12- DECORATIVE GLASS FEATURE

13- METAL TUBE SUPPORT

14- GLASS ENTRY DOORS

15- ANODIZED ALUMINUM STOREFRONT

16- VERTICAL METAL PANELS OVER ENTRY PORTAL

17- GLASS/ALUMINUM GUARDRAIL

18- EXISTING STEPS

19- CURVED ACRYLIC AND S/S CANOPY

20- NEW CONC. TILE ROOFING

21- EXIST. WOOD SIDING

22- EXISTING WINDOWS/GLAZING

23- SERVICE WALL AND GATE

24- EXISTING RAMP

25- EXIST. CMU RETAINING WALL

26- BOXED OUT STUCCO VERTICALS @ EXIST. FIN WALLS

27- STUCCO REVEALS

28- PINNED-OFF TINTED LAMINATED GLASS PANELS

29- VERTICAL METAL PANELS

30- RAISED STUCCO PARAPET

kollin altomare architects
1350 coronado avenue,
long beach, ca 90804
tel 562.597.8760
fax 562.597.8022
www. kollinaltomare.com

MARINA DEL REY HOTEL

13534 BALI WAY MARINA DEL REY, CALIFORNIA

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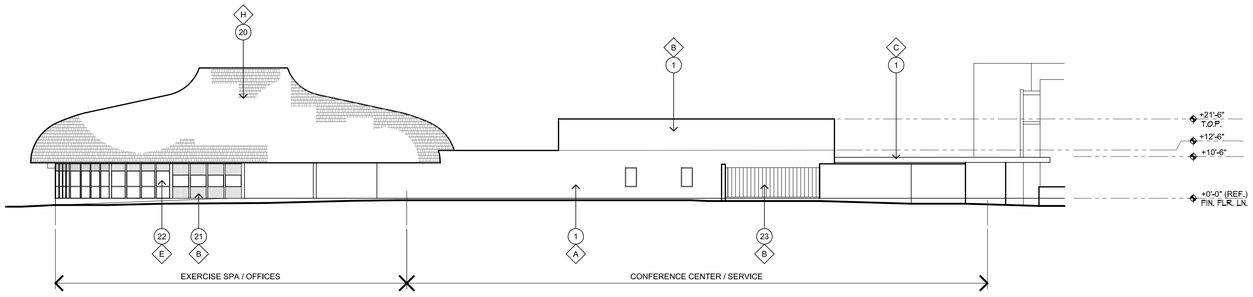
Pacifica HOTEL COMPANY
9686 e Preserve Way
Scottsdale AZ. 85262

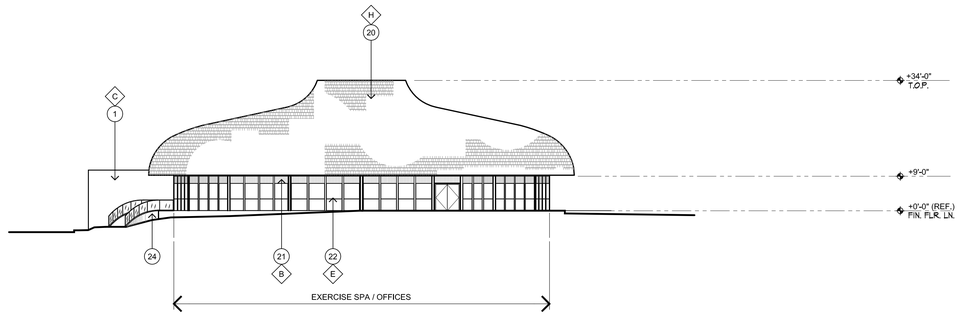
JOB #: 723-07
DATE: 8-25-10
EXTERIOR ELEVATIONS

A-3

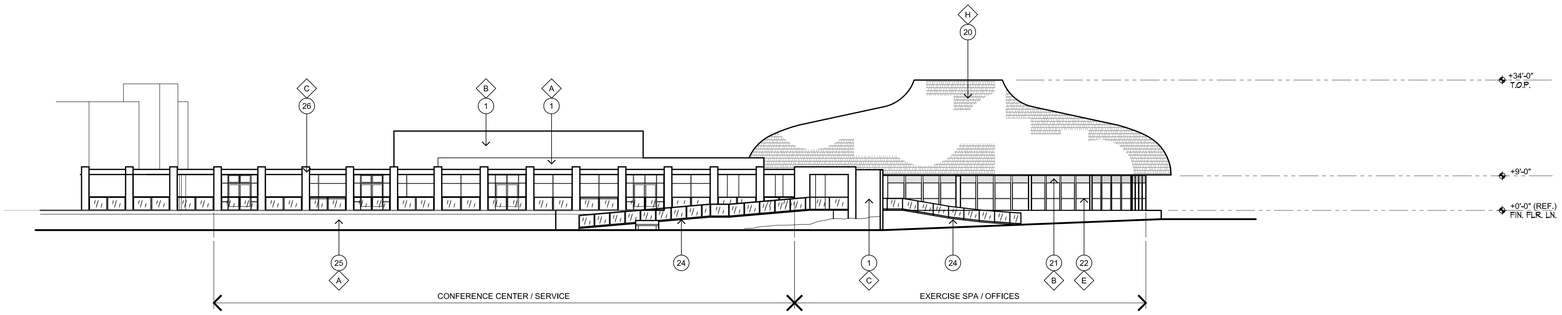
0 5' 10' 25'
GRAPHIC SCALE



1 NORTH ELEVATION - EXISTING
SCALE: 1/16"=1'-0"



2 EAST ELEVATION - EXISTING
SCALE: 1/16"=1'-0"



3 SOUTH ELEVATION - EXISTING
SCALE: 1/16"=1'-0"

EXTERIOR COLORS

A	PAINT DUNN-EDWARDS #DEW381 "DROPLETS"
B	PAINT BENJAMIN MOORE #2119-60 "SILVER LINING"
C	PAINT DUNN-EDWARDS #DE5884 "MISTED EVE"
D	METAL PANELS BERRIDGE "ZINC-COTE"
E	PAINT DUNN-EDWARDS #DEW380 "WHITE"
F	BRUSHED ANODIZED ALUMINUM CLEAR
G	METAL DETAIL BERRIDGE "COPPER COTE"
H	CONCRETE ROOF TILE
J	ARCHITECTURAL GLASS
K	WHITE VINYL
L	CABANA CURTAINS

MATERIAL FINISHES

1- STUCCO
2- PLANT SCREEN RAILING 42" HIGH
3- OBSCURE GLASS PRIVACY SCREEN
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Pacifica HOTEL COMPANY
9686 e Preserve Way
Scottsdale AZ. 85262

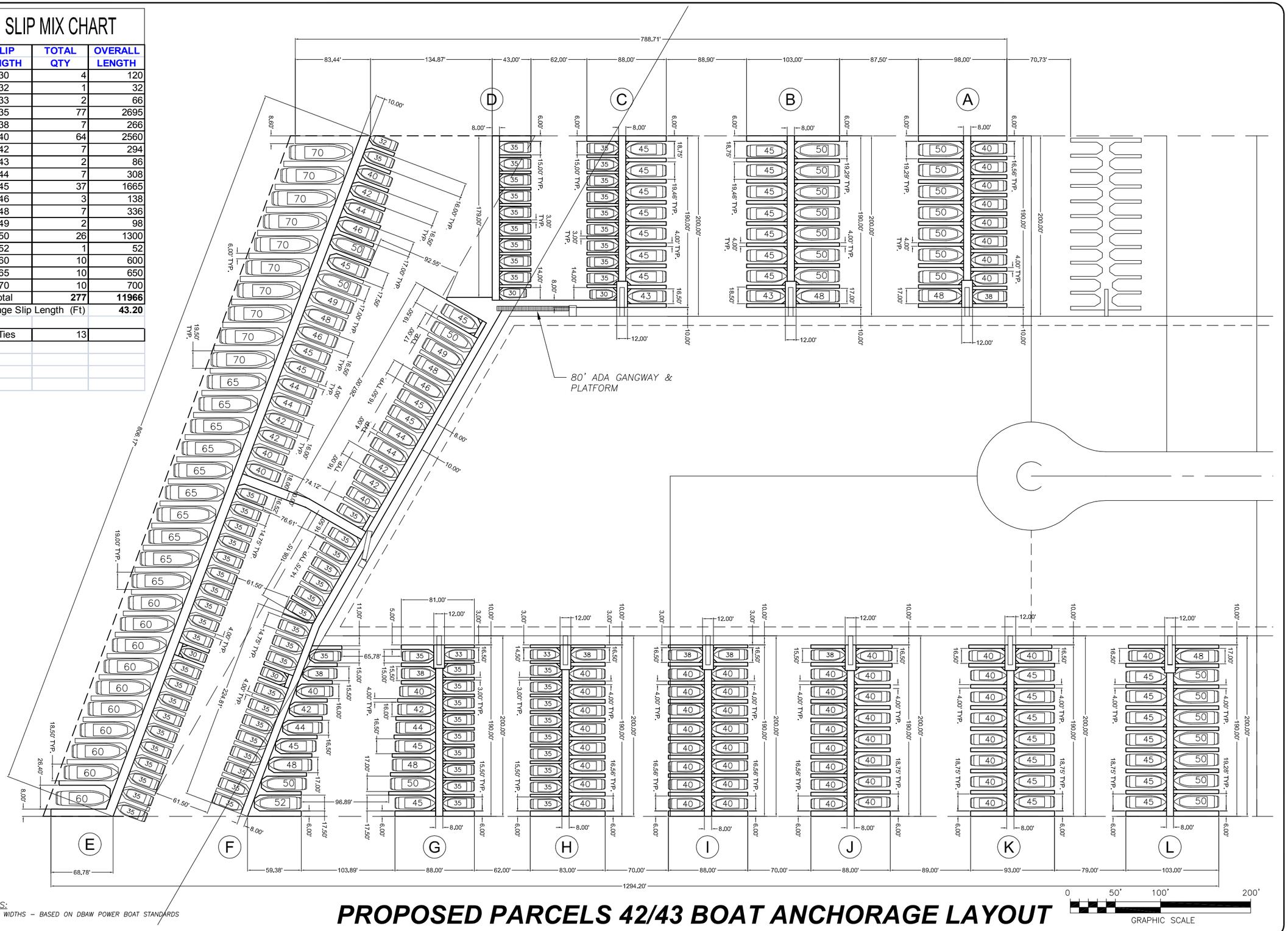
0 5' 10' 25'
GRAPHIC SCALE

JOB #: 723-07
DATE: 8-25-10
CONF. CENTER ELEVATIONS

A-4

SLIP MIX CHART

SLIP LENGTH	TOTAL QTY	OVERALL LENGTH
30	4	120
32	1	32
33	2	66
35	77	2695
38	7	266
40	64	2560
42	7	294
43	2	86
44	7	308
45	37	1665
46	3	138
48	7	336
49	2	98
50	26	1300
52	1	52
60	10	600
65	10	650
70	10	700
Total	**277**	**11966**
Average Slip Length (Ft)		**43.20**
End Ties	13	



NOTES:
1. SLIP WIDTHS – BASED ON DBAW POWER BOAT STANDARDS

PROPOSED PARCELS 42/43 BOAT ANCHORAGE LAYOUT

Bellingham MARINE
Innovative harbor and waterfront solutions
1813 Dennis Street
Jacksonville, FL 32204
TEL: (904) 358-3362
FAX: (904) 354-4818

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MARINA DEL REY HOTEL FLOATING DOCKS LAYOUT 12

Revisions:

Drawn by:
Date: 05-07-09
Scale:
Project No.

Sheet:
of

"To enrich lives through effective and caring service"

Los Angeles County Beaches & Harbors
Caring for Your Coast

Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

REVISED NOTICE
(TO CLARIFY THE PROJECT DESCRIPTION OF THE PREVIOUS NOTICE)

Marina del Rey Hotel
Lease Parcel Nos. 42 & 43
County Project No. R2010-00669-(4)
Environmental Review No. 201000022

Applicant: IWF MDR Hotel, LP and MDR Marina, LP

Notice is hereby given pursuant to Public Resources Code Section 21092 that the County of Los Angeles intends to adopt a Mitigated Negative Declaration (MND). Los Angeles County is the Lead Agency for the project and the Los Angeles County Regional Planning Department has conducted an Initial Study and prepared a draft MND on behalf of the Department of Beaches and Harbors in connection with the proposal. The draft MND concludes that the project, as modified with changes and conditions attached to the Initial Study, will not have a significant effect on the environment.

The project site is located at 13534 Bali Way in the unincorporated community of Marina del Rey. The Assessor's Parcel Number associated with the project is 4224-008-900 and the project site is located on Lease Parcel Nos. 42 and 43 within the Marina. The subject draft MND has been prepared in conjunction with an Option to Amend Lease Agreement with the County of Los Angeles pertaining to the subject Parcel Nos. 42 and 43.

As outlined in greater detail in the subject Initial Study, the draft MND is based on the evaluation of the potential environmental impacts of the applicant's proposed demolition and redevelopment of the Marina del Rey Hotel's private boat anchorage and rehabilitation of the existing 154-room Marina del Rey Hotel, which will entail rehabilitation of all exteriors and interiors of the hotel, dock master facilities and marina restrooms, enhancement of on-site landscaping, reconfiguration and resurfacing of on-site parking, and resurfacing and enhancement of the existing public promenade.

Los Angeles County is distributing this notice to alert you concerning the time period for written comments on the draft MND. Copies of the draft MND and Initial Study are available for public review from **November 19, 2010 to December 20, 2010** between 7:30 a.m. and 5:30 p.m., Monday through Thursday **(closed on Fridays)** in the offices of the Department of Beaches and Harbors Administration Building located at 13837 Fiji Way, Marina del Rey, California 90292. Copies are also available at the Department of Regional Planning, Hall of Records, Room 1340, 320 West Temple Street, Los Angeles, California 90012. Selected materials are also available at the following library: Lloyd-Taber Marina del Rey Library, 4533 Admiralty Way, Marina del Rey, CA 90292; the Library's telephone number is (310) 821-3415. Selected materials are also available on the Regional Planning website at http://planning.lacounty.gov/case and the Beaches and Harbors website at http://marinadelrey.lacounty.gov.

Due to the time limits mandated by State law, your comments must be sent at the earliest possible date, but no later than **December 20, 2010**. All comments should be sent to: Ms. Maral Tashjian, County of Los Angeles Department of Regional Planning, Special Projects Section, 320 West Temple Street, Los Angeles, CA 90012-3225. Telephone: (213) 974-1516; Fax (213) 626-0434; e-mail: mtashjian@planning.lacounty.gov. Written comments on the draft MND will be accepted by the County through December 20, 2010 at 6:00 p.m.

Marina del Rey Hotel Rehabilitation and Parcels 42/43 Boat Anchorage Project
(Marina del Rey Parcels 42 and 43 and adjacent Basins F and G)
County Project No. R2010-00669-(4)/ Environmental Review No. RENV201000022
Mitigation Monitoring Program

Impact Mitigation	Responsible Agency or Party	Action Required	Monitoring Agency or Party	Timing
Flood Hazard				
1. Prior to issuance of building permits, applicant shall submit a Drainage Concept to the Los Angeles County Department of Public Works for review and approval, if required by and to the satisfaction of said Department.	Applicant	Submittal of Drainage Concept to DPW prior to issuance of grading or building permit, if required by said Department	Los Angeles County Department of Public Works (DPW)	Prior to issuance of building permit
Noise				
2. All construction equipment, fixed or mobile, that is utilized on the site 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 sensitive uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive land uses that preclude all sight-lines from the equipment to the residential land use(s).	Project Applicant	Properly maintain construction equipment and provide temporary portable noise structures, where applicable	DPW	Throughout construction activities
3. Construction activities shall be restricted to between the hours of 7:30 a.m. to 6:00 p.m., and shall be prohibited on Saturdays, Sundays, and legal holidays, in order to reduce noise disturbance to multi-family residences located westerly of the project site.	Project Applicant	Restriction on construction hours	DPW	Throughout construction activities
4. Pile driving shall be limited to the hours between 8:00 a.m. and 4:30 p.m. Monday through Friday, and shall be prohibited on Saturdays, Sundays and legal holidays. Noise impacts of the pile driving activities associated with the anchorage construction shall be mitigated with the use of noise shrouds, where practicable.	Project Applicant	Restriction on construction hours	DPW	Throughout construction activities

Impact Mitigation	Responsible Agency or Party	Action Required	Monitoring Agency or Party	Timing
5. Construction crews shall turn off trucks or heavy equipment if the expected duration of engine idling exceeds five (5) minutes in order to reduce noise disturbance to adjacent multi-family residences.	Construction Contractor	Minimize idling of engine equipment	DPW	Throughout construction activities
6. The applicant shall post a notice at the construction site indicating the type of project, duration of construction activities, and a phone number where questions and complaints can be registered.	Project Applicant	Posting of notice	DRP	Throughout construction activities
7. Staging and delivery areas shall be located as far away as feasible from the existing multi-family residences located westerly of the subject parcel. Construction-related deliveries and hauling activities shall be scheduled between 8:00 a.m. and 4:00 p.m., except on Saturdays, Sundays, and legal holidays, to minimize disturbance to surrounding residents.	Project Applicant	Location of staged equipment to be as far as possible from residences and deliveries and hauling to be restricted to the hours noted	DRP	Throughout construction activities
8. The contractor shall ensure that all construction equipment, fixed and mobile, is regularly maintained and in proper operating condition and fitted with standard silencing devices. Proper engineering noise controls shall be implemented when necessary on fixed equipment.	Construction Contractor	Minimize equipment noise through proper maintenance	DPW	Throughout construction activities
9. The applicant shall notify residents in the surrounding area (within 1,000 feet of construction activity) by postcard of the anticipated duration of construction and anticipated activities prior to the start of construction. The notice will provide a phone number where neighbors can register questions and complaints. A log of questions and complaints will be maintained and reasonable efforts shall be made to respond to questions and address complaints.	Project Applicant	Postcard notification of residents within 1,000 feet	DRP	Prior to start of construction activities
Water Quality				
10. Hammers and other hydraulic attachments shall be placed on plywood and covered with plastic or a comparable material prior to the onset of rain to prevent run-on and run-off.	Project Applicant	Provide plywood and appropriate covers for equipment	DRP	Throughout construction activities

Impact Mitigation	Responsible Agency or Party	Action Required	Monitoring Agency or Party	Timing
11. Sandbag barriers shall be placed around the staging areas to control sediment and prevent run-off.	Project Applicant	Install sandbags	DRP	Throughout construction activities
12. All debris and trash shall be disposed of in appropriate waste containers by the end of each construction day.	Project Applicant	Make available appropriate trash containers. Ensure proper disposal of debris and trash	DRP	Throughout construction activities
13. Discharge of hazardous materials into the study area shall be prohibited.	Project Applicant	Prohibit discharge	DRP	Throughout construction activities
Air Quality				
14. To reduce emissions during construction, the applicant shall implement the following actions and Best Management Practices (BMP's): • Construction parking shall be configured to minimize traffic interference. • Construction activities that affect traffic flow on the arterial system shall be scheduled at off-peak hours, as permitted. • Truck deliveries shall be consolidated, as practically feasible. • Equipment and vehicle engines shall be maintained in good condition and in proper tune according to manufacturers' specifications and SCAQMD regulations, to minimize exhaust emissions. • Construction equipment use shall be suspended during second stage smog alerts. • Electricity shall be acquired from power poles rather than temporary diesel- or gasoline-powered generators, as feasible. • Methanol- or natural gas-powered mobile equipment shall be utilized instead of diesel, if readily available at competitive prices. • Propane- or butane-powered on-site mobile equipment shall be utilized instead of gasoline, if readily available at competitive prices.	Project Applicant	Monitoring construction activity to ensure emissions are minimized as indicated	DRP	Throughout construction activities

Impact Mitigation	Responsible Agency or Party	Action Required	Monitoring Agency or Party	Timing
Biota				
15. Active bird nests are protected by the Migratory Bird Treaty Act (16 U.S.C. 704) and the California Fish and Game Code (Section 3503, 3503.5 and 3513). If activities associated with construction or demolition are planned during the nesting/breeding season for native birds, generally December through March for early nesting birds (e.g. Great Blue Heron, Coopers hawks, or hummingbirds) and from mid-March through September for most bird species, the applicant shall have a qualified biologist conduct surveys for active bird nests. Pre-construction nesting bird surveys must be conducted weekly within 30 days prior to initiation of ground-disturbing activities to determine the presence/absence of active nests. The surveys shall be performed on a weekly basis with the last survey conducted no more than three days before the start of clearance/construction work. Surveys shall include examination of trees, shrubs, and the ground within grasslands, for nesting birds, as several bird species known to the area are shrub or ground nesters, including mourning doves. Applicant shall submit all such surveys to Department of Regional Planning staff for review and inclusion in the case file. All active bird nests that are found within the construction zone shall be protected by a buffer appropriate to the species observed, as determined by a qualified biologist, and demarcated by construction fencing or other means that will allow avoidance of the nests, until young birds have fledged and no continued use of the nest is observed.	Project Applicant	Conduct pre-construction bird survey and submit result to DRP; maintain buffer zones between project activities and active nests and demarcate any such buffer zones.	DRP	Prior to any construction
16. If Great Blue Heron nesting activity is discovered, and the qualified biologist determines that renovation activities are disturbing nesting sites of the Great Blue Heron, all renovation in the immediate vicinity of the nest, as determined by the biologist, shall cease until feasible measures can be identified by the County to ensure that continued renovation does not affect Great Blue Heron nesting activity.	Project Applicant	Conduct pre-construction bird survey and submit result to DRP; if nesting disturbance from construction, feasible measures will be implemented	DRP	Prior to any construction

Impact Mitigation	Responsible Agency or Party	Action Required	Monitoring Agency or Party	Timing
17. Not earlier than 90 days nor later than 30 days prior to commencement or recommencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall eliminate all *C. taxifolia* discovered within the project and/or buffer area in a manner that complies with all applicable governmental approval requirements.	Project Applicant	Conduct pre-construction *Caulerpa* survey and submit result to Coastal Commission; if present, plants will be eliminated.	DRP	Prior to any construction
18. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game.	Project Applicant	Conduct pre-construction eelgrass survey and submit result to Coastal Commission; if	DRP	Prior to any construction
Traffic				
19. Applicant shall submit a construction traffic management plan to Los Angeles County Department of Public Works (DPW) for review and approval prior to initiation of any project construction activity at the subject property. In addition, the project site plan shall be submitted to the DPW Land Development Division for access and parking lot circulation review.	Applicant	Submittal of construction traffic management plan to DPW prior to initiation of site work	DPW	Prior to initiation of site work
Environmental Safety				
20. Applicant shall contact Department of Public Works Environmental Programs Division (EPD) to confirm location of any nearby landfill(s) and will provide EPD with a study of subsurface lateral migration of landfill gas, if necessary, in compliance with Building Code Section 110.3.	Applicant	Confirm location of landfill and submit study of subsurface lateral migration of landfill gas, if necessary	DPW	Prior to issuance of a grading or building permit

Mitigation Compliance				
21. As a means of ensuring compliance of the above mitigation measures, the applicant and subsequent owner(s) are responsible for submitting annual mitigation compliance report to the DRP for review, and for replenishing the mitigation monitoring account if necessary until such time as all mitigation measures have been implemented and completed.	Project Applicant and Subsequent Owner(s)	Submittal of annual mitigation compliance report; replenishing mitigation monitoring account	DRP	Annually until such time as all mitigation measures have been implemented and completed

ATTACHMENT “C”

Option Agreement

OPTION AGREEMENT REGARDING LEASEHOLD INTEREST
(Parcels 42 and 43)

THIS OPTION AGREEMENT REGARDING LEASEHOLD INTEREST (PARCELS 42 AND 43) ("**Agreement**") is made and entered into as of the 17th day of May, 2019, by and between the COUNTY OF LOS ANGELES ("**County**") and IWF MDR HOTEL, L.P., a California limited partnership ("**Lessee**").

RECITALS

A. County, as lessor, and Milton Weber, Elias Alan Fellman, Gerald Fellman and Edward Z. Fellman, a partnership (collectively, "**Original Lessee**"), as lessee, entered into Lease No. 5577 dated May 7, 1962, as amended (the "**Existing Lease**"), concerning the lease of certain real property in the Marina del Rey Small Craft Harbor commonly known collectively as Parcels 42 and 43 (the "**Existing Premises**").

B. The Existing Premises currently consists of (a) the real property commonly known as Parcel 42 and more particularly described on Exhibit A attached to this Agreement (the "**Existing Parcel 42 Premises**"), and (b) the real property commonly known as Parcel 43 and more particularly described on Exhibit B attached to this Agreement (the "**Existing Parcel 43 Premises**").

C. Lessee is the current successor-in-interest to the Original Lessee's right, title and interest as lessee under the Existing Lease.

D. The term of the Existing Lease is currently scheduled to expire on February 28, 2022 (the "**Existing Expiration Date**").

E. Lessee has requested County to grant to Lessee, and County is willing to grant to Lessee, two separate options with respect to the Existing Lease. The first option, if exercised, would result in (a) the bifurcation and re-division of the Existing Premises into two separate leaseholds consisting of a Modified Parcel 42 Premises and a Modified Parcel 43 Premises (Pre-Expansion) (as such terms are defined in Section 1 below); (b) the recordation of a reciprocal easement agreement to address access and other easement rights and related matters associated with the re-divided leaseholds; (c) the division of the Existing Lease into two separate Amended and Restated Leases, one pertaining to the Modified Parcel 42 Premises and one pertaining to either a Modified Parcel 43 Premises (Pre-Expansion) or a Modified Parcel 43 Premises (Post-Expansion), depending upon whether the second option described in Recital F below is exercised concurrently with the exercise of the option described in this Recital E; (d) the grant to Lessee of the right to assign the leasehold and option rights pertaining to the Modified Parcel 43 Premises to Pacific Marina Development, Inc. or an affiliate of Pacific Marina Development, Inc. approved by County; (e) the extension of the term of the lease for the Modified Parcel 42 Premises from the Existing Expiration Date to February 28, 2061; and (f) the complete renovation of the existing Marina del Rey Hotel and associated improvements located on the Modified Parcel 42 Premises.

77517

F. The second option, exercisable only on or after the exercise of the option described in Recital E above, upon exercise would result in: (a) the expansion of the Modified Parcel 43 Premises (Pre-Expansion) to include certain additional water area generally located to the west of the Existing Premises (referred to in this Agreement as the Modified Parcel 43 Premises (Post-Expansion)); (b) the extension of the term of the lease for the Modified Parcel 43 Premises (Post-Expansion) from the Existing Expiration Date to February 28, 2061; and (c) the complete replacement of all existing anchorage improvements, and the refurbishment of the restrooms and boat store, located on the Modified Parcel 43 Premises (Post-Expansion).

G. The purpose of this Agreement is to grant the options generally described above, and to set forth the specific terms, conditions and other provisions pertaining to the grant and exercise of such options.

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

1. Definitions. In addition to any other capitalized terms defined elsewhere in this Agreement, the following initial-capitalized terms used in this Agreement shall be defined as follows:

1.1 "**Agreement**" means this Option Agreement Regarding Leasehold Interest (Parcels 42 and 43).

1.2 "**Amended and Restated Leases**" means the Amended and Restated Parcel 42 Lease and the Amended and Restated Parcel 43 Lease.

1.3 "**Amended and Restated Parcel 42 Lease**" means an Amended and Restated Lease Agreement for the Modified Parcel 42 Premises in substantially the form attached to this Agreement as Exhibit F.

1.4 "**Amended and Restated Parcel 43 Lease**" means whichever of the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) or Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) is in effect (or is to be executed and delivered, as applicable) at a particular time, depending on the context.

1.5 "**Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise)**" means an Amended and Restated Lease Agreement for the Modified Parcel 43 Premises (Post-Expansion) in substantially the form attached to this Agreement as Exhibit I.

1.6 "**Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise)**" means an Amended and Restated Lease Agreement for the Modified Parcel 43 Premises (Pre-Expansion) in substantially the form attached to this Agreement as Exhibit G.

1.7 "**County**" means the County of Los Angeles.

1.8 "**Department**" means the Department of Beaches and Harbors of Los Angeles County.

1.9 "**Director**" means the Director of the Department of Beaches and Harbors of Los Angeles County.

1.10 "**Entitlements**" means the Parcel 42 Entitlements and the Parcel 43 Entitlements.

1.11 "**Existing Expiration Date**" has the meaning given such term in Recital B of this Agreement.

1.12 "**Existing Lease**" has the meaning given such term in Recital A of this Agreement.

1.13 "**Existing Parcel 42 Premises**" has the meaning given such term in Recital B of this Agreement.

1.14 "**Existing Parcel 43 Premises**" has the meaning given such term in Recital D of this Agreement.

1.15 "**Existing Premises**" has the meaning given such term in Recital A of this Agreement.

1.16 "**Financing Force Majeure Event**" means an inability to satisfy the Parcel 42 Project Financing Condition or the Parcel 43 Project Financing Condition (as applicable) due to an industry-wide adverse condition in the real estate financing markets for projects similar to the Parcel 42 Renovation Work or the Parcel 43 Redevelopment Work (as applicable) located in the Los Angeles metropolitan area in which financing for such projects generally is not available to developers on commercially reasonable terms.

1.17 "**General Force Majeure Event**" means a fire or other casualty, earthquake, flood, tornado or other act of God that causes damage to a portion of the Existing Premises that is the subject of an Option (or the improvements located thereon), that is of a nature or scope that prevents or delays the satisfaction of the Parcel 42 Option Conditions (in the case of the Parcel 42 Option) or the Parcel 43 Option Conditions (in the case of the Parcel 43 Option), as applicable.

1.18 "**Lessee**" means, except as otherwise expressly provided in this Agreement, IWF MDR Hotel, L.P., a California limited partnership, or its permitted successors or assigns under this Agreement.

1.19 "**Lessee Breach**" has the meaning given such term in Section 10.12 of this Agreement.

1.20 "**Lessee Default**" has the meaning given such term in Section 10.12 of this Agreement.

1.21 "**Master CDP Application**" has the meaning given such term in Section 7.1 of this Agreement.

1.22 "**Modified Parcel 42 Premises**" means the real property described on Exhibit C attached to this Agreement.

1.23 "**Modified Parcel 43 Premises**" means whichever of the Modified Parcel 43 Premises (Pre-Expansion) or Modified Parcel 43 Premises (Post-Expansion) is in effect at a particular time.

1.24 "**Modified Parcel 43 Premises (Post-Expansion)**" means the real property described on Exhibit E attached to this Agreement.

1.25 "**Modified Parcel 43 Premises (Pre-Expansion)**" means the real property described on Exhibit D attached to this Agreement.

1.26 "**Option Agreement (Parcel 43)**" means an Option Agreement Regarding Leasehold Interest (Parcel 43) pertaining to the Parcel 43 Option in substantially the form attached to this Agreement as Exhibit H, to be executed and delivered by County and the Parcel 43 Lessee concurrent with the execution and delivery of the Amended and Restated Parcel 42 Lease and the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) if the Parcel 43 Option is not exercised concurrently with the exercise of the Parcel 42 Option.

1.27 "**Option Closing**" means the Parcel 42 Option Closing and the Parcel 43 Option Closing, collectively, and "**Option Closing**" means one of such Option Closings.

1.28 "**Option Conditions**" means the Parcel 42 Option Conditions and the Parcel 43 Option Conditions.

1.29 "**Option Terms**" means the Parcel 42 Option Term and the Parcel 43 Option Term, collectively, and "**Option Term**" means one of such Option Terms.

1.30 "**Options**" means the Parcel 42 Option and the Parcel 43 Option, collectively, and "**Option**" means one of such Options.

1.31 "**Original Lessee**" has the meaning given such term in Recital A of this Agreement.

1.32 "**Parcel 42 Entitlements**" has the meaning given such term in Section 4.1.1 of this Agreement.

1.33 "**Parcel 43 Entitlements**" has the meaning given such term in Section 4.2.1 of this Agreement.

1.34 "**Parcel 42 Entitlements Condition**" has the meaning given such term in Section 4.1.1 of this Agreement.

1.35 "**Parcel 43 Entitlements Condition**" has the meaning given such term in Section 4.2.1 of this Agreement.

1.36 "**Parcel 42 Entitlements Condition Delay**" has the meaning given such term in Section 3.1 of this Agreement.

1.37 "**Parcel 43 Entitlements Condition Delay**" has the meaning given such term in Section 3.2 of this Agreement.

1.38 "**Parcel 42 Extension Fee**" has the meaning given such term in Section 6.1.2 of this Agreement.

1.39 "**Parcel 43 Extension Fee**" has the meaning given such term in Section 6.2.2 of this Agreement.

1.40 "**Parcel 42 Lessee**" means (a) prior to the exercise of the Parcel 42 Option and the execution and delivery of the Amended and Restated Parcel 42 Lease, Lessee; or (b) after the exercise of the Parcel 42 Option and the execution and delivery of the Amended and Restated Parcel 42 Lease, the lessee of the Amended and Restated Parcel 42 Lease.

1.41 "**Parcel 43 Lessee**" means (a) prior to the exercise of the Parcel 42 Option and the execution and delivery of the Amended and Restated Parcel 43 Lease that is first executed, Lessee; or (b) after the exercise of the Parcel 42 Option and the execution and delivery of the Amended and Restated Parcel 43 Lease that is first executed, the lessee of the Amended and Restated Parcel 43 Lease.

1.42 "**Parcel 42 Memorandum of Lease**" has the meaning given such term in Section 5.1.2 of this Agreement.

1.43 "**Parcel 43 Memorandum of Lease**" has the meaning given such term in Section 5.1.2 or Section 5.2.2 of this Agreement (as applicable).

1.44 "**Parcel 42 Option**" means the option in favor of Lessee for all, but not less than all, of the following: (a) the bifurcation and re-division of the Existing Premises into two separate leaseholds consisting of the Modified Parcel 42 Premises and the Modified Parcel 43 Premises (Pre-Expansion); (b) the execution, delivery and recordation of the Reciprocal Easement Agreement; (c) the division of the Existing Lease into two separate amended and restated leases, one consisting of the Amended and Restated Parcel 42 Lease and the second consisting of (i) the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) if the Parcel 43 Option is exercised concurrently with the exercise of the Parcel 42 Option, or (ii) the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) if the Parcel 43 Option is not exercised concurrently with the exercise of the Parcel 42 Option; (d) the grant to Lessee of the right to assign to PMD the Amended and Restated Parcel 43 Lease and the Option Agreement (Parcel 43) with County; (e) the extension of the term of the lease of the Modified Parcel 42 Premises from the Existing Expiration Date to February 28, 2061; and (f) the complete renovation of the improvements located on the Modified Parcel 42 Premises in

accordance with the Parcel 42 Renovation Plan (the "**Parcel 42 Renovation Work**"). The matters described in clauses (a), (c), (e) and (f) shall be effectuated pursuant to, and in accordance with the terms and provisions of, the Amended and Restated Parcel 42 Lease and the Amended and Restated Parcel 43 Lease.

1.45 "**Parcel 43 Option**" means an option in favor of the Parcel 43 Lessee for all, but not less than all, of the following: (a) the expansion of the Modified Parcel 43 Premises from the Modified Parcel 43 Premises (Pre-Expansion) to the Modified Parcel 43 Premises (Post-Expansion); (b) the extension of the term of the lease of the Modified Parcel 43 Premises from the Existing Expiration Date to February 28, 2061; and (c) the redevelopment of the Modified Parcel 43 Premises (Post-Expansion) in accordance with the Parcel 43 Redevelopment Plan (the "**Parcel 43 Redevelopment Work**"). The matters described above shall be effectuated pursuant to, and in accordance with the terms and provisions of, the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise).

1.46 "**Parcel 42 Option Closing**" means the execution and delivery by the Parcel 42 Lessee, Parcel 43 Lessee (and PMD if the Amended and Restated Parcel 43 Lease is assigned to PMD as part of the Parcel 42 Option Closing) and County of the Parcel 42 Option Closing Documents and the recordation in the Official Records of Los Angeles County, California of each recordable Parcel 42 Option Closing Document.

1.47 "**Parcel 43 Option Closing**" means the execution and delivery by the Parcel 43 Lessee (and PMD if the Amended and Restated Parcel 43 Lease is assigned to PMD as part of the Parcel 43 Option Closing) and County of the Parcel 43 Option Closing Documents and the recordation in the Official Records of Los Angeles County, California of each recordable Parcel 43 Option Closing Document.

1.48 "**Parcel 42 Option Closing Documents**" has the meaning given such term in Section 5.1.2 of this Agreement.

1.49 "**Parcel 43 Option Closing Documents**" has the meaning given such term in Section 5.2.2 of this Agreement.

1.50 "**Parcel 42 Option Conditions**" has the meaning given such term in Section 4.1 of this Agreement.

1.51 "**Parcel 43 Option Conditions**" has the meaning given such term in Section 4.2 of this Agreement.

1.52 "**Parcel 42 Option Conditions Satisfaction Date**" has the meaning given such term in Section 3.1 of this Agreement.

1.53 "**Parcel 43 Option Conditions Satisfaction Date**" has the meaning given such term in Section 3.2 of this Agreement.

1.54 "**Parcel 42 Option Exercise Notice**" has the meaning given such term in Section 5.1.1 of this Agreement.

1.55 "**Parcel 43 Option Exercise Notice**" has the meaning given such term in Section 5.2.2 of this Agreement.

1.56 "**Parcel 42 Option Expiration Date**" has the meaning given such term in Section 3.1 of this Agreement.

1.57 "**Parcel 43 Option Expiration Date**" has the meaning given such term in Section 3.2 of this Agreement.

1.58 "**Parcel 42 Option Fee**" has the meaning given such term in Section 6.1.1 of this Agreement.

1.59 "**Parcel 43 Option Fee**" has the meaning given such term in Section 6.2.1 of this Agreement.

1.60 "**Parcel 42 Option Outside Expiration Date**" has the meaning given such term in Section 3.1 of this Agreement.

1.61 "**Parcel 43 Option Outside Expiration Date**" has the meaning given such term in Section 3.2 of this Agreement.

1.62 "**Parcel 42 Option Term**" has the meaning given such term in Section 3.1 of this Agreement.

1.63 "**Parcel 43 Option Term**" has the meaning given such term in Section 3.2 of this Agreement.

1.64 "**Parcel 42 Project Financing Condition**" has the meaning given such term in Section 4.1.2 of this Agreement.

1.65 "**Parcel 43 Project Financing Condition**" has the meaning given such term in Section 4.2.2 of this Agreement.

1.66 "**Parcel 43 Redevelopment Plan**" means the redevelopment plan for the Modified Parcel 43 Premises (Post-Expansion) attached as Exhibit B to the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise).

1.67 "**Parcel 43 Redevelopment Work**" has the meaning given such term in the definition of the Parcel 43 Option.

1.68 "**Parcel 42 Renovation Plan**" means the renovation plan for the Modified Parcel 42 Premises attached as Exhibit B to the Amended and Restated Parcel 42 Lease.

1.69 "**Parcel 42 Renovation Work**" has the meaning given such term in the definition of the Parcel 42 Option.

1.70 "**PMD**" means Pacific Marina Development, Inc. or an affiliate of Pacific Marina Development, Inc. approved by County in accordance with the last sentence of Section 5.3 of this Agreement.

1.71 "**Project Financing**" means (a) in the case of the Parcel 42 Option, 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 the equity of the Parcel 42 Lessee, is reasonably expected to provide sufficient funds to complete the Parcel 42 Renovation Work, as approved by Director in accordance with the terms and provisions of Section 12.1 of the form of the Amended and Restated Parcel 42 Lease; or (b) in the case of the Parcel 43 Option, 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 the equity of the Parcel 43 Lessee, is reasonably expected to provide sufficient funds to complete the initial phase of the Parcel 43 Redevelopment Work, as approved by Director in accordance with the terms and provisions of Section 12.1 of the form of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise), together with evidence reasonably satisfactory to Director of the availability of loan and/or equity funds sufficient to complete the remaining phases of the Parcel 43 Redevelopment Work in a timely manner.

1.72 "**Reciprocal Easement Agreement**" means a Reciprocal Easement Agreement in form acceptable to the Parcel 42 Lessee, the Parcel 43 Lessee and County.

1.73 "**Unreasonable County Activity**" has the meaning given such term in Section 7.2 of this Agreement.

2. Grant of Options. County hereby grants to Lessee the Parcel 42 Option and the Parcel 43 Option, upon and subject to the terms, conditions and other provisions of this Agreement.

3. Terms of Options.

3.1 Parcel 42 Option Term. The term of the Parcel 42 Option (the "**Parcel 42 Option Term**") shall commence on the date of this Agreement and expire on that date (the "**Parcel 42 Option Expiration Date**") that is the earlier of (a) sixty (60) days following the Parcel 42 Option Conditions Satisfaction Date, or (b) the first anniversary of the date of this Agreement (the date set forth in this clause (b) referenced herein as the "**Parcel 42 Option Outside Expiration Date**"); provided, however, if the Parcel 42 Entitlements require a Local Coastal Program amendment, then the Parcel 42 Outside Expiration Date shall be the second anniversary of the date of this Agreement.

For purposes hereof, the "**Parcel 42 Option Conditions Satisfaction Date**" shall mean the first date upon which all of the Parcel 42 Option Conditions set forth in Section 4.1 below have been satisfied. If by the Parcel 42 Option Outside Expiration Date set forth above in the first paragraph of this Section 3.1 the Parcel 42 Option Conditions Satisfaction Date has not occurred because Lessee has been unable to satisfy either or both of the Parcel 42 Option Conditions and, in the reasonable judgment of Director, Lessee has proceeded with best efforts to

satisfy the Parcel 42 Option Conditions but has been delayed in doing so as a result of (i) in the case of the non-satisfaction of the Parcel 42 Entitlements Condition, delays beyond normal entitlement processing periods in the processing by the applicable governmental authorities of Lessee's applications for the Parcel 42 Entitlements, the pendency of an appeal, proceeding or litigation described in clauses (a) and (b) of Section 4.1.1 below, or delays resulting from Unreasonable County Activity with respect to the Parcel 42 Entitlements (collectively, a "**Parcel 42 Entitlements Condition Delay**"), (ii) in the case of the non-satisfaction of the Parcel 42 Project Financing Condition, as a result of a Financing Force Majeure Event, or (iii) as a result of a General Force Majeure Event, then upon Lessee's request Director shall extend the Parcel 42 Option Outside Expiration Date by one or more extensions. Such extension or extensions shall be limited to the period of any Parcel 42 Entitlements Condition Delay, Financing Force Majeure Event or General Force Majeure Event (as applicable, and without duplication in the case, and to the extent, that delays are concurrent), as determined in the reasonable judgment of Director, but in no event shall all extensions of the Parcel 42 Option Outside Expiration Date exceed six (6) months in the aggregate. Director shall have no discretion to extend the Parcel 42 Option Outside Expiration Date in the case of a Lessee Default under this Agreement or if Lessee is in material breach or default of the Existing Lease after notice and the expiration of any cure period applicable under the Existing Lease.

Notwithstanding the six (6) month limitation on the extension of the Parcel 42 Option Outside Expiration Date set forth in the immediately preceding paragraph, in the case of the non-satisfaction of the Parcel 42 Entitlements Condition, if Lessee's inability to satisfy the Parcel 42 Entitlements Condition is caused by (I) a moratorium, temporary restraining order, injunction or other court order which prohibits the issuance of the Parcel 42 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 Parcel 42 Entitlements, the continued pendency of an appeal, proceeding or litigation (including all appeals of such litigation) brought by a third party unaffiliated with Lessee or the existing or prospective Parcel 43 Lessee that contests the issuance of the Parcel 42 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 Parcel 42 Option 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 Parcel 42 Entitlements, of such appeal, proceeding or litigation that contested the issuance of the Parcel 42 Entitlements, as applicable; provided, however, that the Parcel 42 Option Outside Expiration Date shall in no event be extended beyond the fourth (4th) anniversary of the date of this Agreement.

If Lessee desires to have the Parcel 42 Option Outside Expiration Date extended pursuant to this Section 3.1, then Lessee must deliver written notice to Director of its request for such extension not later than thirty (30) days prior to the Parcel 42 Option Outside Expiration Date, as such date may have been previously extended; provided, however, that if the basis for the extension does not arise until later than thirty (30) days prior to the Parcel 42 Option Outside Expiration Date, then Lessee shall be required to deliver its written request for the extension promptly following its discovery of the basis for the requested extension.

If Director determines not to grant an extension of the Parcel 42 Option Outside Expiration Date requested by Lessee pursuant to the terms and provisions of this Section 3.1, 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.

3.2 Parcel 43 Option Term. The term of the Parcel 43 Option (the "**Parcel 43 Option Term**") shall commence on the date of this Agreement and expire on that date (the "**Parcel 43 Option Expiration Date**") that is the earlier of (a) sixty (60) days following the Parcel 43 Option Conditions Satisfaction Date, or (b) the date that is either (i) if the Master CDP Application is approved by the California Coastal Commission and such approval includes the Coastal Development Permit requirements for the Parcel 43 Redevelopment Work, then the date that is six (6) months after the date on which the Master CDP Application is approved by the California Coastal Commission, or (ii) the date that is twelve (12) months after the first to occur of (I) Department notification of the Parcel 43 Lessee that the Department is no longer pursuing the Master CDP Application or that the Modified Parcel 43 Premises (Post-Expansion) has been excluded or withdrawn from the Master CDP Application, or (II) the denial of the Master CDP Application (the date in this clause (b) referenced as the "**Parcel 43 Option Outside Expiration Date**"). Notwithstanding any contrary provision of this Agreement, the Parcel 43 Option Expiration Date shall not be prior to the date of the earlier of the exercise of the Parcel 42 Option or the expiration of the Parcel 42 Option Term. For purposes of clarification, while the Parcel 43 Option Expiration Date shall in no event be prior the date of the earlier of the exercise of the Parcel 42 Option or the expiration of the Parcel 42 Option Term, no extension of the Parcel 43 Option Term shall have any effect upon the Parcel 42 Option Term.

For purposes hereof, the "**Parcel 43 Option Conditions Satisfaction Date**" shall mean the first date upon which all of the Parcel 43 Option Conditions set forth in Section 4.2 below have been satisfied. If by the Parcel 43 Option Outside Expiration Date set forth above in the first paragraph of this Section 3.2 the Parcel 43 Option Conditions Satisfaction Date has not occurred because the Parcel 43 Lessee has been unable to satisfy either or both of the Parcel 43 Option Conditions and, in the reasonable judgment of the Director, the Parcel 43 Lessee has proceeded with best efforts to satisfy the Parcel 43 Option Conditions but has been delayed in doing so as a result of (I) in the case of the non-satisfaction of the Parcel 43 Entitlements Condition, delays beyond normal entitlement processing periods in the processing by the applicable governmental authorities of the Parcel 43 Lessee's applications for the Parcel 43 Entitlements, the pendency of an appeal, proceeding or litigation described in clauses (a) and (b) of Section 4.2.1 below, or delays resulting from Unreasonable County Activity with respect to the Parcel 43 Entitlements (collectively, a "**Parcel 43 Entitlements Condition Delay**"), (II) in the case of the non-satisfaction of the Parcel 43 Project Financing Condition, as a result of a Financing Force Majeure Event, or (III) as a result of a General Force Majeure Event, then upon the Parcel 43 Lessee's request Director shall extend the Parcel 43 Option Outside Expiration Date by one or more extensions. Such extension or extensions shall be limited to the period of any Parcel 43 Entitlements Condition Delay, Financing Force Majeure Event or General Force Majeure Event (as applicable, and without duplication in the case, and to the extent, that delays are concurrent), as determined in the reasonable judgment of Director; provided, however, that (x) in the case in which the Master CDP Application is approved for the Modified Parcel 43 Premises (Post-Expansion), in no event shall any extension of the Parcel 43 Option Outside

Expiration Date for a Parcel 43 Entitlements Condition Delay exceed six (6) months in the aggregate; and (y) any and all other extensions of the Parcel 43 Option Outside Expiration Date shall in no event extend beyond the third (3rd) anniversary of the date of the commencement of the Parcel 43 Option Term. Director shall have no discretion to extend the Parcel 43 Option Outside Expiration Date (A) in the case of a Lessee Default under this Agreement, or (B) during any period prior to the exercise of the Parcel 42 Option, if Lessee is in material breach or default of the Existing Lease after notice and the expiration of any cure period applicable under the Existing Lease.

Notwithstanding the limitations on the extension of the Parcel 43 Option Outside Expiration Date set forth in the immediately preceding paragraph, in the case of the non-satisfaction of the Parcel 43 Entitlements Condition, if Lessee's inability to satisfy the Parcel 43 Entitlements Condition is caused by (i) a moratorium, temporary restraining order, injunction or other court order which prohibits the issuance of the Parcel 43 Entitlements for the Parcel 43 Redevelopment Work and all other similar marina replacement projects in Marina del Rey on water area leased from the County, or (ii) after the issuance of the Parcel 43 Entitlements, the continued pendency of an appeal, proceeding or litigation (including all appeals of such litigation) brought by a third party unaffiliated with Lessee or the Parcel 42 Lessee that contests the issuance of the Parcel 43 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 Parcel 43 Option 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 Parcel 43 Entitlements, of such appeal, proceeding or litigation that contested the issuance of the Parcel 43 Entitlements, as applicable; provided, however, that the Parcel 43 Option Outside Expiration Date shall in no event be extended beyond the fourth (4th) anniversary of the date of this Agreement.

If Lessee desires to have the Parcel 43 Option Outside Expiration Date extended pursuant to this Section 3.2, then Lessee must deliver written notice to Director of its request for such extension not later than thirty (30) days prior to the Parcel 43 Option Outside Expiration Date, as such date may have been previously extended; provided, however, that if the basis for the extension does not arise until later than thirty (30) days prior to the Parcel 43 Option Outside Expiration Date, then Lessee shall be required to deliver its written request for the extension promptly following its discovery of the basis for the requested extension.

If Director determines not to grant an extension of the Parcel 43 Option Outside Expiration Date requested by Lessee pursuant to the terms and provisions of this Section 3.2, 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.

4. Option Conditions.

4.1 Parcel 42 Option Conditions. In addition to any other requirements for exercise of the Parcel 42 Option set forth in this Agreement, the exercise of the Parcel 42 Option

shall be subject to the satisfaction of the following conditions (the "**Parcel 42 Option Conditions**"):

4.1.1 the Parcel 42 Lessee shall have received all discretionary planning and zoning land use entitlements and approvals required to be obtained from governmental authorities (including the County and the California Coastal Commission), and satisfied all requirements for the issuance of a building permit (other than payment of the building permit fee), for the construction of the Parcel 42 Renovation Work (collectively, the "**Parcel 42 Entitlements**"), and both (a) the Parcel 42 Entitlements shall not be subject to further appeal, and (b) there shall be no proceeding or litigation pending to appeal the issuance of the Parcel 42 Entitlements, or to enjoin or restrain the performance of the Parcel 42 Renovation Work (not including any proceeding or litigation brought by or on behalf of the Parcel 42 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, the Parcel 42 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 Parcel 42 Entitlements, which dismissal, decision or judgment shall not be subject to further appeal (collectively, the "**Parcel 42 Entitlements Condition**"); and

4.1.2 the Parcel 42 Lessee shall have obtained Project Financing for the Parcel 42 Renovation Work (the "**Parcel 42 Project Financing Condition**").

The Parcel 42 Lessee shall use good faith, diligent efforts to satisfy the Parcel 42 Project Financing Condition prior to the Parcel 42 Option Outside Expiration Date. Upon request from the Department during the Parcel 42 Option Term, the Parcel 42 Lessee shall inform Director of the status of the Parcel 42 Lessee's efforts to satisfy the Parcel 42 Project Financing Condition. If the Parcel 42 Lessee is unable to satisfy the Parcel 42 Project Financing Condition by the Parcel 42 Option Outside Expiration Date due to a Financing Force Majeure Event, then the Parcel 42 Lessee shall have the right to request Director to extend the Parcel 42 Option Outside Expiration Date in accordance with Section 3.1 of this Agreement. As a condition to establishing a Financing Force Majeure Event, the Parcel 42 Lessee shall be required to demonstrate to the reasonable satisfaction of Director the existence of the Financing Force Majeure Event with respect to the Parcel 42 Renovation Work. If the Parcel 42 Lessee contests any determination by Director as to whether a Financing Force Majeure Event exists or the duration of the extension which the Parcel 42 Lessee should receive as a result thereof, then the Parcel 42 Lessee shall be entitled to submit its request for an extension directly to the County Board of Supervisors for determination in accordance with the last paragraph of Section 3.1 of this Agreement. If the Parcel 42 Lessee desires to fund the cost of the Parcel 42 Renovation Work entirely from equity, then upon demonstration by the Parcel 42 Lessee to the reasonable satisfaction of Director of the availability of adequate equity funds, the Parcel 42 Lessee shall be considered to have satisfied the Parcel 42 Project Financing Condition. Notwithstanding any contrary provision of this Agreement, in no event shall the Parcel 42 Lessee be entitled to claim a Financing Force Majeure Event based on the Parcel 42 Lessee's desire to fund the cost of the Parcel 42 Renovation Work entirely or substantially from equity and the Parcel 42 Lessee being unable to raise the necessary

equity funds to do so; provided, however, that if a Financing Force Majeure Event would exist irrespective of the Parcel 42 Lessee's desire to fund the cost of the Parcel 42 Renovation Work entirely or substantially from equity, then this sentence shall not affect the existence of the Financing Force Majeure Event with respect to the Parcel 42 Renovation Work.

4.2 Parcel 43 Option Conditions. In addition to any other requirements for exercise of the Parcel 43 Option set forth in this Agreement, the exercise of the Parcel 43 Option shall be subject to the satisfaction of the following conditions (the "**Parcel 43 Option Conditions**"):

4.2.1 the Parcel 43 Lessee shall have received all discretionary planning and zoning land use entitlements and approvals required to be obtained from governmental authorities (including the County and the California Coastal Commission), and satisfied all requirements for the issuance of a building permit (other than payment of the building permit fee), for the construction of the Parcel 43 Redevelopment Work (collectively, the "**Parcel 43 Entitlements**"), and both (a) the Parcel 43 Entitlements shall not be subject to further appeal, and (b) there shall be no proceeding or litigation pending to appeal the issuance of the Parcel 43 Entitlements, or to enjoin or restrain the performance of the Parcel 43 Redevelopment Work (not including any proceeding or litigation brought by or on behalf of the existing or prospective Parcel 43 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, the existing or prospective Parcel 43 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 Parcel 43 Entitlements, which dismissal, decision or judgment shall not be subject to further appeal (collectively, the "**Parcel 43 Entitlements Condition**"); and

4.2.2 the Parcel 43 Lessee shall have obtained Project Financing for the Parcel 43 Redevelopment Work (the "**Parcel 43 Project Financing Condition**").

The Parcel 43 Lessee shall use good faith, diligent efforts to satisfy the Parcel 43 Project Financing Condition prior to the Parcel 43 Option Outside Expiration Date. Upon request from the Department during the Parcel 43 Option Term, the Parcel 43 Lessee shall inform Director of the status of the Parcel 43 Lessee's efforts to satisfy the Parcel 43 Project Financing Condition. If the Parcel 43 Lessee is unable to satisfy the Parcel 43 Project Financing Condition by the Parcel 43 Option Outside Expiration Date due to a Financing Force Majeure Event, then the Parcel 43 Lessee shall have the right to request Director to extend the Parcel 43 Option Outside Expiration Date in accordance with Section 3.2 of this Agreement. As a condition to establishing a Financing Force Majeure Event, the Parcel 43 Lessee shall be required to demonstrate to the reasonable satisfaction of Director the existence of the Financing Force Majeure Event with respect to the Parcel 43 Redevelopment Work. If the Parcel 43 Lessee contests any determination by Director as to whether a Financing Force Majeure Event exists or the duration of the extension which the Parcel 43 Lessee should receive as a result thereof, then the Parcel 43 Lessee shall be entitled to submit its request for an extension directly to the County Board of Supervisors for determination in accordance with the last

paragraph of Section 3.2 of this Agreement. If the Parcel 43 Lessee desires to fund the cost of the Parcel 43 Redevelopment Work entirely from equity, then upon demonstration by the Parcel 43 Lessee to the reasonable satisfaction of Director of the availability of adequate equity funds, the Parcel 43 Lessee shall be considered to have satisfied the Parcel 43 Project Financing Condition. Notwithstanding any contrary provision of this Agreement, in no event shall the Parcel 43 Lessee be entitled to claim a Financing Force Majeure Event based on the Parcel 43 Lessee's desire to fund the cost of the Parcel 43 Redevelopment Work entirely or substantially from equity and the Parcel 43 Lessee being unable to raise the necessary equity funds to do so; provided, however, that if a Financing Force Majeure Event would exist irrespective of the Parcel 43 Lessee's desire to fund the cost of the Parcel 43 Redevelopment Work entirely or substantially from equity, then this sentence shall not affect the existence of the Financing Force Majeure Event with respect to the Parcel 43 Redevelopment Work.

5. Exercise of Options.

5.1 Exercise of Parcel 42 Option. The Parcel 42 Option shall be exercisable only by the strict satisfaction on or before the Parcel 42 Option Expiration Date of the following conditions:

5.1.1 the Parcel 42 Lessee shall notify County in writing of its exercise of the Parcel 42 Option ("**Parcel 42 Option Exercise Notice**");

5.1.2 the Parcel 42 Lessee shall accompany the Parcel 42 Option Exercise Notice with the following:

(a) the Parcel 42 Lessee's execution and delivery to County of the Amended and Restated Parcel 42 Lease, with any additional terms required to be included therein as provided in this Agreement, and any blank or bracketed terms in Exhibit F hereto, completed in accordance with the terms and provisions of this Agreement;

(b) the Parcel 42 Lessee's execution and delivery to County in recordable form of a memorandum of lease with respect to the Amended and Restated Parcel 42 Lease in form reasonably acceptable to County (the "**Parcel 42 Memorandum of Lease**");

(c) payment to County of the amount, if any, by which the "Security Deposit" required under Article 7 of the Amended and Restated Parcel 42 Lease exceeds the amount of the security deposit then maintained by Lessee with County pursuant to Section 7 of the Existing Lease;

(d) Lessee's execution and delivery to County of the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) (except that if the Parcel 42 Option and the Parcel 43 Option are exercised concurrently, then this item (d) shall not apply and instead Lessee shall have executed and delivered to County the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) pursuant to Section 5.2 below);

(e) Lessee's execution and delivery to County in recordable form of a memorandum of lease with respect to the Amended and Restated Parcel 43 Lease referenced in item (d) above (if applicable), in form reasonably acceptable to County (the "**Parcel 43 Memorandum of Lease**");

(f) payment to County of the amount of the "Security Deposit" required under Article 7 of the Amended and Restated Parcel 43 Lease referenced in item (d) above;

(g) if the Parcel 43 Option is not exercised concurrently with the Parcel 42 Option, then the Parcel 43 Lessee's execution and delivery to County of the Option Agreement (Parcel 43); and

(h) the execution and delivery by the Parcel 42 Lessee and the Parcel 43 Lessee of the Reciprocal Easement Agreement, in recordable form (the documents in items (a), (b), (d), (e), (g) and (h), collectively referred to as the "**Parcel 42 Option Closing Documents**").

5.1.3 as of the date of the Parcel 42 Lessee's delivery of the Parcel 42 Option 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;

5.1.4 the Parcel 42 Option Conditions Satisfaction Date shall have occurred and there shall be no change in circumstances after the Parcel 42 Option Conditions Satisfaction Date that causes the Parcel 42 Option Conditions to no longer continue to be satisfied; and

5.1.5 Director shall have approved all plans, specifications and other materials for the Parcel 42 Renovation Work required to be submitted to Director pursuant to Section 7.3 of this Agreement.

Upon the satisfaction of the Parcel 42 Option Conditions and the Parcel 42 Lessee's proper and timely exercise of the Parcel 42 Option (including the satisfaction of all of the conditions set forth above in this Section 5.1), County shall execute, date (with the same "Effective Date" for all Parcel 42 Option Closing Documents) and deliver the Parcel 42 Option Closing Documents, and the Parcel 42 Option Closing shall be consummated as soon as reasonably possible thereafter, but, in any event not later than forty-five (45) days following the date of the Parcel 42 Lessee's exercise of the Parcel 42 Option. If the Parcel 42 Lessee's Project Financing is in a position to close within the above forty-five (45) day period, County agrees to cooperate with the Parcel 42 Lessee to effectuate a concurrent closing of the Parcel 42 Lessee's Project Financing with the Parcel 42 Option Closing such that the "Effective Date" (as such term is defined in each of the Parcel 42 Option Closing Documents) is the same as the date of the close of the Parcel 42 Lessee's Project Financing; provided, however, in no event shall such agreement to cooperate be interpreted to require County to delay the Parcel 42 Option Closing beyond such forty-five (45) day period; and provided, further, that County shall not be required to execute and deliver the Parcel 42 Option Closing Documents unless Lessee continues to

satisfy the Parcel 42 Option Conditions and the Parcel 42 Lessee's Project Financing is in a position to close. Notwithstanding the foregoing, Director shall have the authority in the exercise of Director's good faith judgment, but not the obligation, to extend for up to an additional thirty (30) days the forty-five (45) day period in which the Parcel 42 Lessee is required to close the Parcel 42 Lessee's Project Financing.

The failure of the Parcel 42 Lessee's Project Financing to close or the failure of the continuing satisfaction of the conditions to County's required execution and delivery of the Parcel 42 Option Closing Documents during the above forty-five (45) day period (as such period may be extended pursuant to the last sentence of the immediately preceding paragraph) shall not in and of itself cause a termination of the Parcel 42 Option, and, as long as the Parcel 42 Option Term has not expired, the Parcel 42 Lessee shall have the continuing right to subsequently re-exercise the Parcel 42 Option during the remainder of the Parcel 42 Option Term if the Parcel 42 Lessee once again satisfies all conditions to such exercise, subject to the Parcel 42 Lessee causing the closing of the Parcel 42 Lessee's Project Financing and the continued satisfaction of the conditions to County's execution and delivery of the Parcel 42 Option Closing Documents during the forty-five (45) day period following such subsequent re-exercise of the Parcel 42 Option (as such period may be extended by Director pursuant to the last sentence of the immediately preceding paragraph), in accordance with the terms and provisions of this Section 5.1.

5.2 Exercise of Parcel 43 Option.

5.2.1 If the Parcel 43 Option is exercised concurrently with the exercise of the Parcel 42 Option, then the exercise of the Parcel 43 Option shall proceed in accordance with the terms and provisions of Section 5.2.2 below. If the Parcel 43 Option is not exercised concurrently with the Parcel 43 Option, then (a) during the period between the date of the exercise of the Parcel 42 Option and the date of the Parcel 42 Option Closing, the terms and conditions set forth in this Agreement pertaining to the Parcel 43 Option shall remain in effect; and (b) upon the consummation of the Parcel 42 Option Closing (I) the terms and conditions pertaining to the Parcel 43 Option shall thereafter be set forth in the separate Option Agreement (Parcel 43) to be entered into between County and the Parcel 43 Lessee at the Parcel 42 Option Closing pursuant to Section 5.1.2(g) above; and (II) the terms and conditions of this Agreement pertaining to the Parcel 43 Option shall automatically terminate effective as of the date of the execution and delivery of the Option Agreement (Parcel 43), except for any liability of a party for any matter, condition or occurrence that accrued prior to the effective date of such termination and except for any terms or provisions of this Agreement that expressly survive the termination of this Agreement.

5.2.2 If the Parcel 43 Lessee elects to exercise the Parcel 43 Option concurrently with the exercise of the Parcel 42 Option, then the Parcel 43 Option shall be exercisable in accordance with the remaining terms and provisions of this Section 5.2.2, including the strict satisfaction on or before the Parcel 42 Option Expiration Date of the following conditions:

5.2.2.1 the Parcel 43 Lessee shall notify County in writing of its exercise of the Parcel 43 Option ("**Parcel 43 Option Exercise Notice**");

5.2.2.2 the Parcel 43 Lessee shall accompany the Parcel 43 Option Exercise Notice with the following:

(a) the Parcel 43 Lessee's execution and delivery to County of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise), with any additional terms required to be included therein as provided in this Agreement, and any blank or bracketed terms in Exhibit I hereto, completed in accordance with the terms and provisions of this Agreement;

(b) the Parcel 43 Lessee's execution and delivery to County in recordable form of the Parcel 43 Memorandum of Lease with respect to the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise);

(c) payment to County of the amount of the "Security Deposit" required under Article 7 of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise); and

(d) the execution and delivery by the Parcel 43 Lessee of the Reciprocal Easement Agreement, in recordable form (the documents in items (a), (b) and (d) collectively referred to as the "**Parcel 43 Option Closing Documents**");

5.2.2.3 all of the conditions to the exercise of the Parcel 42 Option shall have been satisfied (and continue to be satisfied) and the Parcel 42 Lessee shall have properly and timely exercised the Parcel 42 Option;

5.2.2.4 as of the date of the Parcel 43 Lessee's delivery of the Parcel 43 Option 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;

5.2.2.5 the Parcel 43 Option Conditions Satisfaction Date shall have occurred and there shall be no change in circumstances after the Parcel 43 Option Conditions Satisfaction Date that causes the Parcel 43 Option Conditions to no longer continue to be satisfied; and

5.2.2.6 Director shall have approved all plans, specifications and other materials for the Parcel 43 Redevelopment Work required to be submitted to Director pursuant to Section 7.3 of this Agreement, and Director shall have reasonably approved the phased construction schedule for the Parcel 43 Redevelopment Work within the parameters for such phased construction

schedule set forth in Section 5.4.4 of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise).

Upon the Parcel 43 Lessee's proper and timely exercise of the Parcel 43 Option, County shall execute, date (with the same "Effective Date" for all Parcel 43 Option Closing Documents) and deliver the Parcel 43 Option Closing Documents as soon as reasonably possible thereafter, but, in any event not later than forty-five (45) days following the date of the Parcel 43 Lessee's exercise of the Parcel 43 Option. If the Parcel 43 Lessee's Project Financing is in a position to close within the above forty-five (45) day period, County agrees to cooperate with the Parcel 43 Lessee to effectuate a concurrent closing of the Parcel 43 Lessee's Project Financing and County's delivery of the Parcel 43 Option Closing Documents such that the "Effective Date" (as such term is defined in each of the Parcel 43 Option Closing Documents) is the same as the date of the close of the Parcel 43 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 Parcel 43 Option Closing Documents beyond such forty-five (45) day period; provided, further, that Director shall have the authority in the exercise of Director's good faith judgment, but not the obligation, to extend the foregoing forty-five (45) day period for up to an additional thirty (30) days.

Notwithstanding any contrary provision of this Section 5.2, (i) if the Parcel 43 Option is exercised concurrently with the exercise of the Parcel 42 Option, then the County shall not be required to execute and deliver the Parcel 43 Option Closing Documents unless all conditions to the execution and delivery of the Parcel 42 Option Closing Documents continue to be satisfied and the Parcel 42 Option Closing is consummated; (ii) if the Parcel 43 Option is exercised concurrently with the exercise of the Parcel 42 Option, then the Parcel 42 Option Closing and the Parcel 43 Option Closing shall be consummated concurrently (except in the case in which the Parcel 43 Option Closing fails to occur and the Parcel 42 Lessee proceeds to consummate the Parcel 42 Option Closing); (iii) County shall not be liable or responsible for any delay in or failure of either the Parcel 42 Lessee or the Parcel 43 Lessee to satisfy (or continue to satisfy) all of the conditions to the consummation of both of the Option Closings; (iv) the Parcel 42 Lessee and Parcel 43 Lessee shall be responsible for coordinating the concurrent Option Closings under this Section 5 with County on a concurrent basis, and County shall not be liable or responsible in any manner for any conflict between the Parcel 42 Lessee and the Parcel 43 Lessee with respect to such coordination; (v) if following the concurrent exercise of the Options, the conditions to the Parcel 42 Option Closing are not satisfied within the required forty-five (45) day period (as such period may be extended as provided in this Agreement), then neither Option Closing shall be consummated, and such failure of an Option Closing to be consummated shall not in and of itself cause a termination of an Option, as long as the Option Term for that particular Option has not expired, and each Option may be subsequently re-exercised during the remainder of the Option Term for that Option if all conditions to the exercise of such Option are once again satisfied; and (vi) if following the concurrent exercise of the Options, the Parcel 42 Option Closing is in a position to be consummated in accordance with the provisions of this Section 5 but the Parcel 43 Option Closing is not in a position to be consummated in accordance with the provisions of this Section 5, then at the request of the Parcel 42

Lessee, the Parcel 42 Option Closing shall be consummated in accordance with the provisions of Section 5.1 and (as long as the Parcel 43 Option Term has not expired), the Parcel 43 Option may be subsequently exercised in accordance with the terms of the Option Agreement (Parcel 43).

5.2.3 Notwithstanding the foregoing terms and provisions of this Section 5.2, if (a) the Parcel 43 Option is exercised after the exercise of the Parcel 42 Option but prior to the Parcel 42 Option Closing, and the Parcel 43 Option Closing is in a position to be consummated within the time period that the Parcel 42 Option Closing is required to be consummated, then the Parcel 43 Option Closing may proceed in accordance with Section 5.2.2 above; or (b) if the Parcel 43 Option is exercised after the exercise of the Parcel 42 Option but is not in a position to close concurrent with the Parcel 42 Option Closing, then the Option Agreement (Parcel 43) shall be executed and delivered at the Parcel 42 Option Closing subject to such modifications as required to reflect that that the exercise of the Parcel 43 Option has occurred, the date of such exercise, and that the Parcel 43 Option Closing shall be consummated thereafter pursuant to the Option Agreement (Parcel 43).

5.3 Identity of Parcel 43 Lessee. As of the date of this Agreement, the Parcel 43 Lessee is IWF MDR HOTEL, L.P. At any time on or after the consummation of the Parcel 42 Option Closing, Lessee shall have the right, but not the obligation, to designate PMD to become the Parcel 43 Lessee, in which event (a) the Amended and Restated Parcel 43 Lease shall be executed by Lessee, and Lessee's rights, title and interests under the Amended and Restated Parcel 43 Lease shall be assigned to PMD as of the date of such assignment, and (b)(i) if such assignment occurs concurrent with the Parcel 42 Option Closing, then at the Parcel 42 Option Closing PMD shall execute the Reciprocal Easement Agreement and the Option Agreement (Parcel 43) as Parcel 43 Lessee, or (ii) if such assignment occurs after the Parcel 42 Option Closing, then the Parcel 43 Lessee's rights, title and interests under the Reciprocal Easement Agreement and the Option Agreement (Parcel 43) shall be assigned to PMD as of the later date of such assignment. Concurrent with the exercise of the Parcel 42 Option, Lessee shall notify Director in writing as to whether Lessee will remain the Parcel 43 Lessee as of the consummation of the Parcel 42 Option Closing or if PMD shall become the Parcel 43 Lessee as of the consummation of the Parcel 42 Option Closing. If Lessee fails to notify County as provided above of the intended identity of the Parcel 43 Lessee as of the consummation of the Parcel 42 Option Closing, then, unless otherwise agreed upon in writing by Lessee and Director, Lessee shall remain the Parcel 43 Lessee as of the consummation of the Parcel 42 Option Closing and all documents to be executed and delivered, and all other actions to be performed, by the Parcel 43 Lessee in connection with the Parcel 42 Option Closing shall be executed, delivered and performed by Lessee. If the Parcel 43 Option is exercised concurrently with the Parcel 42 Option and Lessee notifies Director as provided above that PMD shall become the Parcel 43 Lessee as of the consummation of the Parcel 42 Option Closing, then as a condition to the exercise of the Parcel 43 Option PMD shall confirm in writing its assent to and concurrence in the exercise of the Parcel 43 Option. As part of any notice by Lessee to County to have PMD become the Parcel 43 Lessee, Lessee shall notify Director of the exact name of the proposed PMD entity to become the Parcel 43 Lessee, and if such entity is not Pacific Marina Development, Inc. but instead is an affiliate of Pacific Marina Development, Inc., then County shall have the right to approve such entity as meeting the requirements of Section 1 of Exhibit C

to the form of Amended and Restated Parcel 43 Lease (and, if the Parcel 43 Option is exercised concurrently with the Parcel 42 Option County shall have the right to approve such entity as having secured Project Financing or as otherwise having sufficient financial resources to complete the Parcel 43 Redevelopment Work as required under Section 4.2 of this Agreement); provided, however, that County hereby approves MDR Marina, L.P. as the entity to become the Parcel 43 Lessee, subject to the retention by County of the right to approve the financial condition of MDR Marina, L.P. as satisfying the above-referenced requirements.

6. Option Fee/Extension Fee.

6.1 Parcel 42 Option.

6.1.1 Parcel 42 Option Fee. In consideration of County's grant of the Parcel 42 Option, Lessee shall pay to County concurrent with Lessee's execution of this Agreement the sum of One Hundred Thousand Dollars ($100,000.00) (the "**Parcel 42 Option Fee**"). The Parcel 42 Option Fee shall be non-refundable, but shall be applied against the Parcel 42 Extension Fee described in Section 6.1.2 below if the Parcel 42 Option is exercised.

6.1.2 Parcel 42 Extension Fee. If the Parcel 42 Option is exercised, the Parcel 42 Lessee shall pay County an extension fee in the amount of Three Hundred Thousand Dollars ($300,000.00) (the "**Parcel 42 Extension Fee**") to compensate County for the value of the lease extension set forth in the Amended and Restated Parcel 42 Lease. The Parcel 42 Option Fee shall be applied against the Parcel 42 Extension Fee. The remaining balance of the Parcel 42 Extension Fee in the amount of Two Hundred Thousand Dollars ($200,000.00) shall be paid by the Parcel 42 Lessee in ten (10) equal annual installments of Twenty Thousand Dollars ($20,000.00) each, plus accrued interest at the Prime Rate (as defined in the Amended and Restated Parcel 42 Lease) on the unpaid balance, with the first such payment due on the date of the Parcel 42 Option Closing and the nine (9) remaining payments due on each of the first nine (9) anniversaries of the "Effective Date" of the Amended and Restated Parcel 42 Lease. For the purpose of the calculation of accrued interest, the Prime Rate shall initially be the Prime Rate in effect as of the "Effective Date" of the Amended and Restated Parcel 42 Lease and shall thereafter adjust annually as of each anniversary of such Effective Date.

6.2 Parcel 43 Option.

6.2.1 Parcel 43 Option Fee. In consideration of County's grant of the Parcel 43 Option, Lessee shall pay to County concurrent with Lessee's execution of this Agreement the sum of One Hundred Thousand Dollars ($100,000.00) (the "**Parcel 43 Option Fee**"). The Parcel 43 Option Fee shall be non-refundable, but shall be applied against the Parcel 43 Extension Fee described in Section 6.2.2 below if the Parcel 43 Option is exercised.

6.2.2 Parcel 43 Extension Fee. If the Parcel 43 Option is exercised, the Parcel 43 Lessee shall pay County an extension fee in the amount of Three Hundred Thousand Dollars ($300,000.00) (the "**Parcel 43 Extension Fee**") to compensate County

for the value of the lease extension set forth in the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise). The Parcel 43 Option Fee shall be applied against the Parcel 43 Extension Fee. The remaining balance of the Parcel 43 Extension Fee in the amount of Two Hundred Thousand Dollars ($200,000.00) shall be paid by the Parcel 43 Lessee concurrent with the consummation of the Parcel 43 Option Closing.

7. Entitlements and Plan Preparation During Option Term.

7.1 Obtaining Entitlements. During the Option Terms, Lessee shall use its best efforts (or at its election, in the case of the Parcel 43 Option, cause PMD to use its best efforts) to satisfy the Option Conditions as soon as possible. Such efforts shall include 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. It is currently contemplated that the Coastal Development Permit requirements for the Parcel 43 Redevelopment Work will initially be processed as part of a master CDP application to the California Coastal Commission for the Modified Parcel 43 Premises (Post-Expansion) and certain other Marina del Rey anchorage redevelopment projects (a "**Master CDP Application**"). To the extent that the Modified Parcel 43 Premises (Post-Expansion) is included in the Master CDP Application, Lessee shall be responsible pursuant to Section 9 of this Agreement for its pro rata share of the Actual Costs incurred by County in connection with the Master CDP Application process, which pro rata share shall be reasonably determined by Department by dividing in an equitable manner among the various anchorage redevelopment projects included in the Master CDP Application process the Actual Costs incurred by County in connection with such process. Upon request from Lessee, the Department shall apprise Lessee of the status of the processing of the Master CDP Application, including the initial and continued inclusion of the Modified Parcel 43 Premises (Post-Expansion) in the Master CDP Application. County shall have no obligation to initially include the Modified Parcel 43 Premises (Post-Expansion) in the Master CDP Application and, if initially included, County shall have the right to withdraw inclusion of the Modified Parcel 43 Premises (Post-Expansion) from continued inclusion in the Master CDP Application at any time. If the Department determines to exclude (or subsequently discontinue inclusion of) the Modified Parcel 43 Premises (Post-Expansion) from the Master CDP Application or to discontinue processing of a Master CDP Application, then Department shall notify Lessee of such determination and Lessee shall thereafter submit to and process with the California Coastal Commission a separate Coastal Development Permit application for the Modified Parcel 43 Premises (Post-Expansion).

Notwithstanding any contrary provision of this Agreement, for purposes of Sections 7.2 and 7.3 below "Lessee" shall mean (a) the Parcel 42 Lessee with respect to the Modified Parcel 42 Premises, or (b) the Parcel 43 Lessee and/or PMD, as its agent, with respect to the Modified Parcel 43 Premises; provided, however, that the Parcel 43 Lessee shall be and remain the party responsible for all of Lessee's obligations under this Article 7 with respect to the Modified Parcel 43 Premises.

7.2 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 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 the applicable Amended and Restated Leases) 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 Amended and Restated Leases 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 Amended and Restated Leases 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 Parcel 42 Renovation Work or the Parcel 43 Redevelopment Work (as applicable), and operation and other use of the Modified Parcel 42 Premises or Modified Parcel 43 Premises (as applicable) and the improvements located thereon; and that the Department's duty to cooperate and County's approvals under this Agreement and/or the Amended and Restated Leases 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 Amended and Restated Leases.

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 Terms: (i) the Department's failure to provide required County joinder, if any, as fee title owner of the Existing Premises, in Lessee's submittal to the applicable governmental agency of the Final Plans and Specifications (as defined in Section 5.3 of each applicable Amended and Restated Lease) for the Parcel 42 Renovation Work or Parcel 43 Redevelopment Work (as the case may be) 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 7.3 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 7.2 or the other provisions of this Agreement shall be construed as obligating 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 7.2, in no

event shall Lessee be entitled to any extension of the applicable Option Term for any period of the delay under this Section 7.2 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 7.2 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.

7.3 Plans and Specifications. For purposes of this Section 7.3, all references to "Lessee" shall mean and refer to the applicable Parcel 42 Lessee or Parcel 43 Lessee, and all references to "Amended and Restated Lease" shall mean either the Amended and Restated Parcel 42 Lease or the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise), as applicable. Prior to the assignment of the Parcel 43 Option to PMD (or the execution by PMD of the Option Agreement (Parcel 43) at the Parcel 42 Option Closing), Parcel 43 Lessee shall have the right to have PMD act as its agent in connection with the performance of the matters set forth in this Section 7.3.

Each of the Parcel 42 Renovation Work and Parcel 43 Redevelopment Work shall be constructed by the Lessee in accordance with and subject to the terms and provisions of Article 5 of the applicable Amended and Restated Lease. The requirements of Article 5 of each Amended and Restated Lease include, without limitation, the obligation of the Lessee to prepare and submit to Director for Director's approval, certain plans, specifications, construction cost estimates and other materials pertaining to the Parcel 42 Renovation Work or Parcel 43 Redevelopment Work (as applicable), as set forth in more detail in Section 5.3 of each Amended and 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 each Amended and Restated Lease, except that during the period commencing on the date of this Agreement and expiring on the earlier of the Lessee's exercise of the applicable Option or the expiration of the Option Term for such Option, the 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 Amended and Restated

Lease that are required to be submitted to governmental authorities (including the County, the Design Control Board and the California Coastal Commission) in connection with the applications for or receipt of the Entitlements for the Parcel 42 Renovation Work or Parcel 43 Redevelopment Work (as applicable). The applicable Lessee shall accompany such plans, specifications and other materials with the construction cost estimates described in Section 5.3 of the form of the applicable Amended and Restated Lease. The standards and time periods for Director's review and approval of the materials submitted by Lessee pursuant to this Section 7.3 shall be in accordance with the terms and provisions of Section 5.3 of the form of the applicable Amended and 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 the Lessee in accordance with a schedule which shall facilitate the Lessee's satisfaction of all conditions precedent to the exercise of the applicable Option on or before the expiration of the Option Term for such Option. In addition to the plans, specifications and materials required to be submitted by each Lessee to Director pursuant to this Section 7.3, the 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 Parcel 42 Renovation Work (or Parcel 43 Redevelopment Work, as applicable). Director shall notify the applicable 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 the applicable Amended and 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 Parcel 42 Renovation Work and the Parcel 43 Redevelopment Work required under Subsection 5.3.1 of each of the Amended and Restated Leases. Such approved schematic plans and narrative description of the Parcel 42 Renovation Work are set forth or referenced in the Parcel 42 Renovation Plan attached as Exhibit B to the Parcel 42 Amended and Restated Lease, and the approved schematic plan and narrative description of the Parcel 43 Redevelopment Work are set forth or referenced in the Parcel 43 Redevelopment Plan attached as Exhibit B to the Parcel 43 Amended and Restated Lease (Post-Parcel 43 Option Exercise).

8. Non-Exercise Lease Amendment. If the Parcel 42 Option is not exercised (or exercisable) prior to the expiration of the Parcel 42 Option Term, then (a) both Options 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 date of the expiration of the Parcel 42 Option Term (the "**Effective Amendment Date**") as follows (the "**Non-Exercise Amendment**"):

(a) The first paragraph of Section 12 of the Existing Lease shall be amended to read as follows: "The annual square foot rental for the whole of the Premises herein demised shall be 75% of the average aggregate square foot and percentage rentals payable for each year during the three year period immediately preceding the Effective Amendment Date. Effective at the end of the first and each successive three year period after the Effective Amendment Date (until the next date on which the 10-year square foot and percentage rental adjustments are to be effective under Section 15 of the Existing Lease) and at the end of the first and each successive three year period after each of the dates on which the 10-year square foot and percentage rental adjustments are to be effective under Section 15 of the Existing Lease until the next such 10-year adjustment

date, the annual square foot rental for the whole of the Premises herein demised shall be adjusted to equal 75% of the average aggregate square foot and percentage rentals payable for each year during the three year period immediately preceding each of such respective adjustment dates. Notwithstanding the foregoing, in no event shall the annual square foot rental payable under this Lease ever be reduced below the annual square foot rental payable under this Lease immediately prior to any adjustment set forth in this paragraph.";

(b) the percentage rental categories and gross receipt percentages set forth in Section 13 of the Existing Lease shall be amended in accordance with the Percentage Rent categories and Gross Receipt percentages set forth in categories (a) through (s1) of Subsection 4.2.2 of the form of Amended and Restated Parcel 42 Lease and categories (a) through (s1) of Subsection 4.2.2 of the form of Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise);

(c) add Article 16 of the form of Amended and Restated Parcel 42 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 Amended and Restated Parcel 42 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 each respective date on which the 10-year square foot and percentage rental adjustments are to be effective 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);

(d) amend and restate Section 18 of the Existing Lease in full in accordance with Sections 2.2 and 2.3 of the form of Amended and Restated Parcel 42 Lease;

(e) 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 Amended and Restated Parcel 42 Lease, provided that (i) 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; (ii) all references to hotel shall mean hotel and anchorage facilities; and (iii) Lessee shall be entitled to the protections afforded Lessee with respect to Approved Slip Leases and Approved Storage Locker Licenses set forth in the form of Amended and Restated Parcel 43 Lease (Post-Exercise);

(f) add the last four (4) sentences of Section 4.5 of the form of Amended and Restated Parcel 42 Lease to the Existing Lease;

(g) amend and restate Section 7 of the Existing Lease in full in accordance with Article 7 of the form of Amended and Restated Parcel 42 Lease;

(h) 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 Amended and Restated Parcel 42 Lease, to add to Section 26 of the Existing Lease the provisions of Subsection 9.1.7 of the form of Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise), and to add to Section 26 of the Existing Lease the provisions of Section 9.6 of the form of Amended and Restated Parcel 42 Lease;

(i) 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 Amended and Restated Parcel 42 Lease, except that all references to the "Renovation Work" and the "Subsequent Renovation" shall be deleted and the terms and conditions of such Sections shall be applicable only to "Alterations;"

(j) amend and restate Sections 30, 31 and 32 of the Existing Lease in full in accordance with Article 14 of the form of Amended and Restated Parcel 42 Lease, except that all references in Article 14 of the form of Amended and Restated Parcel 42 Lease to "Net Proceeds Share," "Net Refinancing Proceeds" and "Permitted Capital Expenditures" shall be deleted, and all references to "hotel" shall be replaced with "hotel and/or boat anchorage";

(k) add to the Existing Lease the third paragraph of Section 3.1 of the form of Amended and Restated Parcel 42 Lease;

(l) add Section 10.3 and Section 10.4 of the form of Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) to the Existing Lease (for purposes hereof, the reference in Section 10.4 of the form of Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) to "Sections 10.1 through 10.3 above" shall mean and refer to Section 35 of the Existing Lease, as amended); and

(m) incorporate into the Existing Lease the definitions of capitalized terms used in the applicable form of Amended and Restated Lease to the extent such terms are used in this Non-Exercise Amendment pursuant to clauses (a) through (l) above.

For purposes of the Non-Exercise Amendment, all references in the form of the applicable Amended and Restated Lease to the "Effective Date" shall mean and refer to the Effective Amendment Date set forth above. In addition, in each instance above in which certain provisions of the Existing Lease are amended in accordance with or replaced by certain provisions from the form of Amended and Restated Parcel 42 Lease or the form of Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise), all such amendments or replacements shall pertain to the entire Existing Premises (including both the Existing Parcel 42 Premises and the Existing Parcel 43 Premises). 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 8, 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 date of the expiration of the Parcel 42 Option Term if Lessee does not exercise the Parcel 42 Option on or before the date of the expiration of the Parcel 42 Option Term (or the Parcel 42 Option is not exercisable by the date of the expiration of the Parcel 42 Option Term).

9. County Costs. Regardless of whether the Options are exercised, Lessee shall promptly reimburse County for the Actual Costs (as defined in the forms of Amended and Restated Leases) incurred by County in the review, negotiation, preparation, documentation and administration of this Agreement, the Option Agreement (Parcel 43), the Amended and Restated Leases and the term sheets and memoranda that precede or preceded any of the foregoing, including an equitable share (as determined pursuant to Section 7.1 of this Agreement) of the Actual Costs incurred by County in connection with the Master CDP Application process if and to the extent that the Modified Parcel 43 Premises (Post-Expansion) is included in such process. 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. Notwithstanding the foregoing, if the Option Agreement (Parcel 43) or an Amended and Restated Lease is executed and delivered and after the execution and delivery of such document County incurs Actual Costs in connection with such document, then the "Lessee" under such document shall be responsible for the Actual Costs incurred by County in connection with such document after the execution and delivery thereof.

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 Amended and Restated Parcel 42 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 to the same entity to whom Lessee assigns its leasehold interest under the Existing Lease in an assignment of the Existing Lease that is approved by County. The terms and provisions of this Section 10.6 shall not affect the right of Lessee to have PMD designated as the Parcel 43 Lessee as of the Parcel 42 Option Closing pursuant and subject to the terms and provisions of Section 5.3 of this Agreement, and to assign to PMD the Amended and Restated Parcel 43 Lease in connection with same.

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

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 No Third Party Beneficiary. Notwithstanding any term or provision of this Agreement to the contrary, no term or provision of this Agreement shall be interpreted, construed or considered to grant or afford any rights or remedies to any person or entity other than to County or Lessee as the parties to this Agreement, and no other person or entity shall have any rights or remedies as a third party beneficiary under this Agreement. For purposes of clarity and avoidance of doubt, PMD has no rights or remedies, and County has no obligations or liabilities to PMD, under this Agreement, and PMD shall not acquire any rights or remedies with respect to any matter that is the subject of this Agreement (or any of the exhibits attached hereto) except for (and limited to) those rights and remedies afforded to the "Lessee" under (a) the Option Agreement (Parcel 43) if the Option Agreement (Parcel 43) is executed by PMD or the lessee's rights under the Option Agreement (Parcel 43) have been assigned to PMD in accordance with the terms of the Option Agreement (Parcel 43), and (b) any Amended and Restated Parcel 43 Lease that may be executed and delivered by County on or after the Parcel 42 Option Closing, to the extent that the lessee's rights under such Amended and Restated Parcel 43 Lease have been assigned to PMD in accordance with the terms and provisions of this Agreement and/or any applicable Amended and Restated Parcel 43 Lease.

10.14 Exhibits. Exhibit A through Exhibit I listed below and attached to this Agreement are hereby expressly incorporated herein by reference.

LIST OF EXHIBITS

EXHIBIT A Legal Description of Existing Parcel 42 Premises
EXHIBIT B Legal Description of Existing Parcel 43 Premises
EXHIBIT C Legal Description of Modified Parcel 42 Premises
EXHIBIT D Legal Description of Modified Parcel 43 Premises (Pre-Expansion)
EXHIBIT E Legal Description of Modified Parcel 43 Premises (Post-Expansion)
EXHIBIT F Form of Amended and Restated Parcel 42 Lease
EXHIBIT G Form of Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise)
EXHIBIT H Form of Option Agreement (Parcel 43)
EXHIBIT I Form of Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise)

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: _____
Mayor, County of Los Angeles

IWF MDR HOTEL, L.P., a California limited partnership

By: IWF MDR Hotel, LLC, a California limited liability company, its general partner

By: Invest West Financial, LLC, a California limited liability company, its sole member

By: _____
Name: _____
Title: _____

77517

ATTEST:

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

By: _____
Deputy

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

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN,
County Counsel

By: _____
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

30 MAY 17 2011

SACHI A. HAMAI
EXECUTIVE OFFICER

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

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: _____
Mayor, County of Los Angeles

IWF MDR HOTEL, L.P., a California limited partnership

By: IWF MDR Hotel, LLC, a California limited liability company, its general partner

By: Invest West Financial, LLC, a California limited liability company, its sole member

By: _____
Name: DALE MARQUIS
Title: CEO

77517

ATTEST:

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

By: _____
Deputy

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN,
County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

LENDER CONSENT

The undersigned represents that it is the current beneficiary under that certain [Deed of Trust With Assignment of Rents] dated _____, and recorded in the Official Records of Los Angeles County, California on _____ as Instrument No. _____ (the **"Deed of Trust"**). As such beneficiary the undersigned hereby consents to Section 8 of the foregoing Option Agreement Regarding Leasehold Interest and agrees that the Deed of Trust shall be subject and subordinate to any Non-Exercise Amendment that occurs pursuant to Section 8 of such Option Agreement Regarding Leasehold Interest. This is not a consent by the undersigned to the Amended and Restated Leases, as such term is defined in the Option Agreement Regarding Leasehold Interest.

_____, a
_____

By: _____
Name: _____

Its: _____

EXHIBIT A

LEGAL DESCRIPTION OF EXISTING PARCEL 42 PREMISES

Marina Del Rey
Lease Parcel No. 42

Parcels 717 and 718, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, recorded in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said county.

Reserving and excepting therefrom unto the County of Los Angeles easements for sanitary sewer, fire access, storm drain and harbor utility purposes over those portions thereof designated on said map to be reserved by said county for such purposes.

DESCRIPTION APPROVED
AUG 3 1 1961
JOHN A. LAMBIE
County Engineer
BY _____ DEPUTY

EXHIBIT B

LEGAL DESCRIPTION OF EXISTING PARCEL 43 PREMISES

Marina Del Rey
Lease Parcel No. 43

Parcels 719 and 720, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, recorded in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said county.

Reserving and excepting therefrom unto the County of Los Angeles easements for sanitary sewer, fire access, and harbor utility purposes over those portions thereof designated on said map to be reserved by said county for such purposes.

DESCRIPTION APPROVED
AUG 3 1 1961
JOHN A. LAMBIE
County Engineer
BY _____ DEPUTY

EXHIBIT C

LEGAL DESCRIPTION OF MODIFIED PARCEL 42 PREMISES

PARCELS 718 AND 720 AS SHOWN ON LOS AANGELES COUNTY ASSESSOR'S MAP NO. 88 FILED IN BOOK 1, PAGES 53 TO 70 INCLUSIVE OF ASSESSOR'S MAPS, IN THE OFFICE OF THE REGISTRAR-RECORDER/ COUNTY CLERK OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

EXCEPT THEREFROM A RECTANGLE IN SAID PARCEL 718 DESCRIBED AS FOLLOWS:

BEGINNNING AT A POINT SOUTH 54°19'21" WEST 167.99 FEET FROM THE MOST NORTHERLY CORNER OF SAID PARCEL 718; THENCE PARALLEL WITH THE NORTHWESTERLY LINE OF SAID PARCEL 718 SOUTH 60°00'00" WEST 41.00 FEET; THENCE SOUTH 30°00'00" EAST 34.00 FEET; THENCE NORTH 60°00'00" EAST 41.00 FEET;THENCE NORTH 30°00'00" WEST 34.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM A RECTANGLE IN SAID PARCEL 720 DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 73°23'09" WEST 137.91 FEET FROM THE MOST EASTERLY CORNER OF SAID PARCEL 720; THENCE PARALLEL WITH THE SOUTHERLY LINE OF SAID PARCEL SOUTH 60°00'00" WEST 104.00 FEET; THENCE NORTH 60°00'00" EAST 104.00 FEET; THENCE SOUTH 30° 00'00" EAST 45.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN ALL OIL, GAS AND OTHER HYDROCARBONS LYING AT OR BELOW A DEPTH OF 500 FEET FROM THE SURFACE, BUT WITHOUT ANY RIGHT OF ENTRY UPON THE SURFACE OR THE FIRST 500 FEET BELOW THE SURFACE, AS RESERVED TO THE DEFENTATNS IN THE FINAL JUDGEMENTS OF CONDEMNATION BY THE COUNTY OF LOS ANGELES, CERTIFIED COPIES OF WHICH WERE RECORDED ON DECEMBER 5, 1958 IN BOOK D297 PAGE 221, OFFICAL RECORDS, AND ON AUGUST 21, 1959 IN BOOK D580 PAGE 230, OFFICAL RECORDS.

RESERVING AND EXPECTING THEREFROM UNTO THE COUNTY OF LOS ANGLES EASMENTS FOR SANITARY SEWER, FIRE ACCESS, AND HARBOR UTILTY PURPOSES OVER THOSE PORTIONS THEREOF DESIGNATED ON SAID MAP TO BE RESERVED BY SAID COUNTY FOR SUCH PURPOSES.

EXHIBIT D

LEGAL DESCRIPTION OF MODIFIED PARCEL 43 PREMISES
(PRE-EXPANSION)

PARCELS 717 AND 719 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 COUNTY REGISTAR-RECORDER/COUNTY CLERK OF THE COUNTY OF LOS ANGELES.

TOGETHER WITH A RECTANGLE IN PARCEL 720 AS SHOWN ON SAID MAP, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 73 23' 09" WEST 137.91 FEET FROM THE MOST EASTERLY CORNER OF SAID PARCEL 720; THENCE PARRALLEL WITH THE SOUTHEASTERLY LINE OF SAID PARCEL 720 SOUTH 60 00'00" WEST 104.00 FEET; THENCE NORTH 30 00'00" WEST 45.00 FEET; THENCE NORTH 60 00'00" EAST 104.00 FEET THENCE SOUTH 30 00'00" EAST 45.00 FEET TO THE POINT OF BEGINNING.

ALSO, TOGETHER WITH A RECTANGLE IN PARCEL 718 AS SHOWN ON SAID MAP, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 54 19' 21" WEST 167.99 FEET FROM THE MOST NORTHERLY CORNER OF SAID PARCEL 718; THENCE PARALLEL WITH THE NORTHWESTERLY LINE OF SAID PARCEL 718 SOUTH 60 00'00" WEST 41.00 FEET; THENCE SOUTH 30 00' 00" EAST 34.00 FEET; THENCE NORTH 60 00'00" EAST 41.00 FEET; THENCE NORTH 30 00'00" WEST 34.00 FEET TO THE POINT OF BEGINNING.

EXCEPT THERFROM AN UNDIVIDED ONE-HALF INTEREST IN ALL OIL, GAS, AND OTHER HYDROCARBONS LYING AT OR BELOW A DEPTH OF 500 FEET FROM THE SURFACE, BUT WITHOUT ANY RIGHT OF ENTRY UPON THE SURFACE OR THE FIRST 500 FEET BELOW THE SURFACE, AS RESERVED TO THE DEFENDANTS IN THE FINAL JUDGEMENT OF CONDEMNATION BY THE COUNTY OF LOS ANGELES, CERTIFIED COPIES OF WHICH WERE RECORDED ON AUGUST 21, 1959 IN BOOK D580 PAGE 230, OFFICIAL RECORDS.

RESERVING AND EXCEPTING THEREFROM UNTO THE COUNTY OF LOS ANGELES EASEMENTS FOR SANITARY SEWER, FIRE ACCESS, AND HARBOR UTILITY PURPOSES OVER THOSE PORTIONS THEREOF DESIGNATED ON SAID MAP TO BE RESERVED BY SAID COUNTY FOR SUCH PURPOSES.

EXHIBIT E

LEGAL DESCRIPTION OF MODIFIED PARCEL 43 PREMISES
(POST-EXPANSION)

PARCELS 717 AND 719 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 COUNTY REGISTRAR-RECORDER/ COUNTY CLERK OF THE COUNTY OF LOS ANGELES.

TOGETHER WITH THAT PORTION OF PARCEL 905 AS SHOWN ON SAID MAP, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF SAID PARCEL 717; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID PARCEL 717 SOUTH 00° 00' 00" WEST 870.64 FEET; THENCE SOUTH 60° 00' 00" WEST 110.00 FEET;THENCE NORTH 10° 00' 27" WEST 802.35 FEET; THENCE NORTH 60° 00' 00" EAST 271.00 FEET TO THE POINT OF BEGINNING.

ALSO TOGETHER WITH A RECTANGLE IN PARCEL 720 AS SHOWN ON SAID MAP, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 73° 23' 09" WEST 137.91 FEET FROM THE MOST EASTERLY CORNER OF SAID PARCEL 720; THENCE PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID PARCEL 720 SOUTH 60° 00' 00" WEST 104.00 FEET; THENCE NORTH 30°00' 00" WEST 45.00 FEET; THENCE NORTH 60°00' 00" EAST 104.00 FEET THENCE SOUTH 30°00°00" EAST 45.00 FEET TO THE POINT OF BEGINNING.

ALSO TOGHETHER WITH A RECTANGLE IN PARCEL 718 AS SHOWN ON SAID MAP, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 54°19'21" WEST 167.99 FEET FROM THE MOST NORTHERLY CORNER OF SAID PARCEL 718; THENCE PARALLEL WITH THE NORTHWESTERLY LINE OF SAID PARCEL 718 SOUTH 60°00'00" WEST 41.00 FEET; THENCE SOUTH 30°00'00" EAST 34.00 FEET; THENCE NORTH 60°00'00" EAST 41.00; THENCE NORTH 30°00'00" WEST 34.00 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN ALL OIL, GAS AND OTHER HYDROCARBONS LYING AT OR BELOW A DEPTH OF 500 FEET FROM THE SURFACE, BUT WITHOUT ANY RIGHT OF ENTRY UPON THE SURFACE OR THE FIRST 500 FEET BELOW THE SURFACE, AS RESERVED TO THE DEFENDANTS IN THE FINAL JUDGEMENT OF CONDEMNATION BY THE COUNTY OF LOS ANGELES, CERTIFIED COPIES OF WHICH WERE RECORDED ON AUGUST 21, 1959 IN BOOK D580 PAGE 230, OFFICAL RECORDS.

EXHIBIT F

FORM OF AMENDED AND RESTATED PARCEL 42 LEASE

AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 42 — MARINA DEL REY

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

RECITALS

WHEREAS, County, as lessor, and Milton Weber, Elias Alan Fellman, Gerald Fellman and Edward Z. Fellman, a partnership (collectively, "**Original Lessee**"), as lessee, entered into Lease No. 5577 dated May 7, 1962, as amended (the "**Existing Lease**"), concerning the lease of certain real property in the Marina del Rey Small Craft Harbor commonly known collectively as Parcels 42 and 43 and more particularly described in the Existing Lease (the "**Existing Premises**");

WHEREAS, Lessee is the current successor-in-interest to the Original Lessee's right, title and interest as lessee under the Existing Lease;

WHEREAS, the term of the Existing Lease is currently scheduled to expire on February 28, 2022 (the "**Existing Expiration Date**");

WHEREAS, County and Lessee entered into that certain Option Agreement Regarding Leasehold Interest (Parcels 42 and 43) (the "**Option Agreement**"), pursuant to which County granted Lessee two options concerning the Existing Lease, one referenced in the Option Agreement as the "Parcel 42 Option" (the "**Parcel 42 Option**") and one referenced in the Option Agreement as the "Parcel 43 Option" (the "**Original Parcel 43 Option**");

WHEREAS, the Parcel 42 Option included an option in favor of Lessee to: (a) bifurcate and re-divide the Existing Premises into two separate leaseholds consisting of the Premises described in this Lease and a modified Parcel 43 premises described in the Option Agreement; (b) the recordation of a reciprocal easement agreement with respect to the two premises; (c) the division of the Existing Lease into two separate amended and restated leases, one consisting of this Lease and the second consisting of an amended and restated lease for the modified Parcel 43 premises; (d) the extension of the term of the lease for the Premises under this Lease from the Existing Expiration Date to February 28, 2061; and (e) the complete renovation of the improvements located on the Premises under this Lease in accordance with the terms and provisions of this Lease;

WHEREAS, Lessee has exercised the Parcel 42 Option in accordance with the terms and provisions of the Option Agreement;

[INSERT ONE OF THE FOLLOWING ALTERNATIVE SETS OF RECITALS DEPENDING UPON WHETHER THE ORIGINAL PARCEL 43 OPTION IS EXERCISED CONCURRENTLY WITH THE PARCEL 42 OPTION:]

[WHEREAS, the Original Parcel 43 Option has not yet been exercised; and

WHEREAS, concurrently herewith (a) County and Lessee are entering into an Amended and Restated Lease Agreement (Pre-Parcel Parcel 43 Option Exercise) with respect to the "Modified Parcel 43 Premises (Pre-Expansion)" described in the Option Agreement, to amend and restate the Existing Lease in its entirety with respect to the "Modified Parcel 43 Premises (Pre-Expansion)" (as the same hereafter may be amended prior to the exercise of the Parcel 43 Option, the "**Pre-Expansion Parcel 43 Lease**"); (b) Lessee's rights, title and interests under the Pre-Expansion Parcel 43 Lease are being assigned by Lessee to _____ ("**PMD**"), and PMD is assuming Lessee's obligations and liabilities under the Pre-Expansion Parcel 43 Lease; and (c) County and PMD are entering into an Option Agreement Regarding Leasehold Interest (Parcel 43) pursuant to which PMD has been granted an option (the "**Parcel 43 Option**") to replace the Original Parcel 43 Option.]

OR

[WHEREAS, Lessee has also exercised the Original Parcel 43 Option in accordance with the terms and provisions of the Option Agreement; and

WHEREAS, concurrently herewith, (a) County and Lessee are entering into an Amended and Restated Lease Agreement (Post-Parcel Parcel 43 Option Exercise) with respect to the "Modified Parcel 43 Premises (Post-Expansion)" described in the Option Agreement, to amend and restate the Existing Lease in its entirety with respect to the "Modified Parcel 43 Premises (Post-Expansion)" (as the same hereafter may be amended, the "**Parcel 43 Lease**");and (b) Lessee's rights, title and interests under the Post-Expansion Parcel 43 Lease are being assigned by Lessee to _____ ("**PMD**"), and PMD is assuming Lessee's obligations and liabilities under the Post-Expansion Parcel 43 Lease.]

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 with respect to the Premises, 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 "ALTERATIONS" shall have the meaning set forth in Section 5.2.

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

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

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

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

1.1.13 "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.

1.1.14 "APPLICABLE RENOVATION COSTS" shall have the meaning set forth in Section 5.1.

1.1.15 "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.

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

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

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

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

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

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

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

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

1.1.24 "CAPITAL IMPROVEMENT FUND" shall have the meaning set forth in Section 5.13.

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

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

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

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

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

1.1.30 "CO DATE" means the date of the issuance of a certificate of occupancy (whether temporary or permanent) or other applicable governmental certificate or approval, for legal use and occupancy of the Hotel, as renovated by the Renovation Work.

1.1.31 "CONSTRUCTION COMPLETION DATE" means the date of the substantial completion of the Renovation Work, including 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 Hotel, as renovated by the Renovation Work.

1.1.32 "CONSTRUCTION PERIOD" shall have the meaning set forth in Subsection 4.2.1.

1.1.33 "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.

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

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

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

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

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

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

1.1.40 "CVB PAYMENT" shall have the meaning set forth in Subsection 4.2.2.9.

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

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

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

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

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

1.1.46 "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.

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

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

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

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

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

1.1.52 "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.

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

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

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

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

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

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

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

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

1.1.61 "EXISTING EXPIRATION DATE" shall have the meaning set forth in the Recitals to this Lease.

1.1.62 "EXISTING LEASE" shall have the meaning set forth in the Recitals to this Lease.

1.1.63 "EXISTING PREMISES" shall have the meaning set forth in the Recitals to this Lease.

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

1.1.65 "EXTENSION FEE" shall have the meaning set forth in Subsection 2.1.2.

1.1.66 "EXTENSION FEE BALANCE" shall have the meaning set forth in Subsection 2.1.2.

1.1.67 "EXTENSION FEE INSTALLMENT PAYMENT" shall have the meaning set forth in Subsection 2.1.2.

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

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

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

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

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

1.1.73 "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 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 or 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 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, the Parcel 43 Lessee, or any person or entity affiliated with Lessee or the Parcel 43 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.

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

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

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

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

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

1.1.79 "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.

1.1.80 "HOTEL" means the hotel located on the Premises.

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

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

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

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

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

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

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

1.1.88 "LANDSIDE ANCHORAGE IMPROVEMENTS" means the commercial store, harbor master's office, restrooms, showers, laundry facilities or other Improvements located on the land portion of the Parcel 43 Premises.

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

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

1.1.91 "LEASE YEAR" shall have the meaning set forth in Subsection 2.1.1.

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

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

1.1.94 "MAINTENANCE STANDARD" shall have the meaning set forth in Section 10.1.

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

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

1.1.97 "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 hotel rooms, (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 hotel rooms, or (c) pertains to the Promenade.

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 commercial projects 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 "OPERATING COVENANT EXCEPTIONS" shall have the meaning set forth in Section 3.3.

1.1.106 "OPTION" shall have the meaning set forth in the Recitals to this Lease.

1.1.107 "OPTION AGREEMENT" shall have the meaning set forth in the Recitals to this Lease.

1.1.108 "OPTION FEE" shall have the meaning set forth in Subsection 4.8.1.1.

1.1.109 "ORIGINAL LESSEE" shall have the meaning set forth in the Recitals to this Lease.

1.1.110 "ORIGINAL PARCEL 43 OPTION" shall have the meaning set forth in the Recitals to this Lease.

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

1.1.112 "PARCEL 43 LEASE" [means the Pre-Expansion Parcel 43 Lease, as amended and restated after the exercise of the Parcel 43 Option] or [shall have the meaning set forth in the Recitals to this Lease].

1.1.113 "PARCEL 43 LESSEE" shall mean the lessee under the Parcel 43 Lease (as assigned, if applicable).

1.1.114 "PARCEL 42 OPTION" shall have the meaning set forth in the Recitals to this Lease.

1.1.115 "PARCEL 43 OPTION" shall have the meaning set forth in the Recitals to this Lease.

1.1.116 "PARCEL 43 PREMISES" shall mean the premises leased under the Parcel 43 Lease, as such premises may be reduced, enlarged or otherwise modified or reconfigured from time to time. During any period during which no Parcel 43 Lease is in effect, the Parcel 43 Premises shall mean the "Parcel 43 Property" under the Reciprocal Easement Agreement.

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

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

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

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

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

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

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

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

1.1.125 "PREMISES" shall mean the real property described on Exhibit A attached to this Lease.

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

1.1.127 "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.

1.1.128 "PROMENADE" shall have the meaning set forth in Section 15.20.

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

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

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

1.1.132 "RECIPROCAL EASEMENT AGREEMENT" means that certain Reciprocal Easement Agreement dated as of the Effective Date between and among, Lessee, the Parcel 43 Lessee and County with respect to the Premises and the Parcel 43 Premises, as amended from time to time.

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

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

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

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

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

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

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

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

1.1.141 "REQUIRED HOTEL STANDARD" shall have the meaning set forth in Section 3.1.

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

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

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

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

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

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

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

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

1.1.150 "STATE" shall mean the State of California.

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

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

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

1.1.154 "SUBSEQUENT RENOVATION" shall have the meaning set forth in Section 5.11.

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

1.1.156 "SUBSEQUENT RENOVATION PLAN" shall have the meaning set forth in Section 5.11.

1.1.157 "substantial completion" means the completion of the Renovation Work, 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 subject Improvements (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.

1.1.158 "TERM" shall have the meaning set forth in Subsection 2.1.1.

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

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

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

1.1.162 "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 with respect to the Premises.

1.2.1 As-Is. Lessee acknowledges that (1) it is currently in possession of the Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Premises since 1962, and (3) the Improvements now existing on the Premises were constructed by Lessee or its predecessors with contractors selected by them. Except as provided in 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.

2.1.1 General. The term of the Lease ("**Term**") commenced on March 1, 1962 and, unless terminated sooner in accordance with the provisions of this Lease, shall expire at 11:59 p.m. on February 28, 2061. For purposes of this Lease, "**Lease Year**" shall mean each calendar year (or partial calendar) during the Term of this Lease.

2.1.2 Extension Fee. In consideration for County's agreement to enter into this Lease, Lessee shall pay to County as hereinafter provided the principal sum of Three Hundred

Thousand Dollars ($300,000.00) (the "**Extension Fee**"). County received the first One Hundred Thousand Dollars ($100,000.00) of the Extension Fee in the form of the "Parcel 42 Option Fee" that was paid by Lessee by County concurrent with the execution of the Option Agreement. The remaining balance of the Extension Fee in the amount of Two Hundred Thousand Dollars ($200,000.00) (the "**Extension Fee Balance**") shall be paid by Lessee in ten (10) equal annual installments of Twenty Thousand Dollars ($20,000.00) each, plus accrued interest at the Prime Rate on the unpaid balance (each, an "**Extension Fee Installment Payment**"), with the first Extension Fee Installment Payment due on the Effective Date and the nine (9) remaining Extension Fee Installment Payments due on each of the first nine (9) anniversaries of the Effective Date. For the purpose of the calculation of accrued interest, the Prime Rate shall initially be the Prime Rate in effect as of the Effective Date and shall thereafter adjust annually as of each anniversary of such Effective Date. The Extension Fee Balance (including accrued interest thereon), may be prepaid by Lessee, in whole or in part, at any time. Any failure by Lessee to pay an Extension Fee Installment Payment (including all unpaid accrued interest) by the date required in this Section 2.1.2 shall constitute a breach by Lessee of the terms and conditions of this Lease and shall give rise to County's remedies as set forth herein, including without limitation County's right to receive a Late Fee in connection with such late payment and/or County's right to terminate this Lease if such breach is not cured after written notice and the expiration of the cure period set forth in Subsection 13.1.1 of this Lease. Upon the occurrence of an Event of Default, County shall have the right to declare the entire remaining unpaid Extension Fee Balance (including accrued, but unpaid interest) immediately due and payable.

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 eleven (11) years, and no later than ten (10) years prior to the expiration of the Term, Lessee shall deliver to County a report prepared by a construction and demolition expert 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**") by the later of (a) one (1) year following delivery by Lessee to County of the Demolition and Removal Report, or (b) nine (9) 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 County ("**Demolition Security**"), and (ii) a schedule satisfactory to County for the delivery by Lessee of the security described in clause (i) above, which schedule shall in all events provide for a full funding of the security not later than two (2) years prior to the expiration of the Term. The amount of 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. Lessee shall have the right to use surplus funds in the Capital Improvement Fund and/or FF&E Fund towards satisfaction of the Demolition Security requirements under this Subsection 2.3.2 to the extent permitted under the last paragraph of Section 5.13 or the last paragraph of Section 5.14 (as applicable). 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 a luxury hotel of approximately 154 hotel rooms, with associated conference center, meeting rooms, spa/exercise facilities, dining facilities, outdoor swimming pool and other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the "**Permitted Uses**"). Except as specifically provided herein, the Premises 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.

The Hotel shall be operated in accordance with a standard of operation at least commensurate with the Required Hotel Standard. The "**Required Hotel Standard**" means a standard of operation that meets all criterion (including without limitation, operational, amenities, services, improvements, furniture, fixtures and equipment, and appearance) for a "four diamond" hotel rating under the AAA Diamond Rating Guidelines hotel rating system of the American Automobile Association (or its successor) ("**AAA**"), except for the specific modifications to such guidelines listed under the heading "Exclusions" on the last page of Exhibit G attached to this Lease (the "**Exclusions**"), or if the AAA Diamond Rating Guidelines change, then the criterion for a standard equivalent to the AAA four diamond hotel standard as of the Effective Date, excluding the Exclusions; provided, however, that if the AAA ceases to publish hotel rating guidelines, then the "Required Hotel Standard" shall mean a standard of operation that meets all criterion (exception for the Exclusions) for the most substantially equivalent standard to a AAA four diamond hotel standard under such other rating system that is then generally recognized by the hotel industry. If in connection with any change in, or choice of a replacement, rating system County and Lessee are unable to agree upon such changed or replacement rating system, then the dispute shall be resolved in accordance with the procedures set forth in Article 16 of this Lease. Attached as Exhibit G are the AAA Diamond Rating Guidelines in effect as of the date of the Option and the list of Exclusions to those guidelines agreed upon by Lessee and County.

The Premises and Improvements shall initially be operated under the trade name of "Marina Del Rey Hotel" or other trade name reasonably acceptable to Director. Lessee shall have no right to change the trade name of the Premises and Improvements without the prior written consent of Director, which consent shall not be unreasonably withheld. Throughout the Term of the Lease the Hotel shall be operated by an experienced hotel operator with a nationwide reservation system in which the Hotel participates. Lessee shall have no right to change the operator of the Hotel without County's prior written consent, which consent shall be granted or denied in accordance with the reasonable judgment of County. Notwithstanding any contrary provision of this Lease, any change to the trade name or the operator of the Hotel shall be consistent with the operation of the Hotel in accordance with an operation standard at least commensurate with the Required Hotel Standard.

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, non-business activity of an individual that is confined to such individual's hotel room;

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.

3.3 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, temporary interruption as necessary for maintenance and repair, or temporary interruption as necessary to accommodate renovation, alteration or other improvement work required or permitted to be performed by Lessee under this Lease (collectively, "**Operating Covenant Exceptions**")) in light of these objectives, consistent with the operation of comparable hotel 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 15.20) 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. Any changes in the days or hours of operation of the Promenade shall be subject to the written approval of Director, which approval shall not be unreasonably withheld, conditioned or delayed. The other Improvements on the Premises shall be open every day of the year for at least hours commensurate with the hours of operations of other similar hotel facilities in Los Angeles County, California, subject to Operating Covenant Exceptions and except for such holidays, if any, during which similar businesses in Marina del Rey are customarily closed.

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 (i) all conditions and requirements of Coastal Development Permit No(s). _____ **[PRIOR TO LEASE EXECUTION INSERT ANY COASTAL DEVELOPMENT PERMIT NO(S). ISSUED FOR RENOVATION WORK]**, which conditions and requirements are attached to this Lease as Exhibit D and incorporated herein by this reference, and (ii) all public access requirements of the Marina del Rey Local Coastal Program, as amended.

3.7 Rules and Regulations. Lessee agrees to comply with such other reasonable rules and regulations governing the use and occupancy of the Premises and Improvements as may be promulgated by County from time to time for general applicability on a non-discriminatory basis to other hotel and related commercial 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, this Lease shall be subject to the Reciprocal Easement Agreement. Lessee agrees during the Term of this Lease, as a covenant of Lessee under this Lease, to perform and comply with all obligations, covenants and liabilities of Lessee, and all other terms and provisions applicable to Lessee, under the Reciprocal Easement Agreement. Notwithstanding any contrary provision of this Lease, County shall have no liability to Lessee under this Lease, and Lessee's obligations under this Lease shall not be excused, delayed, deferred, extended or otherwise affected, by (a) any breach, default, act or omission by or on behalf of the Parcel 43 Lessee, its employees, agents, affiliates, subtenants, licensees, contractors, successors or assigns, under the Reciprocal Easement Agreement; (b) any events, occurrences, conditions or other matters pertaining or relating to the Landside Anchorage Improvements; or (c) any redevelopment or renovation of the Parcel 43 Premises or improvements located thereon (or any failure of, or delay in, the redevelopment or renovation of the Parcel 43 Premises or improvements located thereon), including, without limitation, any disturbance, inconvenience, disruption, noise or other adverse effect upon the Premises or Improvements, or the use or

operation thereof, incurred or resulting therefrom. The terms and provisions of this paragraph are not intended to modify or affect any express obligations of County under the Reciprocal Easement Agreement that may be applicable under the Reciprocal Easement Agreement with respect to any period during which neither the Parcel 43 Lease nor any new or replacement lease is in effect with respect to the Parcel 43 Premises or a portion thereof.

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 day preceding the earlier of the CO Date or the Required Construction Completion Date (the "**Construction Period**"), the Annual Minimum Rent shall be equal to $_____ per year [DRAFTING NOTE: PRIOR TO LEASE EXECUTION THE ABOVE BLANK SHALL BE COMPLETED WITH THE AMOUNT EQUAL TO 75% OF THE AVERAGE TOTAL ANNUAL PERCENTAGE RENT (CALCULATED WITH NO OFFSET FOR ANNUAL SQUARE FOOT OR MINIMUM RENTAL) THAT WAS PAYABLE UNDER THE EXISTING LEASE WITH RESPECT TO THE PREMISES UNDER THIS LEASE FOR EACH OF THE 3 YEARS PRECEDING THE EFFECTIVE DATE, AS REASONABLY DETERMINED BY DIRECTOR; PROVIDED THAT IN NO EVENT SHALL THE ANNUAL MINIMUM RENT PAYABLE DURING THE CONSTRUCTION PERIOD BE LESS THAN THAT PORTION OF THE ANNUAL SQUARE FOOT RENTAL THAT WAS REQUIRED TO BE PAID UNDER SECTION 12 OF THE EXISTING LEASE ALLOCATED TO THE PREMISES UNDER THIS LEASE, AS REASONABLY DETERMINED BY DIRECTOR. FOR INFORMATIONAL PURPOSES, AVERAGE TOTAL ANNUAL PERCENTAGE RENT FOR CALENDAR YEARS 2008-2010 (CALCULATED ON AN UNAUDITED BASIS) FOR THE PARCEL 42 AND 43 PREMISES WAS ATTRIBUTABLE 43% TO THE PREMISES UNDER THIS LEASE AND 57% TO THE PARCEL 43 PREMISES.] Lessee shall provide written notice to County of the CO Date promptly upon the occurrence thereof.

During the period commencing on the day following the Construction Period and continuing through the December 31 next following the third (3rd) anniversary of the last day of the Construction Period (or through the December 31 immediately preceding the third (3rd)

anniversary of the last day of the Construction Period if the last day of the Construction Period is January 1), the Annual Minimum Rent shall be equal to seventy-five percent (75%) of the average total Annual Rent projected to be payable by Lessee during the three (3) year period following the CO 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 Construction Period. Not later than three (3) months prior to the earlier of the projected CO Date or the Required Construction Completion 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 CO Date. Upon approval by Director, such projected Gross Receipts shall be used to calculate the Annual Minimum Rent payable by Lessee under this paragraph.

As of the date immediately following the period described in the immediately preceding paragraph (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) Intentionally omitted;

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

(c) SEVEN AND ONE-HALF PERCENT (7.5%) of Gross Receipts or other fees charged for the rental, occupancy or use of the following structures: (1) hotel and/or motel accommodations, and (2) meeting rooms; and TEN PERCENT (10%) of Gross Receipts from filming or other television and/or motion picture activities;

(c1) ELEVEN PERCENT (11%) 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 commercial establishments; provided that, except as provided in Subsection 4.2.2.5, Gross Receipts or other fees charged for the occupancy of restaurants, stores, shops or other commercial establishments shall not be included in the calculation of Percentage Rent under this 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) With respect to services such as 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, and other similar activities where earnings are normally on a commission basis, 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 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;

(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 the rental of boats or from other commercial boating activities including, but not limited to, charter boats, bareboat charters and sport fishing, or from the rental of bicycles, cycles carriages, scooters or other similar equipment;

(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) (1) In the case where parking facilities are operated by a third party operator under a parking operation agreement with Lessee or a Sublessee, (i) TWENTY PERCENT (20%) of the fee or other compensation paid by such third party operator to Lessee (or Sublessee) if the operator is entitled to receive parking revenue and is responsible for the payment of operating expenses; or (ii) FIVE PERCENT (5%) of the Gross Receipts from the operation of such parking if the operator collects such Gross Receipts on behalf of Lessee (or Sublessee) and Lessee (or Sublessee) is responsible for the payment of the operating expenses for such parking operation (which operating expenses include a fee or other compensation to the parking operator for the rendering of such parking services); or

(2) In the case where parking facilities are operated by Lessee or a Sublessee, FIVE PERCENT (5.0%) of Gross Receipts from such parking.

Notwithstanding the foregoing, if other comparable hotel projects in the Relevant Market (as defined below) generally provide parking at no charge or for a charge less

than that charged by Lessee, then at Director's election the Gross Receipts under this Lease attributable to parking charges in excess of the market hotel rate for such parking shall not be included in Percentage Rent under this category (r) but shall instead be considered Gross Receipts from the rental, occupancy or use of hotel accommodations under category (c) above; the "**Relevant Market**" shall mean the following hotels (or successor operations at the same location) that are then in operation: (I) Marina del Rey Marriott located on Parcel 141V; (II) Ritz Carlton Hotel located on Parcel 125H; (III) Marina International Hotel (or Hilton Garden Inn or other trade name) located on Parcel 145; (IV) Courtyard Los Angeles Marina del Rey located at 13480 Maxella Avenue; and (V) any other then existing hotel located in Marina del Rey with 50 or more hotel rooms; provided, however, that a hotel that is otherwise included in the Relevant Market as described above and that is located on a leasehold with County that requires the lessee to pay to County percentage rent shall not be included in the Relevant Market unless in such lessee's lease with County the percentage rental rate applicable to gross receipts from parking revenues collected by or for the benefit of such lessee (i.e., gross receipts collected on a basis similar to that described in clauses (r)(1)(ii) and (r)(2) above and not gross receipts consisting of compensation paid to the lessee by the operator for the right to operate such parking facilities as in clause (r)(1)(i) above) is less than the percentage rental rate applicable to gross receipts from hotel room occupancy;

(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;

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

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

4.2.2.1 Other Activities. If Director or Lessee reasonably determine that a percentage of Gross Receipts is not suitable or applicable for a particular activity not described above, although permitted hereunder, Director and Lessee shall mutually establish a minimum monthly payment to County as payment for the privilege of engaging therein, which shall remain effective until the next Renegotiation Date. Said minimum monthly amount shall be reasonable in

accordance with the revenue generated by such activity and shall be included in Percentage Rent, as determined hereunder, in lieu of a percentage of Gross Receipts therefor.

4.2.2.2 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) Gross Receipts shall not include any of the following items; provided, however, that the non-inclusion in Gross Receipts of the following items shall not be construed or interpreted to permit the reduction of, or any offset against, Gross Receipts by or for the amount of such 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. any payments or reimbursements received by Lessee from the Parcel 43 Lessee pursuant to the Reciprocal Easement Agreement that constitute or represent payment or reimbursement by the Parcel 43 Lessee to Lessee for costs incurred by Lessee in connection with the operation, maintenance or repair of any common or shared areas under the Reciprocal Easement Agreement.

(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.

4.2.2.9 CVB Surcharge. Lessee funds its share of the cost of the operation of the Marina del Rey Convention and Visitor's Bureau ("**CVB**") through the self-imposed collection from its customers of a one percent (1%) surcharge against the fees charged to its customers for the occupancy of hotel and motel sleeping accommodations (the "**Surcharge**") and the monthly payment of the Surcharge to the CVB (the "**CVB Payment**"). In recognition of the mutually beneficial services provided by the CVB and in acknowledgment of the intended use of the Surcharge, County and Lessee agree that the Surcharge shall be excluded from Gross Receipts to the extent that Lessee pays the Surcharge to the CVB in the form of the CVB Payment prior to the date on which the monthly Gross Receipts report for the month during which the Surcharge is collected is due. Lessee shall report, as separate line items in the monthly Gross Receipts report, the amounts of the Surcharge excluded from Gross Receipts and the CVB Payment for such reported month. If for any month the CVB Payment is less than the Surcharge, then the

allowable exclusion shall be limited to the actual CVB Payment, and Percentage Rent shall be payable under the 7½% percent subcategory of category (c) of Subsection 4.2.2 with respect to the amount by which the Surcharge exceeds the CVB Payment. All records relating to the Surcharge and CVB Payments shall be maintained by Lessee in conformance with the requirements of Article 14 of this Lease.

4.3 Adjustments to Annual Minimum Rent. As of the First Adjustment Date and every three (3) years thereafter until the first Renegotiation Date, and thereafter each third (3rd), sixth (6th) and ninth (9th) 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 end of the Construction Period, and the January 1 following each subsequent tenth (10th) anniversary thereafter (each a "**Renegotiation Date**" and collectively, the "**Renegotiation Dates**"), the Annual Minimum Rent and Percentage Rent shall be readjusted to the Fair Market Rental Value (as defined below) of the Premises.

4.4.1 Fair Market Rental Value. As used herein, "**Fair Market Rental Value**" shall mean, as of each Renegotiation Date, the fair market rent, including an annual minimum rent 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;

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, but excluding any event as to which the Net Proceeds Share is expressly stated to be $0 under the provisions of the first paragraph of Section 4.8 below) 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. The Net Proceeds Share shall be $0 for any Change of Ownership occurring prior to the sixth (6th) anniversary of the last day of the Construction Period (and for any Financing Event to fund such Change of Ownership).

In the case of a Change of Ownership (excluding Excluded Transfers) that occurs during the period between the seventh (7th) and tenth (10th) anniversaries of the last day of the Construction Period, the Net Proceeds Share shall be equal to the greater of (a) the lesser of (i) the Net Transfer Proceeds from such transfer, or (ii) two and one-half percent (2.5%) of the Gross Transfer Proceeds from such transfer, or (b) twenty percent (20%) of the Net Transfer Proceeds from such transfer.

In the case of a Change of Ownership (excluding Excluded Transfers) that occurs after the tenth (10th) anniversary of the last day of the Construction Period, the Net Proceeds Share shall be equal to the greater of (a) the lesser of (i) the Net Transfer Proceeds from such transfer, or (ii) five percent (5%) of the Gross Proceeds from such transfer, or (b) twenty percent (20%) of the Net Transfer Proceeds from such transfer.

"**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).

In the case of the following Financing Events (collectively, the "**Financing Event Net Proceeds Share Exclusions**"), the Net Proceeds Share shall be $0: (i) the origination of the initial construction loan for the construction of the Renovation Work (the "**Initial Construction Loan**"), (ii) the first conversion or refinancing of the Initial Construction Loan to permanent financing (or a mini-perm financing) prior to the sixth (6th) anniversary of the last day of the Construction Period, or (iii) any other Financing Event occurring prior to the sixth (6th) anniversary of the last day of the Construction Period. With respect to any other Financing Event not described in the immediately preceding sentence or in the parenthetical in the first paragraph of this Section 4.8

above, the Net Proceeds Share (if any) shall be equal to twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event. 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 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 Initial Lessee Under this Lease. 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) Sixteen Million Nine Hundred Eighty Thousand Dollars ($16,980,000), plus (b) the total amount of the Extension Fee (including the "Parcel 42 Option Fee" paid by Lessee under the Option Agreement) that has been paid by Lessee as of the date of the Change of Ownership, 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 costs paid by Lessee in connection with (I) the Renovation Work, or (II) other physical capital Improvements or Alterations made to the Premises by Lessee after the Effective Date in compliance with Article 5 of this Lease (in each instance excluding the amount of any such costs reimbursed or paid by the Parcel 43 Lessee), in each case to the extent that such costs have been submitted to County within ninety (90) days after the completion of such Improvements, together 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 (the amounts described in this clause (e) are referred to as "**Improvement Costs**"). Notwithstanding the foregoing, with respect to Improvements or Alterations which are not part of the Renovation Work, Lessee shall submit the cost of such Improvements on an annual basis within ninety (90) days following the end of each fiscal year. If by the date that is ninety (90) days after the completion of the Renovation Work (or other Improvements) the final amount of the Improvement Costs is not established because of a dispute or disputes between Lessee and its contractor(s), then Lessee shall note such dispute(s) in its submission of the

Improvement Costs (including a description of the costs and the amounts under dispute). Lessee shall thereafter notify County in writing within thirty (30) days after the resolution of any such dispute as to any final adjustment required to the amount of the Improvement Costs to reflect the resolution of such dispute. 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.

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, including the Administrative Charge paid to County for such transaction (but without double counting) (collectively, "**Documented Transaction Costs**").

4.8.1.3 That portion of the principal amount of any Financing Event after the Effective Date that constituted Net Refinancing Proceeds on which Lessee paid County a Net Proceeds Share (or that would have constituted Net Refinancing Proceeds on which Lessee would have been required to pay a Net Proceeds Share but for the Financing Event Net Proceeds Share Exclusions).

4.8.2 Transfer by Lessee's Successor. In the case of a transfer by a Lessee other than the original Lessee, "**Net Transfer Proceeds**" shall mean the Gross Transfer Proceeds received by that successor, minus the following costs with respect to such successor Lessee:

4.8.2.1 The greatest of (a) the sum of the Base Value, plus Improvement Costs incurred subsequent to the Effective Date but prior to the acquisition of the leasehold interest by such successor; (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired (or 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 (or, in the case of a Financing Event on which Lessee would have paid a Net Proceeds Share but for the Financing Event Net Proceeds Share Exclusions), 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 (if any) 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 the existing Improvements located on the Premises in accordance with the renovation plan attached to this Lease as Exhibit B (the "**Renovation Plan**"), including without limitation, the complete renovation of the existing hotel (to contain 154 rooms) existing on the Premises, including the renovation of the interiors, bathrooms, windows and doors of all rooms, the replacement of all building systems (including HVAC, electrical, plumbing, elevators and other building systems), and the renovation of building facades, interior and exterior common areas, landscaping and hardscape (including Promenade). 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 construct for Director's approval a mock-up room that depicts the typical hotel room as renovated. Such mock-up room shall be completed in accordance with a schedule that permits Director to approve the mock-up room prior to the application of the various

components of the mock-up room to the other hotel rooms. If the mock-up room is not completed, and Director's approval of the mock-up room received, prior to the commencement of construction of the Renovation Work, then Lessee shall assume the risk that portions of the Renovation Work performed prior to Director's approval of the mock-up room may be required to be altered to accommodate changes or modifications required by Director with respect to the mock-up room. Director's approval or disapproval of the mock-up room shall not be limited or constrained by any additional cost, delay or other adverse affect that results from Lessee's failure to receive Director's approval of the mock-up room prior to the commencement of construction of the Renovation Work.

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.

The Renovation Work to be performed by Lessee includes the development and/or renovation by Lessee of the Promenade in accordance with the Renovation Plan. The Reciprocal Easement Agreement includes certain covenants and agreements between Lessee and the Parcel 43 Lessee concerning the development and/or renovation of the Promenade, including without limitation, a covenant on the part of the Parcel 43 Lessee to pay or reimburse Lessee for a portion of the cost of the development and/or renovation of the Promenade in accordance with the terms and provisions of the Reciprocal Easement Agreement (the "**Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount**"). Notwithstanding any contrary provision of this Lease (including without limitation, Section 5.6 below), County shall have no liability to Lessee, and Lessee's obligations under this Lease with respect to the completion of the Renovation Work (including the development and/or renovation of the Promenade) shall not be excused, delayed, deferred, extended or otherwise affected, by any breach, default, act or omission by or on behalf of the Parcel 43 Lessee, its employees, agents, affiliates, subtenants, licensees, contractors, successors or assigns, pertaining or relating to the development and/or renovation of the Promenade; provided, however, if the Parcel 43 Lease is terminated and at the time of such termination the Parcel 43 Lessee has not fully paid to Lessee the Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount, then (A) if and to the extent that after the termination of the Parcel 43 Lease County operates the Parcel 43 Premises, either directly or through a third party management company (as opposed to leasing the Parcel 43 Premises to a replacement lessee) and County receives revenue from such operation in excess of the expenses incurred by County in connection with such operation, then County shall pay the unpaid portion of the Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount to Lessee to the extent of, and not in excess of, the amount of the net revenue (i.e., revenue less expenses) received by County (in its capacity as owner of the Parcel 43 Premises and not in its governmental capacity as the recipient of tax revenues or other governmental fees or charges) in connection with such operation of the Parcel 43 Premises; and/or (B) if after the termination of the Parcel 43 Lease County enters into a new lease with a replacement lessee for the operation of Parcel 43, then in connection with such new lease, County shall require the new lessee to pay to Lessee no later than thirty (30) days after the execution of such new lease any remaining unpaid portion of Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount. In no event shall County have any obligation whatsoever to operate the Parcel 43 Premises to generate revenue to pay any unpaid portion of the Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount, and any election by County to operate the Parcel 43 Premises after a termination of the Parcel 43 Lease

shall be in the sole and absolute discretion of County. In addition, in no event shall County have any obligation whatsoever after a termination of the Parcel 43 Lease to enter into a new lease with a replacement lessee to operate the Parcel 43 Premises, and any election by County to enter into any such new lease shall be in the sole and absolute discretion of County. For purposes of the calculation of the net revenue available to pay the Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount pursuant to clause (A) above in this paragraph, such net revenue shall be calculated on a calendar year (or at County's election, County's fiscal year) basis. Within ninety (90) days after the end of each such calendar (or fiscal) year County shall deliver to Lessee a statement of the net revenue received by County from the operation of the Parcel 43 Premises during such year and remit to Lessee the amount of such net revenue until the unpaid Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount for which County has responsibility hereunder is paid in full.

Lessee shall be solely responsible for all costs and expenses incurred in connection with the performance of the Renovation Work (including all design, engineering, entitlement and construction activities). Lessee shall expend on the Renovation Work not less than the Required Cost Amount (as defined below) for out-of-pocket costs paid to third parties for the performance of the Renovation Work that comply with the definition of Applicable Renovation Costs set forth below. The immediately preceding sentence shall not be construed as a maximum amount that Lessee is required to expend for Applicable Renovation Costs for the Renovation Work, but only as a minimum amount, and Lessee shall be required to perform the Renovation Work in accordance with the requirements and standards set forth in this Article 5 even if the Applicable Renovation Costs necessary to do so exceed the Required Cost Amount. Only Applicable Renovation Costs may be used to satisfy the Required Cost Amount. "**Applicable Renovation Costs**" shall mean all out-of-pocket hard construction costs paid to unaffiliated third parties for the construction of the Renovation Work plus the following additional out-of-pocket soft costs paid to unaffiliated third parties: (a) architectural, design and engineering fees not to exceed 8% of the Required Cost Amount; (b) governmental permit fees; (c) project oversight and management fees; provided, however, that the aggregate amount of project oversight and management fees, whether paid to the general contractor or another third party construction manager shall not exceed 5% of the Required Cost Amount; (d) costs for furniture, fixtures and equipment not to exceed an aggregate of $4,113,000; (e) the initial franchise fee paid to the third party operator of the Hotel (if and to the extent the Hotel is operated by a franchisee under a national franchise and the franchise fee is paid); (f) accounting, legal and insurance costs incurred in connection with the Renovation, not to exceed $280,000; (g) working capital for the initial operation of the Hotel, not to exceed $1,100,000; and (h) construction loan fees and costs, and construction loan interest during the period of the Renovation Work until the Renovation Work is substantially completed. The hard construction costs for the Renovation Work may include up to $1,500,000 of hard construction costs incurred for leasehold improvements to the restaurant, whether incurred by Lessee or a restaurant Sublessee. The Applicable Renovation Costs shall not include any hard or soft or other costs incurred in connection with the renovation of the Landside Anchorage Improvements, or costs incurred or required to be reimbursed by the Parcel 43 Lessee with respect to the renovation of the Promenade, exterior parking or common areas or any other improvements on the Premises or the Parcel 43 Premises. The Applicable Renovation Costs shall also not include the Option Fee or the Extension Fee, syndication fees or costs, any imputed cost or value

of the existing Improvements, or any imputed cost or value of land or the existing leasehold interest.

The "**Required Cost Amount**" for the Renovation Work means $14,300,000, as adjusted in accordance with the terms and provisions of this paragraph; provided, however, that the Required Cost Amount shall not be adjusted to an amount that is less than $14,300,000. For purposes hereof, the term "**Required Cost Adjustment Date**" shall mean each of the four dates that constitute the last day of each month during which the Renovation Work is first twenty-five percent (25%) completed, fifty percent (50%) completed, seventy-five percent (75%) completed and one hundred percent (100%) completed, respectively. The initial Required Cost Amount of $14,300,000 shall be increased as of the first Required Cost Adjustment Date by the same percentage increase in the Consumer Price Index during the period from (I) the month of July, 2007 until (II) the month of the first Required Cost Adjustment Date. Thereafter, on each subsequent Required Cost Adjustment Date, the Required Cost Amount shall be adjusted to an amount equal to the sum of (x) the Previous Adjusted Required Cost Amount, plus (y) the product of (A) the Previous Adjusted Required Cost Amount minus the total amount of Applicable Renovation Costs incurred by Lessee as of the most recent preceding Required Cost Adjustment Date, multiplied by (B) the percentage increase (if any) in the Consumer Price Index during the period from the month of the most recent preceding Required Cost Adjustment Date to the month of the current Required Cost Adjustment Date. The "**Previous Adjusted Required Cost Amount**" for each respective Required Cost Adjustment Date means the revised Required Cost Amount as of the most recent preceding Required Cost Adjustment Date. The Required Cost Amount as revised as of the last Required Cost Adjustment Date, shall be the Required Cost Amount under 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 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) cause the commencement of construction of the Renovation Work to occur on or before the date (the "**Required Construction Commencement Date**") which is sixty (60) days following the Effective Date; (2) following commencement of construction of the Renovation Work diligently continue performance of the Renovation Work through completion of the Renovation Work in accordance with the construction schedule submitted to and approved by Director pursuant to Section 5.4.6 below; and (3) substantially complete the Renovation Work not later than the second (2nd) anniversary of the Effective Date (the "**Required Construction Completion Date")**. Notwithstanding any contrary provision of this Article 5 in no event shall the Required Construction Commencement Date or Required Construction Completion Date be extended for more than one (1) year for any Force Majeure delay.

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 and complete the Renovation Work by the Required Construction Commencement Date and Required Construction Completion

Date, respectively (as such dates may be extended pursuant to 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 automatically shall be 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 (a) to reflect that the leased premises shall include only the Premises described in this Lease, and (b) to incorporate the terms and provisions of the "Non-Exercise Amendment" described in the Option Agreement (the "**Reversion Amendment**"). Notwithstanding the foregoing, if and as long as Lessee has commenced construction of the Renovation Work and is diligently prosecuting and continues to diligently prosecute such construction to completion, then the Lease shall not be amended by the Reversion Amendment unless and until such time as the delay in the completion of the Renovation Work exceeds the Required Construction Completion Date (as extended pursuant to Section 5.6, if applicable) by more than six (6) months.

During the period from the Required Construction Completion Date (as extended pursuant to 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 Required Construction Completion Date (as extended pursuant to 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 under Section 13.1 of this 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 Subsequent Renovation described in Section 5.11 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 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 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, 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.

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, unless the construction schedule for the Renovation Work is submitted to and approved by Director prior to the Effective Date, Lessee shall submit to Director no later than thirty (30) days after the Effective Date a construction schedule for the performance of the Renovation Work. Director shall have the right to reasonably approve such construction schedule as being consistent and compatible with the Required Construction Commencement Date and Required Construction Completion Date set forth in Section 5.1 above; provided, however, that Director shall have no liability in connection with the approval of such construction schedule, nor shall Director's approval of such construction schedule in any manner relieve or otherwise affect Lessee's obligations under this Lease with respect to 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 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 Required Construction 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 Required Construction Commencement Date and the Required Construction 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; (b) in no event shall the Required Construction Commencement Date be extended for more than an aggregate of one year due to Force Majeure; and (c) in no event shall the Required Construction Completion Date be extended beyond the third (3rd) 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 and the Subsequent Renovation, the definition of Force Majeure shall also include delays in the commencement and completion of the Renovation Work or 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 or 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 or 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 or 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 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 Subsequent Renovation. In addition to the Renovation Work to be performed by Lessee pursuant to Section 5.1, Lessee shall be required to complete an additional renovation of the Improvements during the remaining Term of the Lease in accordance with the terms and provisions of this Section 5.11 (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 February 28, 2038; provided, however that Lessee shall not commence the Subsequent Renovation prior to March 1, 2035. Lessee shall substantially complete the Subsequent Renovation by not later than February 28, 2038. 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 to a condition and appearance at least equal to that of other hotel projects then recently constructed or renovated (or then currently being constructed or renovated) in Marina del Rey or the west side of Los Angeles that satisfy the Required Hotel Standard. In addition to the above-required renovation and construction work, the Subsequent Renovation shall also include the revitalization and upgrade of the quality, furnishings and décor of the interiors of the individual Hotel rooms to the extent that the quality, furnishings and décor of the interiors of the individual Hotel rooms are not at least commensurate with the then-current quality, furnishings and décor of the interior of individual Hotel rooms of other typical hotels that then satisfy the Required Hotel Standard.

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 5.11 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 5.11. 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 5.11 (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 5.11, 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.

5.12 Subsequent Renovation Fund. Commencing with the month following the month during which the tenth (10th) anniversary of the Effective Date occurs, and continuing until the completion of the Subsequent Renovation, Lessee shall establish and maintain a reserve fund (the "**Subsequent Renovation Fund**") in accordance with the provisions of this Section 5.12 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 pursuant to this Section 5.12. On or before the fifteenth (15th) day of each month during the period during which the Subsequent Renovation Fund is required to be maintained by Lessee hereunder, Lessee shall make a monthly deposit to the Subsequent Renovation Fund in an amount equal to two percent (2%) of total Gross Receipts for the previous 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 5.12. In lieu of monthly deposits to the Subsequent Renovation Fund, 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 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.

5.13 Capital Improvement Fund. Commencing with the month following the month during which the earlier of the CO Date or the Required Construction Completion Date occurs, and continuing during the remaining Term of the Lease, Lessee shall establish and maintain a reserve fund (the "**Capital Improvement Fund**") in accordance with the provisions of this Section 5.13 for the cost of Permitted Capital Expenditures (as defined below) for the Premises. On or before the fifteenth (15th) day of each month during the period described in the immediately preceding sentence, Lessee shall make a monthly deposit to the Capital Improvement Fund in an amount equal to the sum of two percent (2%) of total Gross Receipts for the previous month from the operation of the Premises and Improvements. All interest and earnings on the funds in the Capital Improvement Fund shall be added to the Capital Improvement Fund, but shall not be treated as a credit against the Capital Improvement Fund deposits required to be made by Lessee pursuant to this Section 5.13.

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**"). 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 E 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 5.13. The amounts to be added to the Capital Improvement Fund shall be inclusive of amounts required to be deposited with and held by an Encumbrance Holder, provided that the Encumbrance Holder acknowledges that such amounts are subject to, and administered in accordance with, the requirements of this Section 5.13.

No disbursements shall be made from the Capital Improvement Fund until after the fifth (5th) anniversary of the CO Date. In addition, no disbursements shall be made from the Capital Improvement Fund after the fifth (5th) anniversary of the CO Date to cure deficiencies arising from the failure of Lessee to maintain and repair the Improvements in accordance with the requirements of this Lease during such five (5) year period. Disbursements shall be made from the Capital Improvement Fund for costs reasonably approved by Director which have been incurred after the fifth (5th) anniversary of the CO Date and that satisfy the requirements of this Section 5.13. 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 ten (10) 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 5.13; 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 5.13 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.

5.14 FF&E Fund. Commencing with the month following the month during which the earlier of the CO Date or the third (3rd) anniversary of the Effective Date occurs, and continuing during the remaining Term of the Lease, Lessee shall establish and maintain a reserve fund (the "**FF&E Fund**") in accordance with the provisions of this Section 5.14 to fund the cost of the purchase and installment of replacements, additions or upgrades of or to the furniture, fixtures and equipment used in the Improvements throughout the Term. The FF&E Fund shall not be used for (a) maintenance or repair purposes, (b) the cost of the Renovation Work or the initial furniture, fixtures and equipment to be installed in the Improvements in connection with the Renovation Work, (c) the cost of the Subsequent Renovation, or (d) the cost of Permitted Capital Expenditures to be funded by the Capital Improvement Fund. All specific purposes and costs for which Lessee desires to utilize amounts from the FF&E Fund shall be subject to Director's approval, which approval shall not be unreasonably withheld.

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

On or before the fifteenth (15th) day of each month during the period during which the FF&E Fund deposits are required to be made pursuant to the first paragraph of this Section 5.14, Lessee shall make a monthly deposit to the FF&E Fund in the following amounts:

(a) during the first (1st) year of the required deposits, one percent (1%) of total Gross Receipts for the previous month from the operation of the Premises and Improvements;

(b) during the second (2nd) year of the required deposits, two percent (2%) of total Gross Receipts for the previous month from the operation of the Premises and Improvements; and

(c) during the third (3rd) and each subsequent year of the required deposits, three percent (3%) of total Gross Receipts for the previous month from the operation of the Premises and Improvements.

If deposits are required to be made based on Gross Receipts for periods prior to the CO Date, then until the CO Date occurs the monthly deposits to the FF&E Fund shall not be based on actual Gross Receipts, but instead shall be based on the Tenant's projected Gross Receipts (as reasonably approved by Director) for the same period following the CO Date as if the CO Date had occurred as required under this Lease. All interest and earnings on the FF&E Fund shall be added to the FF&E Fund, but shall not be treated as a credit against the FF&E Fund deposits required to be made by Lessee pursuant to this Section 5.14.

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

Amounts in the FF&E Fund shall be expended periodically as necessary for Lessee to comply with the standard of operation for the Premises applicable under this Lease. If County elects to require Lessee to remove the Improvements at the end of the Term and requires Lessee to provide a Removal Security Fund 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 to the Removal Security Fund any amounts in the FF&E Fund that are not (and will not be) required for the purposes of this Section 5.14, as determined by Director in Director's reasonable judgment. If County does not require the removal of the Improvements, and at the end of the Term there are amounts remaining in the FF&E Fund that in Director's reasonable judgment were not required for the purposes of this Section 5.14, then Lessee shall be entitled to the return of such funds.

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 Subsection 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). If as of a particular date for adjustment to the amount of the Security Deposit as provided above, Lessee has not at any time during the immediately preceding three (3) year period committed an Event of Default under this Lease, then effective as of such adjustment and continuing until the earlier of the occurrence of an Event of Default or the next date for adjustment of the amount of the Security Deposit as provided above, the amount of the Security Deposit required to be maintained by Tenant shall be reduced to two (2) times the Monthly Minimum Rent placed into effect as of such Security Deposit adjustment date.

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 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 following the completion by Lessee of the development and/or renovation of the Promenade and the commencement of use thereof by the public, the respective liability, if any, of Lessee and County 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.

9.2 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 and 9.1.3 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 the Minimum Standards regarding the use and occupancy of commercial (including hotel) projects in Marina del Rey (such as the Premises) as revised from time to time by County in a manner consistent with commercially reasonable maintenance standards applicable to other comparable commercial projects in Marina del Rey (the "**Maintenance Standard**"). Any dispute as to whether revisions to the Maintenance Standard adopted by the County from time to time pursuant to the immediately preceding sentence is commercially reasonable shall be submitted to arbitration pursuant to Article 16 of this Lease. Without limiting the foregoing, at Lessee's sole cost and expense, but subject to the terms and conditions of this Lease, Lessee shall keep and maintain the Premises (including the Promenade) and all equipment, Improvements or physical structures of any kind which may exist or be erected, installed or made on the Premises in good and substantial repair and condition, including without limitation capital improvements and structural and roof repairs and replacement, and shall make all necessary repairs and alterations and replacements thereto, except as otherwise provided in this Article 10 (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 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 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 Intentionally Omitted.

10.3 Tree Trimming. 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 the Marina Del Rey tree trimming policy attached to this Lease as Exhibit F, as such policy is updated 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 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.

11.1.3 Major Sublease. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable hotel 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 (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. Prior to the CO Date, County shall have the right to withhold its consent to any assignment or Major Sublease in its sole and absolute discretion. After the CO Date, County shall not unreasonably withhold or delay its consent to a proposed assignment or Major Sublease if (a) the assignee or Major Sublessee, either directly or through its affiliate or through a contractual relationship with a third party hotel operator that will operate and manage the Premises, has adequate experience in the operation of hotels in accordance with a standard at least commensurate with the Required Hotel Standard and has a nationwide reservation system in which the Premises will participate; and (b) the Assignment Standards are satisfied to the reasonable satisfaction of County. If County withholds its consent to an assignment or Major Sublease, 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 after March 1, 2022 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 ninety-five percent (95%) of 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, (II) those events identified in Subsection 4.6.2 of this Lease, or (III) any assignment, Major Sublease or transfer of a Controlling Interest that is consummated prior to March 1, 2022.

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.

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 the Extension Fee Balance or any other financial obligation of Lessee under this Lease, (iii) any recapture right on the part of County, or (iv) any termination right under this Lease. Any Foreclosure Transfer, and any single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to Subsection 12.2.3, shall be deemed to be excluded from the definition of "Change of Ownership" for all purposes of this Lease. For clarification purposes, the "single subsequent transfer" referred to above applies to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder (as more fully explained in 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).

12.13 Acceleration of Extension Fee. So long as (i) no Event of Default exists based on nonpayment of an individual Extension Fee Installment Payment (even if any other Event of Default exists that is not based on nonpayment of an individual Extension Fee Installment Payment), or (ii) if an Event of Default exists based on nonpayment of an individual Extension Fee Installment Payment, an Encumbrance Holder, Foreclosure Transferee or the single subsequent transferee of a Foreclosure Transferee pursuant to Subsection 12.2.3 cures such Event of Default by paying to County all past-due individual Extension Fee Installment Payments, together with any default interest and/or Late Fees that may be owing thereon; then County shall not declare the entire remaining unpaid Extension Fee Balance immediately due and payable, or, if County has previously declared the entire remaining unpaid Extension Fee Balance immediately due and payable, County shall rescind such acceleration and permit the reinstatement of the original payment terms of the Extension Fee (i.e., by annual payments).

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, payment of the Extension Fee Installment Payments or deposits to the Subsequent Renovation Fund, Capital Improvement Fund and/or FF&E 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 Required Construction Commencement Date or Required Construction Completion Date set forth in Section 5.1 (as such dates may extended pursuant to Sections 5.6, 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; provided, however, if any portion of the Premises used for the operation of a restaurant is subleased to a Sublessee and such Sublessee fails to remain open for business to the public, then such failure to remain open for business shall not constitute an Event of Default under this Subsection 13.1.4 if Lessee uses its best efforts to recover possession of the restaurant from the Sublessee and to re-sublease the restaurant to another Sublessee as soon as possible; provided, further, that except as provided below the restaurant must be re-opened for business to the public no later than one hundred eighty (180) days following the date that the restaurant was first closed for business. The one hundred eighty (180) day period set forth in the immediately preceding sentence shall be tolled for delays incurred by Lessee beyond such one hundred eighty (180) day period in recovery of possession of the restaurant due to the Sublessee's bankruptcy or contest of unlawful detainer proceedings, as long as Lessee diligently continues to prosecute its action to recover possession of the restaurant. In addition, notwithstanding any contrary provision of this Subsection 13.1.4, an Event of Default shall not be triggered under this Subsection 13.1.4 due to the termination of operations by the restaurant Sublessee as long as (i) Lessee diligently attempts to re-open the restaurant as soon as reasonably possible and the restaurant is re-opened for business not later than three hundred sixty five (365) days after the date that such operations were closed, and (ii) during any period between the end of the one hundred eighty (180) day period set forth above in this Subsection 13.1.4 (as such period may be extended as provided above) and the date that the subject portion of the Premises is re-opened for business, Lessee pays County Percentage Rent for the restaurant based upon an imputed Gross Receipts for the restaurant equal to the actual Gross Receipts for the restaurant during the one year period prior to the closure of the restaurant.

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) expenses are accrued on an approximate basis each month during the fiscal year with full accrual treatment for the full fiscal year financial statements, (B) Gross Receipts are reported monthly on a cash basis with full reconciliation to accrual treatment on the annual statement of Gross Receipts, 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 hotel 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, or at Lessee's election, after the completion of Lessee's fiscal year, Lessee shall furnish to County a set of audited and certified financial statements prepared by a Certified Public Accountant who is a member of the American Institute of Certified Public Accountants and is satisfactory to County, setting forth Lessee's financial condition and the result of Lessee's operations for such Accounting Year and shall include a certification of and unqualified opinion concerning Lessee's Gross Receipts (including a breakdown by category). All financial statements prepared by or on behalf of Lessee shall be prepared in a manner that permits County to determine the financial results of operations in connection with Lessee's activities at, from or relating to the Premises, notwithstanding that Lessee may have income and expenses from other activities unrelated to its activities on the Premises.

14.9 Accounting Obligations of Sublessees. Lessee shall cause all Sublessees 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 1962. Lessee accepts the Premises in their present condition notwithstanding the fact that there may be certain defects in the Premises, whether or not known to either party to this Lease, at the time of the execution of this Lease by Lessee and Lessee hereby represents that it has performed all investigations necessary, including without limitation soils and engineering inspections, in connection with its acceptance of the Premises "AS IS".

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

15.4.1.3 Lessee hereby waives, withdraws, releases, and relinquishes any and all claims, suits, causes of action (other than a right to terminate as otherwise provided in this Lease), rights of rescission, or charges against County, its officers, agents, employees or volunteers which Lessee now has or may have or asserts in the future which are based upon any defects in the physical condition of the Premises and the soil thereon and thereunder, regardless of whether or not said conditions were known at the time of the execution of this instrument. The waiver and release set forth in this Subsection 15.4.1.3 (i) shall not apply to the Excluded Conditions, and (ii) shall not alter the parties' rights and obligations under the Existing Lease with respect to any abandoned wells or other environmental conditions existing on the Premises as of the Effective Date.

15.4.1.4 California Civil Code Section 1542 provides as follows:

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

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

_____

Lessee's Initials

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

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

15.20 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.

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, then 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.

SIGNATURES ON FOLLOWING PAGE

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

THE COUNTY OF LOS ANGELES

By: _____
Mayor, County of Los Angeles

IWF MDR HOTEL, L.P., a California limited partnership

By: IWF MDR Hotel, LLC, a California limited liability company, its general partner

By: Invest West Financial, LLC, a California limited liability company, its sole member

By: _____
Name: _____
Title: _____

ATTEST:

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

By: _____
Deputy

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN,
COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

[To be added]

EXHIBIT B

RENOVATION PLAN

[To be added]

TERM SHEET EXHIBIT – RENOVATION PLAN – PARCEL 42
December 11, 2009

Term Sheet Item	*Lessee Proposal* *Parcel 42*
1) SCOPE OF WORK	

a) Hotel	
• **Demolition (of existing improvements prior to commencing work)**	**Exterior demolition to consist of**: • Exterior doors and windows (to be replaced) • Canvas awning and entry awnings porte-cochere • Balcony railings and divider panels (to be replaced) • Entry doors (to be replaced) • Gazebo on terrace • Portion of unloading screen wall and gate (to be reconfigured) • Perimeter railing at terraces (to be replaced) • Mechanical equipment enclosure next to stairway (west) and flue to roof • Stairwell railing (to be replaced)
• **New building construction**	**Exterior construction to consist of**: • New entry structure eyebrow with glazing accent, oversized glass doors and new storefront • Radiused entry canopy • Façade "pop-outs" of 6" (see elevations) to break up linear elevation and provide color contrast in stucco finish • Arched acrylic/stainless steel eyebrows over alternating sliding doors/windows per elevations • New decorative surfacing at terrace and pool deck, addition of cabanas at guestrooms • Addition of hot tub on pool deck • Glass guardrail at perimeter of terraces • Redesigned entry drive, guest drop-off and parking layout with new landscaping • New perimeter promenade per "The Marina Walk" waterfront guidelines

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b) Promenade	
• **Design and materials**	Promenade surfacing to be stamped concrete in the "wave" pattern per "The Marina Walk" guidelines or like quality to conform with hotel design. A 20' minimum width fire lane to be provided on the 3 seawall sides of the hotel. Balance of existing promenade width (± 4'-0") to have amenities as described below, with the addition of uplit palm and accent trees with underplanting per the guidelines.
• **Guardrail, lighting and bench**	Existing guardrail to remain. Decorative light poles, benches and trash receptacles provided per "The Marina Walk" guidelines, adjusted to existing site conditions.

c) Signage	
• **New signage program**	Refurbished and updated main entrance sign at the intersection of Bali and Admiralty, with integral lighting and a combination of materials, white power-coated metal and stainless steel. Sign package not available at this time.

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RENOVATION COMPARISON WORKSHEET – PARCEL 42
December 11, 2009

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
1) EXTERIOR	
a) Building Exterior - All building exteriors will receive a facelift to give the building a more contemporary look and will include the following:	**EXTERIOR** **Curb Appeal**: The combination of all exterior elements provides a well-integrated, and excellent level of curb appeal. A variety of landscaping professionally planned and manicured. Architectural features well integrated into the surrounding area. The landscape will be fresh and lush to emphasize the marine coast resort environment. An alley of ornamental trees and Monument sign announces the drive entry and a sweep of Palms guides visitors to the hotel entrance. Where possible, the existing palms will remain and existing Coral trees will be highlighted with complimentary plantings. All in-ground planting will be lower water use; higher water use plants will be reserved for pots. Drawings are being developed and will be issued at a later date. **Parking**: Lighting is well-positioned and provides very good overall illumination; porte-cochere; lighting fixtures reflect characteristics of the design of the property; evidence of added security exists; excellent overall illumination. Lighting to be provided by lighting designer.
• **Exterior surface – Revitalization of the stucco surface**	**Stucco Siding**: 3- coat stucco, sand finish as needed with Integral color in top coat. Omega, La Habra, or equal.
• **Patios/Balconies – [Replace wooden railing and surfaces with metal (finish)]**	**Guest room Balcony Railing**: Tube railing per elevations. Finish TBD. Alternate per Designer.

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Hotel Renovation Item	*Parcel 42 Lessee Proposal*
b) Common Areas	**Planters & Pots**: Shape, size & locations per designer. Built-in water reservoirs. **Outdoor Seating**: Seasonal outdoor heating elements. Seating as directed by Designer. Park-style seating benches around fire pit and adjacent to garden overlooking marinas. **Public Area Deck Coating**: 1/4" thick fluid-applied waterproof deck system. Fiberglass mat & elastomeric acrylic base coat. Pattern, finish & color to be determined. PLI-Dek, Dex-o-tex or equal. **Pool**: Resurface pool interior. New coping and decorative tile accent per Designer. **Cabanas**: Metal or wood-framed structures with openable canvas canopy & privacy curtains. Locations & sizes per plans. Canvas: Sunbrella, Dickson or equal. These are built-in, powder coated steel square section to concrete slab. **Features**: Landscaped stone walkway paths. Built-in powder coated steel and natural stone fire pit. Gazed-Style outdoor bar with natural wood & painted metal finishes. **Pool Area Deck**: Finish, and color by Designer. **Lobby - Registration Desk**: Floor: Custom carpet and pad, Natural stone. Stone: Calcutta marble, or equal. Carpet and Italian "Calcutta" marble flooring at the lobby. Carpet: Custom border and inset, per design. Base: Natural Stone, to match floor, per design.

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Hotel Renovation Item	*Parcel 42 Lessee Proposal*
- **Main entrance areas — [summary of change.]**	**Exterior - Porte-cochere / Main Entry**: **Driveway**: Concrete pavers or stamped concrete with concrete accent bands. Akerstone interlocking pavers with accent bands by Quick Crete or equal. Pattern to be determined . **Entry**: Porcelain or Stone Tile, pattern to be determined by Designer. Crossville, CMR or equal. **Store Front**: Anodized aluminum & glass with glass oversized doors, custom colored framework. Kawneer, Arcadia, Vistawall or equal. **Canopy**: Galvanized, painted metal and glass structure per design, with metal soffit cladding. Custom paint finish. **Miscellaneous**: Internally illuminated metal bollards at edge of entry walkway / curb. Lighting to be specified by lighting designer. Landscaping & potted planting per Designer. Monument sign at drive entrance. Landscaped island at hotel entrance. Bench will be incorporated at hotel entrance. Plantings will be clean and fresh to compliment the architectural elements at the hotel entry.
c) Signage - Replace all existing building monument, building ID, and amenity signage.	**Signage**: Illuminated attached to canopy face per design. Sign package not available at this time.
d) Lighting - Replace all existing exterior lighting fixtures	**Lighting**: Decorative sconces at columns & pilasters as specified by lighting designer. Recessed lighting in entry canopy per Designer. Lightoiler, Halo or equal. Finish by Designer. Recessed down-lights for general & plant lighting by Designer. In-Ground accent up-lighting as directed. In Ground up-lights & LED Long Life bulbs as specified by lighting designer. Custom lighting fixtures.

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Hotel Renovation Item	*Parcel 42 Lessee Proposal*
2) INTERIOR	
a) Common Areas	**PUBLIC AREAS** **Furnishings and Décor**: Upscale, well-appointed, and in the theme of the property; high degree of comfort, featuring professionally fitted coverings; an abundant variety of live plants. Custom furniture. **Floor Coverings**: Excellent quality carpet, wood, marble, or granite floors with unique area rugs (area rugs if applicable). Flooring – carpet, bleached wood flooring and Italian "Calcutta" marble. Custom carpet. **Illumination**: Light fixtures are well appointed and of an upscale design that compliments the overall theme of the property; multi-placement provides overall excellent illumination. Custom lighting fixtures. Illumination – Architectural recessed downlights by Halo. New steel and fabric central chandelier by Triton (California) or equal. Fabric pendant over front desk by Triton or equal. Miscellaneous custom floor and table top plug-ins. **Corridors**: Walls are painted, stuccoed, or have vinyl wall coverings with vinyl or carpeted baseboard; ceilings are painted plasterboard or have an enhanced, textured finish. Corridors – to have vinyl wallcovering by Trikes or equal as general finish on walls and painted accent walls at entries, including door, trim and baseboards; paint by Benjamin Moore. Custom vinyl.

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Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Signage: Design is well defined in harmony with the theme of the property. Location of signage is extensive. Spacious registration area located away from main traffic areas with multiple conversational groupings accommodating several small groups; upgraded luggage carts; recognizable guest service area and bell-stand. Signage – Meeting room and guestroom entrances – LED internally illuminated signage, stainless steel backlit resin or per Designer. Fixture incorporates Braille, room number as required. Directional signage throughout the hotel – individually mounted steel area names, letters and arrows. Sign package not available at this time. **Miscellaneous**: Telephones and house phones are located conveniently inside the building; internet access is available. Elevator landings are well appointed with an upscale design keeping in the theme of the property. Vending located in a recessed area and vending and sealed ice machines. Valet laundry available at specific times.

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Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Restaurant & Dining Facilities (The number and type of food & beverage outlets should be in harmony with the theme of the property. Multiple outlets are expected at resorts): Upscale, full-service restaurant; separate lounge or bar area. **New full-service restaurant and lounge with indoor and outdoor seating**. Built-in wood, marble, and stainless steel bar counter with ability to extent outdoor service counter. Decorative glass pendants over bar counter. Decorative fabric pendant over private dining table. Combo of materials on walls, paint, wood veneered panels. Painted sheet-rocked ceiling with Halo pinhole recessed lighting. Built-in back wall at bar with mirror, glass shelves, wood bottle risers with integrated lighting. • Timeless Design accentuating the outside coming in and the inside moving out through the expansive floor to ceiling windows around the perimeter of the space; • Warm wood or tile flooring throughout accented by well-positioned, recessed area carpets; • A large, rectangular, wooden bar dye, accented by a granite bar top will be the first design element encountered upon entry; • The back bar will have a dramatic up-lit, down-lit bottle display that will also have two 46" flat screen, HD TV's; • The ceiling will be accented with a wood-beam system supporting oversized, custom light fixtures; • Circulation aisles will be accented ledger stone columns supporting eat-at, drink-at ledges; • The perimeter of the space will be accented with well-positioned, oversized horseshoe booths; and • The space is highlighted with the classic uses of lighting, wood, stone and mirror.

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Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Recreational Facilities: Swimming pool area is well-appointed with upscale design elements and an excellent quality and variety of pool furniture; food and beverage is available poolside. Exercise room is in a designated room with extra amenities. **Meeting Rooms**: Expanded meeting room with enhanced comfort and décor elements; a very good variety of audiovisual equipment available. **Restrooms**: Separate ladies and men's restrooms convenient to public areas and adequate for the number of meeting rooms. **Ice machine Alcove**: Floor: Porcelain tile Base: Tile to match floor Walls: Painted drywall; smooth finish Ceiling: Painted drywall; smooth finish Lighting: Recessed down-lights. Down-lights: Lightolier, Halo, or equal. Will have decorative blue tint. Finish by designer. **Guestroom Level Electrical and Telephone Closets**: Floor: Vinyl. Base: Vinyl Walls: Painted Drywall; smooth finish Ceiling: Painted Drywall; smooth finish Lighting: 1' x 4' ceiling mounted fluorescent Doors: Painted

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Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Exit Stairs: Floor: Carpet at stairs and landings. Base: Vinyl Walls: Painted, Maximum of two (2) paint colors Ceiling: Painted Lighting: 1' x 4' wall-mounted fluorescent **Public Areas** – Mechanical, Electrical, & Plumbing: Mech.: New roof top package AC units. Carrier, Honeywell, or equal. **Electrical /Lighting**: Recessed down-lights; or FF&E decorative sconces; Recessed down-light shall be fluorescent type with some low voltage accent lighting for artwork. Down-lights: Ligholier, Halo, or equal. And FF&E Finish by lighting designer. **Plumbing**: All toilet rooms to be upgraded with new ADA compliant plumbing fixtures. Auto-faucets by Grohe or equal; sinks by Kohler or equal, Toilets by Toto or equal.
	Lobby, Meeting Room, & Fitness Room Restrooms: Toilet –Commercial Flushometer Toilet, 1.6 GPF – ADA, White finish Urinal –Low consumption washout urinal with #01 Cotton finish. Flush Valve at Urinal –AC Sensor Urinal Flush Valve, Concealed – 1.0GPF TEU2ANS-11, with Satin finish, Complete Set (3/4”V.B.).

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Hotel Renovation Item	*Parcel 42 Lessee Proposal*
• **Hallways -- new paint/wall coving, door moldings, chair rail molding, carpet and padding, light fixtures and door tags.**	**Guestroom Corridors and Elevator Lobby**: Floor: Custom carpet and pad with border carpet at guestroom entry doors. Custom carpet: Durkan Commercial, Shaw Hospitality, or equal; minimum 32oz. Accent carpet inlay (with pad) at all public elevator lobbies. Carpet: Custom border and insert, per design; minimum 40oz. Guestroom corridor – Shaw Hospitality 40 oz. Solutia-Dyed Nylon. Treadmor pad; double stick. Base: 1"x6" profile vinyl base. Johnsonite or equal, per designer. Walls: Custom accent vinyl wall covering and minimum two (2) paint colors for length of corridor. Wall-covering: Wolf Gordon, Maharam, or equal. Paint: eggshell or semi-gloss. Accent wall covering at guestroom entries. All painted walls to have smooth finish. Custom vinyl. Ceiling: Painted multi level drywall soffit. Paint: eggshell or semi-gloss. All painted ceilings to have smooth finish. Lighting: Combination of sconces, recessed fixtures and surface-mounted ceiling fixtures in corridor, per designer. Down-lights: Lightolier, Halo, or equal. Finish by designer. Low voltage (LED) illuminated guestroom sign with integral bell at each guestroom. Lighting – LED recessed downlights by Juno; stainless steel finish. Custom lighting fixtures. Special: Sconces and decorative ceiling fixtures in elevator lobby, per designer. Painted hold-open doors in elevator lobby and wood casings.

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Hotel Renovation Item	*Parcel 42 Lessee Proposal*
• **Elevators - Should include new panels flooring and lighting**	**Elevator Cabs**: General: High-Quality elevator entry doors at all public levels: painted doors on guestroom floors and back of the house areas. Custom call button panel. Elevator doors – textured resin mental panel by Cage Corp or equal. Walls: Textured steel panels. Rimex or equal. Floor: Custom carpet, per designer. Carpet: Custom border and insert, per design; minimum 40oz. Elevator cab flooring – carpet.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
b) Hotel Interiors:	**GUESTROOMS** **Furnishings and Décor**: Upscale, decorative, well-appointed keeping with the theme of the property; high degree of comfort, featuring professionally fitted coverings. Custom furniture. **Free Floor Space**: Very good-size, well-proportioned rooms with comfortable seating area. **Wall Coverings**: Walls are painted, stuccoed or have vinyl wall coverings with carpeted or wood or simulated wood baseboard floor coving. Guestrooms – Wolf Gordon (or equal) custom wall covering at headboard wall; remainder of walls in guestrooms are painted, by Benjamin Moore or similar; painted wood baseboards or equal per designer. Custom vinyl. **Wall Hangings**: Upscale, matted and framed artwork. **Floor Coverings**: Excellent quality carpet, wood, marble, granite, or other high end stone floors with unique area rugs (area rugs if applicable). Custom carpet. **Window Coverings**: Excellent quality with sheers and valence (valence if applicable). Custom drapery. **Bedding**: Excellent quality with obvious comfort enhancements. Excellent quality bed linens including bedspreads, comforters with dust ruffles, duvets, or similar enhancements; and choice of pillow fills.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Clothes Hanging Space: Fully enclosed clothes-hanging space with matching hangers with at least eight open hook wood hangers. **Clothes Storage Space**: Sufficient space for two pieces of luggage; upgraded racks or benches. **Illumination**: Very good overall illumination provided by three or more well-positioned sources; free-standing fixtures in appropriate places. Custom lighting fixtures.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Furniture: Excellent quality furnishings; veneer finish with solid wood laminate insets. Custom furniture. **Seating** (very good quality vinyl upholstery is acceptable at beach resorts): Comfortable conversational and television viewing arrangement; arm chairs have fabric upholstery with padded seats excellent quality, comfort and variety, such as a love seat or oversized chair. **Writing Surface**: Very good sized. **Television Placement**: Flat screen television located on credenza top. **Air Conditioning and Heating**: Easily accessible controls; temperature controls in each guestroom; offer guest choice of air conditioning and heat with thermostat control. **GUESTROOM AMENITIES** 37" Phillips, Samsung, or equal LCD television with portable full function remote control. Touch tone telephone; Channel directory; Free and pay-per-view movie channels; High-speed internet access. Video games; Decorative, insulated ice bucket with lid. Message light; Enhanced guest-service directory in folder; Enhanced clock radio iPod player. Upgraded stationary. Framed or beveled full length mirror. Note pads and pencils; Voice messaging; Full-size iron and ironing board.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Additional reading materials such as magazines, books, etc. Two robes. Mini-refrigerator; In-room safe. Coffee maker and supplies, including tea bags. Complimentary daily newspaper in lobby.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Standard Guestrooms: Floor: Custom carpet and pad; and 4" stone entry threshold, per designer. Closet floor area to be carpeted. Capet installation to be stretch-in method. Carpet: Durkan Commercial, Shaw Hospitality, or equal; min. 32oz. Custom carpet. Base: 1" x 6" profile vinyl base. Johnsonite or equal. 6" tile base at entry vestibules & bathrooms to coordinate with flooring. Tile: Stone or porcelain, per designer Walls: Paint schedule to include a maximum of two (2) paint colors per guestroom; accent vinyl wall-covering per designer. Wall-covering: Wolf Gordon, Maharam, or equal. Custom vinyl. Ceiling: Painted drywall ceilings & soffits throughout. Doors: All guestroom doors to be solid core, fire rated, veneered with commercial rated hardware. Lighting: Minimum two down-lights at entry vestibules. Down-lights: Lightolier, Halo, or equal. Finish by designer. Provide infrastructure, wiring and switching for owner provided custom lamps; locations per designer. Custom lighting fixtures. Special: Wood or laminate shelf & chrome rod in closet. Provide infrastructure, wiring and connections as required for telephone, data, cable, etc. Provide wireless internet availability. Power/Data/Telephone as per Pacifica Hotels' standards. 37"min. flat screen televisions throughout. Provide blocking, mounting hardware, power and cable connections as required. Thermostat: in each room; remote. Automatic shut-off controls for HVAC system when exterior door or window is opened. Hardware per designer for connecting doors. Window sills natural stone, size per designer. Stone: Granite or equal. Wood swinging or sliding doors at closets.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Guest Suites* ** All specifications for standard guestrooms are applicable to guest suites. The following are in addition to standard specifications:* Floor: Wood: No added urea-formaldehyde in all casework and paneling cores; All casework and paneling AWI Premium Grade. Tile: Porcelain or stone, threshold to match. Tile: Color TBD by designer; Threshold to match. Custom carpet: Broadloom per designer. Custom carpet: Durkan Commercial, Shaw Hospitality, or equal; minimum 32oz. Custom carpet. Walls: High-end suites will include a considerable quantity of special veneer & solid wood at mini-bar/wet-bar areas, accent walls, bookshelves. All millwork to be coordinated with interior designer. Lighting: Minimum two down-lights, sconces or surface-mounted decorative ceiling fixtures in entry vestibule. Down-lights: Lightolier, Halo, or equal. Finish by designer. Indirect lighting feature at ceiling in soffit in bedroom for length of soffit. Recessed accent lights for millwork and artwork. Master light switch to be variable dimmer for each room at entry or each room- not to include lamps adjacent to beds. Recessed down-lights over wet bar. Down-lights: Lightolier, Halo, or equal. Finish by designer. Custom lighting fixtures. Special: Stone countertop and laminate-faced cabinets in bar or pantry, per design. Stone: marble or equal, per designer. Other finishes per designer. Soaking tub, sink vanity and separate toilet room in all suites. Make-up counter and lighted mirror in suite bathrooms.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Guestrooms – Mechanical, Electrical, & Plumbing: Mechanical: New fan/coils utilizing the existing 3 pipe hydronic system. New chiller and cooling tower. Electrical /Lighting: Minimum two down-lights, sconces or surface-mounted decorative ceiling fixtures in entry vestibule. Down-lights: Lightolier, Halo, or equal. Finish by designer. Indirect lighting feature at ceiling in soffit in bedroom for length or soffit. Recessed accent lights for millwork and artwork. Master light switch to be variable dimmer for each room at entry or each room – not to include lamps adjacent to beds. Recessed down-lights over wet bar. Down-lights: Lightolier, Halo, or equal. Replace broken receptacles/data/telephone/TV outlets as required. Leviton or equal. Plumbing: All new plumbing fixtures in Guestroom toilet rooms.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
c) Hotel Interiors: Bathrooms	**GUESTROOM BATHROOMS** General: Upscale, decorative, well-appointed and in keeping with the theme of the property; high degree of style. Free Floor Space: Good-size bathrooms affording guests increased ease of movement and comfort. Wall and Floor Coverings: Excellent quality, including ceramic tile, marble, or granite flooring and painted or vinyl walls. Wall/Floor – Porcelain tile by Porcelanosa (Spain) 12”x24” size tiles or equal. Fixtures: Excellent quality ceramic tile, marble; enhanced faucets and fixtures; decorative double shower curtain; upgraded shower heads; and shower height soap dishes. Excellent quality including marble or other high-grade surface; large framed mirror. Sink and shower faucets by Symmons and Porcelanosa or equal; toilet by Toto or equal. Amenities: Excellent quality, plush towels; oversized. Four-piece amenity package of excellent quality with an upscale presentation; upscale, decorative soap dish. Facial tissues inset in vanity. Free-standing hair dryer. Night light; Bathroom area rug.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Standard Guest Bathrooms: Floor: Porcelain tile or similar. Threshold to match. Tile: Color TBD by designer threshold to match. Floor – textured porcelain tiles 12" x 24" tiles. Threshold to be ¾" thick Ceasarstone quartz or equal; tight-grain. Base: Continuous tile to match floor, per design. Tile: White Marble. Per Designer Walls: Tile to match floor at tub surround and shower surround, floor to ceiling. Tile: Color TBD by designer threshold to match. Paint schedule to include maximum of two (2) paint colors or one paint color. Paint: eggshell or semi-gloss finish Doors: Code compliant sliding barn doors at bathroom entries, per designer. Ceiling: Painted drywall. All covers/ lighting trim/access panels and exposed mechanical grilles to be painted to coordinate with adjacent surface finishes, per designer. Lighting: Recessed down-lights; Minimum 2 vanity sconces; Recessed vapor proof down-light at shower locations. Down-lights: Lightolier, Halo, or equal. Finish by designer. Lighting – Recessed downlights by Juno. Vanity pendant to be custom polished chrome and textured acrylic diffuser by Arteluna. Special: Stone vanity countertop and backsplash. Free standing wood table with open shelves. Stone: marble, per designer. Toilet: Toto grade fixture with water-saving feature; Eco Nexus 1.28 GPF.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Specs for Guestroom Bathrooms: Toilet – Toto "Aquia" Dial Flush Toilet, 1.6 GPF CST414M/SS204 (Lid) with #01 Cotton/Chrome Plated (Trip Lever) Elongated toiled bowl & tank, 12" rough-in, less seat. Same for ADA compliant guestrooms, but with CST464MF model. Sink – Decolav #1425-CWH with White finish, semi recessed vessel sink. Lavatory Faucet System – Porcelanosa Libra/N160019601 with Polished Chrome finish, single hole. Shower System (shower head, valve, handle, and trim) – Symmons #6402NS-MDRH-RTZ-TRM-MOD with polished chrome finish, single-handle pressure-balanced valve. Tub – Kohler Tea for Two K-863 with white finish. Wet Bar Sink – Elkay "Gourmet" Undermount Single Bowl Sink EGUH15FB with Stainless Steel finish, Outside Diameter 16 15/16"; Inside Diameter 14 9/16"; Depth 7 ½" Wet Bar Faucet – Symmons S2340 with Polished Chrome finish, single hole.
• **Cabinets:** **(i) Replace or refinish existing cabinets** **(ii) Install new routed panel cabinets doors and drawer fronts** **(iii) Replace Formica counters**	N/A

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
• **Vanity mirrors -Install new mirrors as needed (show finish)**	Framed mirrors.
• **Faucets-Install new faucets**	Faucets: Porcelanosa or equal.
• **Sinks/ Replace resurface existing sinks**	Basin set to include: Lever handles faucet, tub, thermostat valve, volume control, towel bar, towel hook, toilet tissue holder. Under-counter basin.
• **Fixtures -Replace towel bars, toilet paper holder**	Accessories: Double robe hooks and double towel bar near shower. Ginger, or equal.
• **Shower/Bathtub:** **(i) Replace/ resurface existing tubs and enclosure** **(ii) Replace shower doors** **(iii) Replace tub faucet, showerhead, drain hardware**	Tempered glass shower enclosure, glass thickness 1/2", with stone tile walls. Shower walls –porcelain tiles by Porcelanosa (Spain); 4”x12” tile size or equal. Shower Fixtures by Symmons or equal. Accessories: Amenities shelf in shower/tubs.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
3) GENERAL	
a) Walls - Prepped and painted	Walls: Wood paneling and natural stone in combination with specialty wall covering and paint. Wall-covering: Wolf Gordon, Maharam or equal. Mural accent wall @ Lobby area; design merges into carpet design at staircase. Custom vinyl.
b) Windows	
• **Remove existing metal framed windows and doors and replace with [double-paned aluminum] windows**	Windows & Sliding Glass Doors: Solid vinyl units, sizes and operation as required. Low-E, dual-glazed, Style Line series w/ maximum glazing - white finish. Milgard style line 6000 series.
• **Replace all window coverings**	
c) Doors	
• **Replace all interior wood doors with raised panel doors with new hardware**	Doors: Fire-rated doors (wood or wood and glass) and door frames in public areas; metal and glass doors at all feature retail, restaurant, and lobby locations; All doors to be min. 1-3/4" thick. Metal: Aluminum, finish per designer. Doors at retail and F&B outlets to be glass doors. Doors: Herculite or equal. All wood doors & frames in public areas to be stained.
d) Ceilings - Remove or cover existing "cottage cheese" , prepare and paint to have a smooth, painted ceiling	Ceiling: Multi-level drywall with soffits. Combination of wood, painted drywall & GRG features, by designer. GRG by Formglas, or equal.
e) Moldings	
• **Install new decorative crown moldings**	N/A
• **Replace existing moldings as required**	N/A
f) Flooring	

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
• **Replace carpeting and padding**	Floor: Ground Level: 20% Custom carpet and pad, 30% Natural Stone, 10% Wool rugs, 40% solid wood; Stone to extend to outdoor areas. Stone: TBD, per designer. Wood: Bleached walnut or similar, per designer. Wood flooring by T. Morton; bleached walnut. Stone flooring – Italian marble Calcutta. Carpeting. Painted baseboards. Upper Levels: 80% Custom carpet and pad, 20% Wood. Carpet: Custom border and insert, per design; Durkan Commercial, Shaw Hospitality or equal. Base: Painted wood, Johnsonite vinyl base, or stone to match adjacent floor, per designer. Millwork & Trims: No added urea-formaldehyde in all casework and paneling cores. All wood used to be FSC certified. All casework and paneling AWI Premium Grade. All standing and running trim AWI Premium Grade.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
4) LIGHTING	
a) Lighting fixtures - Replace all lighting fixtures lens covers	Lighting: Entire lobby to use multi-level zoned dimming system: Higher illumination levels at reception desk, accent lighting at interior features and key elements. Provide wiring, infrastructure, structural support and installation for table lamps at seating areas with floor outlets as required for furniture layout and owner provided decorative lighting. Dimming System: Lutron Graphik Eye. Provide support, infrastructure & wiring for oversized chandelier. Provide blocking and power for owner-provided decorative lighting, per designer. Provide adequate lighting for artwork as necessary, per design. Custom lighting fixtures.
b) Covers – Replace all switch, phone jack and electrical outlet covers	Standard commercial.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
5) SUPPLEMENTAL	
	Lobby & Related Areas: General: Public spaces to have audio system. Provide wiring and infrastructure to provide individual programming (zones) in each location as well as multiple zones within one space. Not possible to specify brand for audio system. All covers/ lighting trim/ speakers, access panels and exposed mechanical grilles to be painted to coordinate with adjacent surface finishes, per designer. All ductwork, piping locations & exposed mechanical grill locations to be to be coordinated with interior design to maximize ceiling heights and coordinate soffit locations. Code required signage design to be coordinated with operational/directional signage. Indoor/outdoor flexibility at Public spaces, including F&B spaces. New code-compliant metal railings at balconies. Metal: TBD, per designer. Balconies are existing stucco to be re-painted. Metallic power coated tubular steel decorative hand railings to cap balcony walls. Special: Stone and wood millwork elements for registration, concierge and bellmen stations; task lighting at reception desk and concierge. Millwork: AWI Premium quality construction and finishes. Walk off mats ser in stainless steel pans with frames, per design. Walk off mats: Kadee Industries, or equal.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Built-in AV/PA systems, TV/ DATA, Wireless internet . Phillips LED flat screen TVs. Not possible to specify brand for data or wireless internet. Decorative large scale transparent & semi-transparent features e.g. pattern, cast glass, wrought iron, or carved wood panels.
	Back of the House Areas: Back of House - General Doors: Painted hollow metal doors and frames in back-of-house areas. Misc.: 4'-high galvanized steel corner guards at all back-of-house corridors. Guestroom Level Service Elevator Lobby: Floor: Vinyl Base: Vinyl Walls: Painted drywall: smooth finish. Ceiling: Paint underside of slab Lighting: 1' x 4' ceiling mounted fluorescent Doors: Painted Back of the House – Mechanical, Electrical, & Plumbing: Mech.: New roof top package AC units. Carrier, Honeywell, or equal. Elect. Lighting: 2’ x 4’ or 1’ x 4’ ceiling mounted fluorescent. Lithonia or equal. Replace broken receptacles/data/telephone/TV outlets as required. Leviton or equal. Plumb.: All toilet rooms to be upgraded with new Toto ADA compliant plumbing fixtures. Back of house plumbing fixtures all ADA compliant by American Standard.

Initials _____

PLANS & DRAWINGS	
Preliminary plans for all work to be done	
a) Site Plan/Floor plans	
• **Reduced color site plans (8.5x11 or 11x17), showing work described above, including all structures, hardscape, promenade, landscaping and slips**	Not completed – have new revised site plan as submitted to Hawthorne FD, but black and white only, not colored.
b) Building Elevation	
• **A reduced color elevation (8.5x11 or 11x17) drawing that shows all new and/or renovated building elevations**	Not completed or colored, was in process of CAD when asked to stop work on DCB package.
c) Landscaping Plan	
• **If not already included in the above materials**	Not done/not started by Plac-E.
d) Specifications	
• **If not already included in the above materials**	N/A
e) Construction Phase Diagram	Not done – no contractor selected to provide info.

Initials _____

2) BUDGET	
a) Budget worksheet	
• **Estimated cost for all of the work agreed upon**	Minimum of $14.3 million per term sheet.

Initials _____

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

CONDITIONS TO COASTAL DEVELOPMENT PERMIT

[To be attached]

EXHIBIT E

EXAMPLES OF PERMITTED CAPITAL EXPENDITURES

Subject to the terms and provisions of Section 5.13 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.

EXHIBIT F

TREE TRIMMING POLICY

[To be attached]

EXHIBIT G

AAA DIAMOND RATING GUIDELINES AND EXCLUSIONS

Approval Requirements &

Diamond Rating Guidelines

LODGING

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LODGING

Approval Requirements & *Diamond Rating Guidelines*

Introduction

Dear Hospitality Professional,

On behalf of AAA, I am pleased to introduce to you the latest edition of the *Lodging Approval Requirements & Diamond Rating Guidelines*. This year marks the 30th anniversary of the AAA Diamond Ratings, as well as the 20th anniversary of the *Diamond Rating Guidelines*.

Since its inception in 1902 as a federation of independent motor clubs, AAA has existed to provide information, safety, security, and peace of mind to its now more than 50 million members. AAA's services have evolved to encompass roadside assistance, insurance and financial services, safety education, and public affairs. AAA is also an undisputed leader in travel information and services.

In 1937, the first AAA field representatives were hired to inspect lodgings and restaurants, and in 1963, AAA began assigning lodging ratings from 'good' to 'outstanding'. In 1977 — AAA's 75th (diamond) anniversary — the Diamond Rating system was introduced for lodgings, with restaurants included in 1989.

In 1987, the first ***AAA Lodging Diamond Rating Guidelines*** booklet was introduced for industry review. Prior to this date, only minimum approval requirements were printed and distributed upon request.

The new edition of the ***AAA Approval Requirements and Diamond Rating Guidelines*** was designed with two objectives in mind:

- To ensure that our ratings program is accurate and consistent when compared to meeting the travel needs of over 50 million AAA members.
- To provide hospitality professionals a valuable reference so they may be successful in achieving their goal as it relates to AAA Approval and our proprietary ***Diamond Rating Process***.

To that end, we feel that it is important to partner with the hospitality industry by gathering input, discussing the meaning of our ratings, and openly sharing how the Diamond Rating Process is applied at the property level. We strongly urge property representatives to take full advantage of the information provided by AAA inspectors during an evaluation, since our experts are exposed to a wide range of properties throughout the United States, Canada, Mexico and the Caribbean. AAA evaluates more than 32,000 accommodations, 28,000 restaurants and nearly 11,000 campgrounds as key content for over 168 million copies of travel-related materials annually. AAA travel products are wide-ranging and include 26 regional TourBook® guides, 11 regional CampBook® guides, AAA.com— including the well-known TripTik® Travel Planner—as well as, numerous retail guidebooks, atlases and maps.

We look forward to your continued service on behalf of AAA members at large and appreciate your participation in AAA programs.

Sincerely,

Michael Petrone, CEC
Director/AAA Tourism Information Development

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Section One

The Diamond Rating Process

Defining AAA Approval Requirements and AAA Diamond Rating Guidelines

It is important to note the difference between AAA Approval Requirements and Diamond Rating Guidelines as this concept is often misunderstood. The evaluation process is made up of three parts: Approval Requirements, objective Diamond Rating Guidelines, and subjective elements based on the professional experience and training of AAA inspectors — who visit over 32,000 lodgings each year.

The essential AAA Approval Requirements are common-sense qualifications that AAA members have told us are important to them and, similarly, that most professional operators routinely employ. **All properties must first meet this set of criteria in order to be considered for AAA Approval and Diamond Rating.**

The Diamond Rating Guidelines are not rating *requirements*, but are *components* used to determine the appropriate Diamond Rating level. Diamond Rating guidelines are simply a reflection of what is typically seen throughout the various market segments of the lodging industry. Therefore, failure to meet some of the components listed for the ratings categories does not necessarily preclude the achievement of that rating. During our evaluation, inspectors will assess the strengths and weaknesses of the property and assign the most appropriate rating that will provide the best match in meeting AAA member expectations.

Furthermore, not all of the Diamond Rating Guidelines will apply to all property types. For example: meeting rooms would not be expected at a Bed & Breakfast property, but would be essential at a convention-oriented hotel. Also, the availability and type of swimming pool will be dictated by climatic influences and/or the property classification. AAA inspectors will only use the sections of the Diamond Rating Guidelines that are appropriate for the property classification in assessing the overall Diamond Rating.

Applying for a AAA Diamond Rating

AAA CONSIDERS ALL VALID APPLICATIONS FOR EVALUATION. To be considered a valid applicant for AAA evaluation, lodging properties must meet all of the **Approval Requirements** for their property category. These minimum requirements reflect members' basic expectations.

Prior to completing an *Application For Evaluation* (provided at: www.AAA.biz/Approved), please review the requirements to verify your property's eligibility to apply. **Currently listed establishments need not reapply, as our inspectors will routinely conduct an evaluation of your property on a continual basis.**

Include recent and accurate pictures of the exterior, public areas, as well as examples of a standard guest unit and bathroom, and return to AAA. Please note that if our research indicates past disqualifying issues, you may be asked to provide written documentation of the corrective action taken since then.

As of August 1, 2006, lodging properties that request evaluation by AAA are charged a nonrefundable application fee: $150 for first-time applicants and $300 for repeat applicants that previously failed an evaluation or were disassociated from AAA for any reason. The fee does not apply to currently ***Approved*** and listed establishments that remain in good standing.

Please do not send a payment with the initial application. On receipt of your *Application For Evaluation*, AAA will provide written notice regarding the status of your application and, if accepted for further consideration, an invoice for your application fee. On receipt of payment, AAA will schedule your property for an unannounced evaluation within one year.

All application fees should be made in U.S. funds and are nonrefundable and will have no bearing on the outcome of evaluations. AAA conducts property evaluations as a service to members, and does not guarantee that all applicants will be ***Approved*** and listed in member publications.

Basic listings are provided without charge to ***Approved*** properties.

AAA does not guarantee an immediate evaluation of all properties that apply, but does guarantee a fair review of all applications. Additionally, AAA reserves all rights to apply priority consideration to those properties demonstrating traits that provide the highest degree of AAA member value. Through ongoing member research, AAA has developed criteria reflecting key elements of consideration in making travel-related decisions. Some examples of AAA member value criteria are:

- LOCATION
- NEWLY BUILT / RENOVATED
- HIGH DEGREE OF CLEANLINESS AND COMFORT
- APPROPRIATELY MAINTAINED CONDITIONS
- PRICE (willingness to provide a discount or best rate available)

Once your property is approved, it will be evaluated at least once per evaluation cycle by a AAA inspector. All evaluations are unannounced to ensure that our inspectors see your property just as our members would see it. The conditions noted at the time of the annual evaluation will be the basis of the decision to list or rate a property. This decision is at the sole discretion of AAA. **By applying for an evaluation, you agree to allow AAA to publish your property information and the respective Diamond Rating in our travel publications.** AAA will make every effort to ensure that your property is fairly represented.

If, after continued review, or up to and including the end of one year, the property is determined to be of limited AAA member value, a letter will be sent advising that the property has been released from any further consideration.

AAA Approval Requirements

AAA APPROVAL REQUIREMENTS REFLECT THE MINIMUM ACCEPTABLE CONDITIONS AS ESTABLISHED THROUGH MEMBER SURVEYS AND CONTINUOUS FEEDBACK.

To be AAA Approved and Diamond Rated, an establishment must meet the following requirements:

Cleanliness and Condition

1. All facilities directly associated with a property must be clean and well-maintained throughout.
2. At a minimum, each guest unit must be thoroughly cleaned, with complete bed and bath linens changed between guest stays.
3. Fresh linens, maid services, and bathroom supplies must be available upon request.

Management Style of Operation

4. A property may not use AAA trademarks—including but not limited to the AAA logo and Diamond Rating, without AAA's prior written consent.
5. The property must be appropriately located for business or leisure travel.
6. The establishment must be a primarily transient operation with four or more units available for AAA members.
7. The establishment must provide AAA room rates for travel publications as requested.
8. The establishment must assist AAA in the resolution of member complaints.
9. The establishment must accommodate unannounced AAA property evaluations within 20 minutes of notice.
10. All property staff must conduct business in a professional and ethical manner providing attentive, conscientious service to guests.
11. A property must only place AAA members in AAA inspected and approved guest units—overflow buildings or guest units (associated with the property but not approved by AAA) are unacceptable.
12. Property management, or their representative, must be readily accessible at all times for guest needs or requests.
13. Guests must have easy access to 24-hour incoming and outgoing phone service, ensuring prompt guest unit message delivery. *Emergency messages must be delivered to the guest immediately upon receipt.*
14. Management will readily provide property information as requested by AAA on a continual basis for the purpose of maintaining the most accurate travel information for AAA publications.
15. The establishment must be in compliance with all local, state, and federal codes.

Exterior and Public Areas

16. Properties must have accurate, legible signage in appropriate areas.
17. All facilities directly associated with a property (such as a restaurant, health club, gift shops, recreation facilities, etc.) provided for guest's use must meet all appropriate AAA Approval Requirements.
18. Adequate illumination is required in all public areas. This includes sufficient lighting in all corridors, walkways, stairways, landings, parking areas, etc.

Guest Rooms

19. Each guest unit must contain a comfortable bed with a mattress pad, two sheets, two pillows with pillowcases, and an appropriate bed covering.
20. Each guest unit must have a nightstand or equivalent by each bed, a chair, a writing surface, a waste container, clothes-storage space, and clothes-hanging facilities with hangers for two guests.
21. Each guest unit must have adequate shades, drapes, or blinds to cover all windows or other transparent areas to provide the guest with privacy.
22. The level of soundproofing must be adequate to muffle outside noises and normal sounds in adjacent units and public areas.
23. Each guest unit must have an active light switch at the main entry.
24. Each guest unit must have good illumination at a writing surface, a sitting area, and at each bed.
25. Each guest unit door must be equipped with <u>both</u> a primary lock and a secondary deadbolt lock.

A primary lock is defined as a device that permits a guest to enter a unit using some form of key and allows the door to be locked while the unit is occupied and when the guest leaves the unit. Passkeys assigned to appropriate staff members will function to operate only these locks.

A secondary lock is defined as a mortised, deadbolt-locking device with a throw that extends at least one inch from the edge of the door into the door frame. This permits a guest an extra measure of security against any unwanted intrusions. Unlike the primary lock, deadbolt master keys will not be provided to guests or to staff. ***Master key systems will be acceptable when the emergency master key is only available to top management and security personnel.***

<u>Secondary Lock Variances</u>

In certain instances, the requirement for secondary locks may be modified to meet a variety of exceptions. The most common are noted below. AAA claims the right of final arbitrator in all decisions of this nature.

Sliding Glass Doors – Each sliding door must be equipped with an effective locking device. A secondary security lock is required on all ground floor doors and those which are accessible from common walkways and adjoining balconies.

French Doors – In addition to the deadbolt lock requirements, surface-mounted slide bolts must be provided at the top and bottom to secure the stationary/auxiliary door. These bolts must extend into the upper doorframe and the lower doorframe or floor and must be strong and sturdy mechanisms.

26. Each door to connecting guest units or maintenance corridors must be equipped with a deadbolt lock.
27. Each guest unit entry door must have a viewport or window convenient to the door.
28. Each window overlooking a common walkway or in a ground floor unit must be equipped with a functional lock.
29. Each guest unit must have an operational, single station smoke detector. Hard-wired smoke detectors are preferred. When battery-operated detectors are used, there must be an adequate maintenance program to routinely test and replace batteries.

Guest Bathrooms

30. Each guest unit must have its own private bathroom.
31. All bathrooms must contain a toilet, a sink with a well-lit mirror and a convenient electrical outlet, adequate shelf space, and a tub or a shower with a non-slip surface.
32. Each bathroom must be equipped with toilet tissue, a cloth bath mat, and two bars of soap or equivalent—furthermore, each guest must be provided a bath towel, hand towel, face cloth, and a drinking tumbler.
33. All toilet area surfaces (floors, walls, baseboards, etc.) must be non-porous to facilitate proper sanitation. (For example, carpeting is not acceptable in the toilet area.)

The AAA Evaluation and Diamond Rating Process

The AAA Evaluation and Diamond Rating Process primarily consists of three parts:

- **Introduction, Interview**
- **Property Tour and Practical Application of the Approval Requirements and Diamond Rating Guidelines**
- **Assessment Summary**

First, all establishments must meet **AAA Approval Requirements** and be determined to provide member value. This validation is conducted through a combined process of applications, inspections, referrals, and media research.

If a property is presumed to qualify, one of our inspectors will visit and observe the curbside appeal, exterior, and other factors pertaining to the basic foundation of the establishment. This preliminary review will verify that this property clearly exhibits characteristics that would appeal to AAA members.

If satisfied, our representative will contact the owner, general manager, or property designee for a brief interview. This interview is an extremely important part of the evaluation, as factual data is gathered for inclusion into our travel information inventory with potential use in AAA's worldwide printed and electronic publications. This session also gives the property representative a chance to advise AAA of any plans for improvement that may be forthcoming.

Following the interview, the inspector will tour the establishment with the property representative to assess the **AAA Approval Requirements & Diamond Rating Guidelines.** The tour will include an evaluation of all public areas and a cross section of rooms. The inspector will discuss both strengths and weaknesses of the property as it relates to our Guidelines. ***This dialogue is unique to the AAA Diamond Rating Process and is a valuable resource to any property.***

The overall evaluation process will include the review of six key areas:

- **Cleanliness and Condition**
- **Management and Staff**
- **Exterior, Grounds, and Public Areas**
- **Guestroom Décor, Ambiance, and Amenities**
- **Bathrooms**
- **Guest Services** (if applicable)

Cleanliness and condition

All establishments must be clean, comfortable, and well-maintained. The inspector will evaluate the overall condition of the property to determine if the property meets above average standards and should be considered for a Diamond Rating.

Management and staff

Properties will receive a mark of 'Pass' or 'Fail' based on the manner of interaction with all property representatives. The inspector will be evaluating the overall level of hospitality, professionalism, and deportment. It is critical to receive a passing mark to be considered for a Diamond Rating.

Exterior, grounds, and public areas

This area is assigned a specific rating overall based on the components listed under the applicable Diamond Rating Guidelines section. Varying weights are applied based on the classification of the property. For example, the exterior, grounds, and public areas at a resort carry more weight than at a downtown hotel.

Guestroom décor, ambiance, and amenities

This area is assigned a specific rating overall based on the components listed under the applicable Diamond Rating Guidelines section. Varying weights are applied based on the classification of the property. For example, the room décor, ambiance, and amenities at a hotel carry more weight than at an outdoor vacation resort.

Bathrooms

This area is assigned a specific rating overall based on the components listed under the applicable Diamond Rating Guidelines section. Weights remain relatively the same regardless of classification.

Guest services

A high level of guest services is the hallmark of the coveted AAA Four and Five Diamond Ratings. All properties must first match the physical guidelines respective of the Four or Five Diamond levels to qualify for a series of anonymous visits by AAA inspectors. Our overnight hospitality assessment includes a review of twelve critical areas and measures approximately 300 guest interaction points. All properties must achieve at least a Four Diamond Rating in guest services to be considered for a Four Diamond Rating overall; similarly, a property must achieve a Five Diamond Rating in guest services to be considered for a Five Diamond Rating overall.

THE ACHIEVEMENT OF A AAA DIAMOND RATING MEANS THAT AN ESTABLISHMENT IS ONE OF AN EXCLUSIVE GROUP THAT HAS SUCCESSFULLY COMPLETED THIS THOROUGH EVALUATION PROCESS.

If a property is approved, the inspector will assign, or recommend, a Diamond Rating or FYI designation as appropriate based on conditions that exist at the time of the evaluation. The inspector will provide the property representative a written summary of the evaluation, including the rating decision. The frequency of subsequent AAA evaluations varies slightly, depending on the classification and the assigned rating of each establishment.

Section Two

The Diamond Rating Guidelines

AAA DIAMOND RATINGS REPRESENT A COMBINATION OF THE OVERALL QUALITY, THE RANGE OF FACILITIES, AND THE LEVEL OF HOSPITALITY OFFERED BY A PROPERTY. These widely recognized and trusted symbols help AAA members choose lodgings that will meet their needs and expectations.

AAA inspectors are responsible for determining a property's Diamond Rating based on established standards that are developed with input from our trained professionals, AAA members, and various lodging industry professionals.

AAA's Diamond Rating Guidelines indicate what is typically found at each rating level. However, the size, age, and overall appeal of an establishment are also considered, as well as regional architectural style and design. Diamonds are assigned based on the average of all property characteristics, with a focus on overall guest impression rather than on individual elements. Therefore, not meeting a guideline (in one area) may not necessarily affect the overall Diamond Rating.

The final factor in determining the Diamond Rating for a property is professional judgment, which is a very important part of the rating assessment. Our inspectors are North America's travel experts based upon ongoing training and experience in conducting more than 32,000 lodging evaluations per year.

What the Diamond Ratings Mean

One Diamond

These establishments typically appeal to the budget-minded traveler. They provide essential, no-frills accommodations. They meet the basic requirements pertaining to comfort, cleanliness, and hospitality.

Two Diamond

These establishments appeal to the traveler seeking more than the basic accommodations. There are modest enhancements to the overall physical attributes, design elements, and amenities of the facility - typically at a moderate price.

Three Diamond

These establishments appeal to the traveler with comprehensive needs. Properties are multifaceted with a distinguished style, including marked upgrades in the quality of physical attributes, amenities, and level of comfort provided.

Four Diamond

These establishments are upscale in all areas. Accommodations are progressively more refined and stylish. The physical attributes reflect an obvious enhanced level of quality throughout. The fundamental hallmarks at this level include an extensive array of amenities combined with a high degree of hospitality, service, and attention to detail.

Five Diamond

These establishments reflect the characteristics of the ultimate in luxury and sophistication. Accommodations are first class. The physical attributes are extraordinary in every manner. The fundamental hallmarks at this level are to meticulously serve and exceed all guest expectations while maintaining an impeccable standard of excellence. Many personalized services and amenities enhance an unmatched level of comfort.

GLOSSARY:

- **Climate controlled** – Heat, ventilation and/or air conditioning and cooling.
- **Dated** – Marked by features of the past; showing the effects of long use or wear; unfashionable.
- **Form** – The essence of design or configuration.
- **Function** – The action for which something is fundamentally fitted or purposed.
- **Plus** – When you see this term used (such as **2D, plus**), it means that the rating includes the **bolded** elements of the previous columns in addition to elements of the current column.
- **Residential** – Of, or relating to, or connected with, residential style; invokes a personal presence of home.

Diamond Rating Guidelines – Exterior

EXTERIOR	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
General Curb Appeal	The combination of all exterior elements imparts a basic or dated style; Limited coordination in design; Limited quantity and variety of appointments; Overall, conveys an unadorned curb appeal	The exterior elements are moderately enhanced (as compared to basic) in quantity, function, and/or variety, with an increased coordination in design; Overall, conveys a modestly enhanced curb appeal	**The exterior elements are obviously enhanced and are well-coordinated for form, function, and seasonality; Some areas have a residential feel;** Overall, conveys a very attractive curb appeal	**3D, plus:** The combination of all exterior elements is substantial, impressive, well-integrated, and imparts an excellent level of curb appeal which is upscale in style	**4D, plus:** The combination of all exterior elements imparts an extraordinary and luxurious feel; Appointments are unique and contribute to an elegant level of curb appeal
Landscaping	Limited quantity and variety of landscaping; Basic design	Enhanced quantity, function, and variety of landscaping; Coordinated design	**Various landscape features are well-coordinated for form, function, and seasonality;** An ample quantity and variety of plants **are integrated with buildings, walkways, parking lots, courtyards, gardens, etc.**	**3D, plus:** Excellent variety of **mature plants; Obviously professionally planned and manicured**	**4D, plus:** Elegant and extensive variety of landscaping, with meticulous attention to detail in placement and care

EXTERIOR					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Building Structure; Design	Basic or dated in style	Modest enhancements to form and function via roofing, windows, siding, or some other architectural feature(s)	**Significantly enhanced in form and function with some residential appointments, such as: enhanced roofs, intricate moldings, window treatments, balconies, chimneys, etc.**	**3D, plus: Obviously upscale**	**4D, plus:** Extraordinary with unique architectural features
Main Entrance	No drive-through covered entry	**Drive-through covered entry**; Limited capacity (one-car width)	**2D, plus:** Increased capacity (two-car width); Structure is decorative	**3D, plus: Oversized capacity (two-car width and depth);** Upscale design and appointments	**4D, plus:** Elegant design and appointments
Parking	Varied surfaces; **Illumination is adequate**	**1D, plus: Paved and marked areas**	**2D, plus: Lighting is well-positioned, from multiple sources, and provides a good level of overall illumination**	**3D, plus: Lighting fixtures reflect upscale characteristics with respect to the design of the property** Valet parking upon request or some other upgraded feature, such as: covered/indoor parking, shuttle service, or evidence of added security	**4D, plus:** Valet parking is automatic

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- **Climate controlled** – Heat, ventilation and/or air conditioning and cooling.
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- **Form** – The essence of design or configuration.
- **Function** – The action for which something is fundamentally fitted or purposed.
- **Plus** – When you see this term used (such as **2D, plus**), it means that the rating includes the **bolded** elements of the previous columns in addition to elements of the current column.
- **Residential** – Of, or relating to, or connected with, residential style; invokes a personal presence of home.

Diamond Rating Guidelines – Public Areas

PUBLIC AREAS	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
General Décor Style	Predominantly basic or dated style with limited coordination of appointments that provide an adequate level of comfort	Increased coordination of appointments combined with modest enhancements to function, design elements, room size, and/or amenities that provide an enhanced level of comfort	Predominantly **residential style** with decorative appointments that are attractive, **well-coordinated for form and function,** and provide an obvious degree of comfort	**3D, plus:** Predominantly upscale style **that provides an exceptional degree of comfort**	**4D, plus:** Predominantly elegant style with luxurious, unique, and artistic appointments
Floor Coverings	Basic material, such as: linoleum, painted concrete, or low density pile carpet with padding that provides little or no comfort underfoot (floor feels hard)	Enhanced material, such as: wood laminates and vinyl, or **medium density pile carpet with padding that provides average comfort underfoot**	**2D, plus:** Wood laminates or carpet with **enhanced design, such as: patterns, textures, or inlays;** Decorative tile (ceramic, stone, concrete, terra cotta, etc.); **Hard surfaced floors have decorative area rugs as appropriate**	**3D, plus: High grade wood, marble, granite, or other upscale stone floors, or high density pile carpet with padding that provides exceptional comfort underfoot**	**4D, plus:** Custom inlays or textured enhancements that provide an overall design that is obviously elegant and unique; Area rugs are luxurious and unique

PUBLIC AREAS					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Wall Coverings including Interior Corridors *(if applicable)*	Walls are of basic material and design, such as: cinder block with a plain paint finish, standard grade wood, prefab modular laminate paneling, or wallpaper	Wall treatments are modestly enhanced, such as: drywall with basic paint finish or plain vinyl coverings; Rubber or vinyl baseboards	**Decorative wall treatments, such as: drywall with textured and painted finish, decorative vinyl coverings, or select grade wood/stone; Chair rails** and carpeted baseboards	**3D, plus:** At least one significant upscale design enhancement, **such as: accent wall(s), furniture-finish wood paneling, soft wall coverings, ceiling trim, architectural feature, wainscot, etc.; Wood baseboards**	**4D, plus**: Wall finishes are of the highest grade materials; Accented with multiple luxurious design enhancements
Ventilation		Climate controlled	Climate controlled	Climate controlled	Climate controlled
Exterior Corridors *(if applicable)*	Building structure and design is basic or dated in style	**Weather appropriate (Provides protection and comfort with respect to climatic elements);** Building structure shows modest enhancements to design and function via roofing, windows, siding, or some other architectural feature(s)	**2D, plus:** Building structure and design is **significantly enhanced in form and function with some residential appointments, such as: enhanced roofs, moldings, window treatments, etc.**	**3D, plus: Building structure and design is obviously upscale**	**4D, plus:** Extraordinary with unique architectural features
Landscaping (Relating to Exterior Corridors)	Limited quantity and variety of landscaping; Basic design	Enhanced quantity, function, and variety of landscaping; Coordinated design	**Various landscape features are well-coordinated for form, function, and seasonality;** An ample quantity and variety of plants **are integrated with buildings, walkways, parking lots, courtyards, gardens, etc.**	**3D, plus:** Excellent variety of **mature plants; Obviously professionally planned and manicured**	**4D, plus:** Elegant and extensive variety of landscaping, with meticulous attention to detail in placement and care

MAY NOT IMPLEMENT IN DESIGN

PUBLIC AREAS					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Wall Hangings/ Decorative Enhancements		Poster(s) or commercial artwork with thin, un-enhanced wood, metal, or plastic frame(s)	Matted artwork (common or commercial) in enhanced frame(s) or other decorative appointments	**Variety of matted and framed or unframed canvas artwork (varied sizes and scenes) or other appointments that provide a distinctive or thematic upscale appeal**	**4D, plus:** Variety of styles and accent pieces, such as: limited edition prints, canvas art, tapestries, or lithographs with enhanced matting and preservation frames, assorted artisan pieces or sculptures, floral displays or plants
Ceilings	Basic material and design, such as: drop tile, concrete, or standard grade wood	Modest enhancements to material and design, such as: enhanced drop tile, painted drywall, popcorn finish, sand textured concrete, etc.	**Predominant use of decorative elements to painted drywall, such as: an advanced textured finish (knockdown, orange peel, comb, slap brush, etc.) or select grade wood/stone**	**3D, plus:** One architectural or design feature, **such as: treys, beams, medallions, vaulted/volume, murals/stencils, tin tiles or skylights, ceiling fans, special effect lighting, etc.**	**4D, plus:** Multiple architectural or design features MUST FIT WITH OVERALL DESIGN SCHEME. (MAY NOT SUIT HOTEL)
Illumination	Basic lighting fixtures that provide an adequate level of overall illumination	Lighting fixtures are modestly enhanced in style, positioning, and function **to provide a good level of overall illumination**	**2D, plus:** Lighting fixtures are decorative and **well-coordinated for form and function**	**3D, plus:** Lighting fixtures reflect upscale design and provide an excellent level of overall illumination	**4D, plus:** Custom lighting fixtures of outstanding quality provide a unique illumination effect
Signage	Basic design in limited locations throughout the property	Modestly enhanced design **in appropriately placed locations throughout the property**	**2D, plus:** Decorative enhancements in design	**3D, plus:** Upscale design **in ample locations**	**4D, plus:** Custom design creatively placed for a unique effect

PUBLIC AREAS	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Lobby/ Registration Area	Obviously restricted by size and/or placement of appointments; Basic counter registration with limited or no seating capacity	Modest restrictions due to size and/or placement of appointments; Seating arrangement for one small group, such as: a sofa and two arm chairs	No restrictions, as placement of appointments is well-proportioned to area size; Expanded seating arrangement accommodating two small groups; Placement of appointments is well-proportioned to area size and traffic flow	Area size and placement of appointments provide an obvious degree of spaciousness allowing increased ease of movement for many guests; Multiple conversational groupings, including one or more privacy areas; Identifiable guest service area and bell stand	Area size and placement of appointments provide a free flowing abundance of space that contributes to the ultimate level of comfort and relaxation for many guests; Identifiable concierge area
Furniture	If available, predominantly basic materials, such as: particle board, laminate, or vinyl finishes; Dated styles with limited coordination; Provides an adequate level of comfort	An increased level of coordination; Modest enhancements in materials, design, and function; Provides an enhanced level of comfort	Decorative and **well-coordinated for form and function; Overall construction and design reflects current industry trends**, such as: Melamine resins, solid wood trim, or upgraded laminate finishes; Provides an obvious degree of comfort	**3D, plus: Modern or antique upscale style and materials, such as: solid wood, polished metals, leather, designer fabric, veneer finishes with solid wood accents, laminate insets, etc.; Provides an exceptional degree of comfort**	**4D, plus:** Luxurious, unique, and elegant custom design and workmanship
Ice, Vending, Sundries & Shops	Ice machine(s) available Vending machine(s) available	**Multiple sealed ice machines** Basic hygiene amenities, such as: toothbrush/paste, razors, mouthwash, shower caps, combs, etc., available at the front desk or in vending machine	**2D, plus: Located in a recessed area** Dedicated sundry area offering a variety of merchandise, such as: health and beauty needs, food, beverage, and reading materials	**3D, plus:** Conveniently located and appropriately soundproofed Upscale gift shop	Specialized service, delivery or in-room honor bar Variety of first-class shops

LOBBY & HOTEL MAY BE TOO SMALL TO ACCOMODATE THIS STANDARD

PUBLIC AREAS					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Business Center		Personal computer, with Internet access, available in lobby for guests' use	Dedicated open area (out of traffic pattern) **with desk and chair, to include at least three business-related items, such as: PC, printer, copier, fax machine, supplies, etc.**	**3D, plus: Well-appointed, enclosed area; Multi-guest capability with comprehensive office supplies**	**4D, plus:** Luxurious surroundings include the latest business technology; Professionally staffed area
Elevator		**Elevator is available for guests' use in multi-story buildings**	**2D, plus: Primarily dedicated to guests' use; Prompt response, quick moving, and spacious**; Elevator includes decorative appointments; Landing includes a limited (four) amount of decorative furnishings, such as: tables, lamps, phone, artwork, chair, mirror, flowers, etc., **and is recessed from the lobby and guestroom corridors**	**3D, plus: Multiple elevators** include upscale appointments; Landings include a variety of upscale **furnishings (five), such as: sofa table, lamps/wall sconce, phone, artwork, chair, coffee table, mirror, flowers/plants, etc.; Additional service elevator is available for staff's use**	**4D, plus:** Elevator **cabs have dual call button panels**; landings are elegant with luxurious, unique, and artistic appointments
Miscellaneous		Artificial or live plants in limited locations	Good variety of live plants or artificial floral arrangements used as appropriate for decorative accents throughout the property	Abundant variety of live plants, silk, or dried floral arrangements used as appropriate to enhance an upscale theme throughout the property	Garden-fresh condition, outstanding variety of live plants and flowers that are uniquely arranged to provide a luxurious appeal throughout the property

AREA MAY BE IN AN "OPEN" LOBBY FORMAT. MUST FIT SPACIAL REQUIREMENT

PUBLIC AREAS					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Miscellaneous (cont'd)		Limited (washer and dryer only) coin-operated laundry facilities	Expanded coin-operated laundry facilities, such as: multiple machines, vending supplies, folding table, etc. –or– valet laundry	**Valet laundry and pressing available**	**4D, plus:** Personalized services available, such as: one hour pressing, shoeshine, tailoring or alterations, etc.
		Luggage carts available	**2D, plus: Design enhancements, such as: solid construction, larger, smooth tracking wheels, and bumper guards**	**3D, plus:** Upscale design enhancements, such as: brass or metal finish, carpeted base, and multiple hanging capabilities. Luggage assistance available upon request	Luggage assistance upon arrival is automatic
Meeting Rooms		Private meeting room available; Basic audiovisual equipment available, such as: projectors, microphones, television, sound system, etc.	Expanded meeting space with decorative appointments; Increased variety of audiovisual equipment available, such as: dropdown projector and screen, smart lectern, controlling lights and surround sound, multi-casting, wireless communication, etc.; Some conference services available, such as: planning assistance, catering, and most technology needs	**A variety of meeting rooms, such as: ballroom, boardroom, theatre, and/or meeting rooms of various sizes,** with upscale appointments; **All audiovisual equipment is state-of-the-art; Full conference services available including on-site professional conference planner and technical support**	**4D, plus:** Luxuriously appointed, first-class facilities; Custom conference services

HOTEL CANNOT ACCOMODATE A THEATRE-TYPE SPACE.

A/V WILL BE CONTRACTED WITH 3rd PARTY COMPANIES.

PUBLIC AREAS					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Food & Beverage: **Restaurant** *(if applicable)* **OR** ↓ **Breakfast Area** **Expanded Continental** – At minimum, two items in each of the following categories: juice, coffee, fresh fruits, low sugar breads, sweet breads, and cereals with milk.		**One full-service outlet or food court** (comparable to a one diamond restaurant) onsite: **OR** ↓ Standard continental breakfast (minimum: juice, pastry, and hot beverage) is served in a dedicated area with modest restrictions due to size and/or placement of appointments; Limited seating is available	**2D, plus:** (comparable to a two diamond restaurant); Lounge or bar area **OR** ↓ Expanded continental breakfast, or more, is served in a dedicated area that is distinctly separate from the lobby traffic; Appointments are well-proportioned to area size, with appropriate seating for the size of the establishment; Television	**Upscale, full-service restaurant** (comparable to a three diamond restaurant); **Separate lounge or bar area;** Room service available for breakfast, lunch, and dinner	**4D, plus:** Multiple outlets (at least one is comparable to a four diamond restaurant); Room service available 24/7 HOTEL MAY HAVE MORE LIMITED RM SERVICE OPERATING HRS THAT DO NOT FIT 4-DIAMOND REQUIREMENT.
Recreational Facilities: **Swimming Pool**		Pool area with a limited amount of furniture of basic or mixed styles; Property location determines seasonal availability	**Weather appropriate pool (usable at least nine months annually);** Area is well-appointed with a good variety of decorative, comfortable pool furniture; Hot tub or whirlpool spa	**3D, plus:** Pool area reflects the use of upscale building materials and design, with a variety of pool furniture; **Hot tub or whirlpool spa, steam room, or sauna; Food and beverage service is available poolside**	**4D, plus:** Pool area is of elegant design, with unique appointments, such as: sculptures, waterfalls/features, exotic plants and gardens, stone/tile surfaces with designer inlays, etc.; Outstanding variety of luxurious furniture; Cabanas; Full-time professional attendant is on duty

HOTEL SPA MAY BE MORE LIMITED & NOT "FULL-SERVICE"

PUBLIC AREAS	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Spa				Full spa services available	Full spa onsite
Exercise Room		Two pieces of equipment **on site in a designated room**	**2D, plus:** Three or more pieces of equipment; **Room is enhanced with at least three purposeful appointments, such as: mirrored walls, television, water cooler, bathroom, towels, clock, scales, etc.**	**3D, plus:** Five or more pieces of **state-of-the-art equipment, including cardio and weight training capability**	**4D, plus:** Ten or more pieces of equipment; Luxurious health club environment; **dressing area includes: lockers, showers, and restrooms**; Full-time professional attendant is on duty; In-room exercise equipment available
Additional Facilities/ Programs (Golf, tennis, boating, horseback riding, children's activities, babysitting, etc.)			**Multiple facilities/ programs onsite; Some with off-site privileges**	**3D, plus: Arrangements are made for off-site services**	**4D, plus:** First-class facilities/ programs with custom concierge services provided
Restrooms		One unisex	**Separate gender restrooms in a convenient location (If property has expanded meeting facilities, then additional restrooms are available in proportion)**	**3D, plus:** Upscale appointments	**4D, plus:** First-class with luxurious appointments

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- **Function** – The action for which something is fundamentally fitted or purposed.
- **Plus** – When you see this term used (such as **2D, plus**), it means that the rating includes the **bolded** elements of the previous columns in addition to elements of the current column.
- **Residential** – Of, or relating to, or connected with, residential style; invokes a personal presence of home.

Diamond Rating Guidelines – Guestroom

GUESTROOM	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
General Décor Style	Predominantly basic or dated style with limited coordination of appointments that provide an adequate level of comfort	Increased coordination of appointments combined with modest enhancements to function, design elements, room size, and/or amenities that provide an enhanced level of comfort	Predominantly **residential style with decorative appointments that are attractive, well-coordinated for form and function** that provide an obvious degree of comfort	**3D, plus:** Predominantly upscale style that **provides an exceptional degree of comfort**	**4D, plus:** Predominantly elegant style with luxurious, unique, and artistic appointments
Free Floor Space	Obviously restricted by size and/or placement of appointments; however, provides guest an adequate level of comfort	Modest restrictions due to size and/or placement of appointments	No restrictions, as placement of appointments is well-proportioned to room size	Room size and placement of appointments provide an obvious degree of spaciousness, allowing increased ease of movement for multiple guests	Room size and placement of appointments provide a free flowing abundance of space that contributes to the ultimate level of comfort and relaxation for multiple guests

GUESTROOM					
	ONE DIAMOND **Economy**	**TWO DIAMOND** **Mid-Scale**	**THREE DIAMOND** **Mid-Scale Plus**	**FOUR DIAMOND** **Upscale**	**FIVE DIAMOND** **Ultra-Luxury**
Floor Coverings	Basic material, such as: linoleum or low density pile carpet with padding that provides little or no comfort underfoot (floor feels hard)	Enhanced material, such as: wood laminates and vinyl, or **medium density pile carpet with padding that provides average comfort underfoot**	**2D, plus:** Wood laminates or **carpet with enhanced design, such as: patterns, textures, or inlays;** Decorative tile (ceramic, stone, concrete, terra cotta, etc.); **Hard surfaced floors have decorative area rugs as appropriate**	**3D, plus: High grade wood, marble, granite, or other upscale stone floors, or high density pile carpet with padding that provides exceptional comfort underfoot**	**4D, plus:** Custom inlays or textured enhancements that provide an overall design that is obviously elegant and unique; Area rugs are luxurious and unique
Wall Coverings	Basic material and design, such as: cinder block with a plain paint finish, standard grade wood, prefab modular laminate paneling, or wallpaper	Wall treatments are modestly enhanced, such as: drywall with basic paint finish or plain vinyl coverings; Rubber or vinyl baseboards	**Decorative wall treatments, such as: drywall with textured and painted finish, decorative vinyl coverings, or select grade wood/stone;** Carpeted baseboards	**3D, plus:** At least one significant upscale design enhancement, **such as: accent wall(s), furniture-finish wood paneling, soft wall coverings, ceiling trim, architectural feature, wainscot, chair rails, etc.; Wood baseboards**	**4D, plus:** Wall finishes are of the highest grade materials; Accented with multiple luxurious design enhancements MAY NOT USE WOOD AS IT MAY NOT FIT INTERIOR DESIGN SCHEME.
Wall Hangings/ Decorative Enhancements		Poster(s) or commercial artwork with thin, un-enhanced wood, metal, or plastic frame(s)	Matted and framed artwork (common or commercial) in enhanced frame(s) or other decorative appointments	**Variety of matted and framed artwork (varied sizes and scenes) or other appointments that provide a distinctive or thematic upscale appeal**	**4D, plus:** Variety of styles and accent pieces, such as: limited edition prints, canvas art, tapestries, or lithographs with enhanced matting and preservation frames, assorted artisan pieces or sculptures, floral displays or plants

GUESTROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Ceilings	Basic material and design, such as: drop tile, concrete, or standard grade wood	Modest enhancements to material and design, such as: enhanced drop tile, painted drywall, popcorn finish, sand textured concrete, etc.	**Predominant use of decorative enhancements to painted drywall, such as: an advanced textured finish (knockdown, orange peel, comb, slap brush, etc.) or select grade wood/stone**	**3D, plus:** One architectural or design feature, **such as: treys, beams, medallions, vaulted/volume, murals/stencils, tin tiles or skylights, ceiling fans, special effect lighting, etc.**	**4D, plus:** Multiple architectural or design features HOTEL CEILINGS IN ROOMS MAY NOT INCORPORATE THIS DESIGN FEATURE.
Window Coverings	Basic **drapes, blinds, or shades** offering limited blackout effect from the sun or outside light sources	**1D, plus: Full blackout effect**	**2D, plus:** Two design enhancements, **such as: blinds, shutters, sheers, fabric side panels, valance, glass treatment, cornice, etc., provides a professional design effect**	**3D, plus: Three or more design enhancements**	**4D, plus:** Elaborate, luxurious, and unique visual effect
Bed	No headboard -or- headboard and mattress are of basic materials and plain design (vinyl flat top); Box spring or bed base	Headboard and **mattress are of modestly enhanced material and design (quilted, soft top); Box spring or bed base**	**2D, plus: Decorative headboard**	**Upscale headboard, bed base and mattress which includes a comfort enhancement, such as: pillow top, memory foam padding, adjustable comfort level, etc.**	**4D, plus:** Elaborate, luxurious, and unique visual appeal
Bedding	Bed coverings are of basic style; Bed linens are of common blends and thread counts (sheer, coarse to touch); Pillows are of a standard grade (thin Polyester batting)	**Bed coverings are quilted or modestly enhanced in style; Bed linens are of average (180-250) thread count, closely woven and smooth to touch; Pillows are of an enhanced grade (thick Cluster Fiber)**	**2D, plus:** Two accent features, such as: comforter, duvet, dust ruffles, bed throw/scarf, multiple pillows, accent pillows/ shams or triple sheeting	**Bed coverings include three or more accent features (see 3D);** Bed linens are of increased thread count (>250), tightly woven, crisp, and very soft to the touch; Pillows are of an upscale grade, such as: down or feather	**4D, plus:** ≥ 300 thread count bed linens (Egyptian cotton, satin, silk or similar) provide a super soft, silk-like feel; Choice of pillow fills, such as: silk, wool, cashmere, premium foams, latex or goose down, etc., is provided

GUESTROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Clothes Storage Hang Space	Open wall-mounted clothes rack with simple wire or non-detachable hangers	Semi-enclosed area with detachable wood, plastic, or heavy metal hangers	**Fully-enclosed with** at least six **open-hook wood or heavy gauge, sculptured plastic matching hangers; Some with skirt or pant hanging attachments; Closet depth is 22 inches (at minimum) and can enclose full length apparel**	**3D, plus:** At least eight hangers	**4D, plus:** At least ten hangers (two of which are satin or similar); One or more designer features, such as: drawers, shelves, shoe rack, walk-in capability, etc.; Closet is illuminated
Additional Storage Space	Open clothes storage space	**Multiple enclosed drawers; Total storage space can accommodate the needs of two or more guests**	**2D, plus:** Sufficient space for one piece of luggage, such as: folding metal rack, bench, or credenza top	**3D, plus: Sufficient space for two pieces of luggage (upgraded wooden racks or designer-style benches);** Total storage space can accommodate the needs of three or more guests	**4D, plus:** Total storage space can accommodate the needs of four or more guests
Illumination	Two or more well-positioned basic lighting fixtures; Provide an adequate level of overall illumination	Three or more lighting fixtures; Modestly enhanced in style, positioning, and function; Provide a good level of overall illumination	**Four or more well-positioned lighting fixtures;** Decorative and well-coordinated for form and function; Provide a good level of overall illumination at each location	**3D, plus: Predominantly freestanding fixtures** of upscale design; Provide an excellent level of overall illumination	**4D, plus:** Custom lighting fixtures of outstanding quality; Custom function(s), such as: dimmers, point lighting, multiple switches, and/or natural light sources; Provide a unique illumination effect
Furniture	**Predominantly basic materials, such as: particle board, pressboard, laminate, or vinyl finishes;** Dated styles with limited coordination; Provides an adequate level of comfort	**1D, plus:** An increased level of coordination; Modest enhancements in materials, design, and function; Provides an enhanced level of comfort	**Predominantly freestanding;** Decorative and **well-coordinated for form and function; Overall construction and design reflects current industry trends,** such as: Melamine resins, solid wood trim, or upgraded laminate finishes; Provides an obvious degree of comfort	**3D, plus: Modern or antique upscale style and materials, such as: solid wood, polished metals, leather, designer fabric, veneer finishes with solid wood accents, laminate insets, etc.; Provides an exceptional degree of comfort**	**4D, plus:** Luxurious, unique, and elegant custom design and workmanship

GUESTROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Seating	**One chair** (typically placed as part of a duplex, triplex, or task table)	**1D, plus:** Additional seating for one guest; Vinyl or fabric upholstery	Comfortable seating for two guests – **to include desk chair with arms and partial upholstery, such as: vinyl, leather, or fabric; Plus one additional fully upholstered easy/lounge chair that is positioned for television viewing**	**3D, plus: Comfortable seating for three guests**; Upscale materials and design **in an expanded setting, such as: a loveseat, sofa, or oversized chair with ottoman**	**4D, plus:** Luxurious materials and design; Additional furniture pieces, such as: end tables, coffee or occasional tables
Work Space/ Writing Surface *Items stored on a writing surface decrease the available working space. A writing surface is judged, in part, on the basis of available space.*	Duplex, triplex, or small task table that provides adequate work space (e.g., enough space for a laptop computer and an 8x10 inch reference material item)	Desk or medium task table that provides good work space (e.g., enough space for a laptop computer and two 8x10 inch reference material items)	Desk or large task table that provides very good work space (e.g., enough space for a laptop computer and three 8x10 inch reference material items); One electrical outlet (not in use) conveniently placed at the desk	**Large desk that provides ample work space (e.g., enough space for a laptop computer, three 8x10 inch reference material items, and a portable printer); Multiple electrical outlets (not in use) conveniently placed at the desk**	**4D, plus:** Desktop enhancements, such as: desk blotter, pull-out writing surface, stationery, and other office supplies
Ventilation	**Heat and/or air conditioning available on a seasonal basis as needed**; Window style air-conditioning units	**1D, plus: Conveniently located through-wall units**	**2D, plus:** Heat and air conditioning available on demand; Modern, quiet, with easily accessible controls in each guestroom	**Heat and air conditioning available on demand; Central system** with thermostat control	**4D, plus:** Digital thermostat control
Telephone	**Touch-tone telephone**	**1D, plus: Message light on telephone**	**2D, plus: Voice messaging**	**3D, plus: Multiple telephones; Two-line telephone or separate Internet capability**	**4D, plus:** Cordless telephone; Expanded phone features, such as: pre-programmed dialing keys, speaker capability, personalized display or voicemail

GUESTROOM					
	ONE DIAMOND **Economy**	**TWO DIAMOND** **Mid-Scale**	**THREE DIAMOND** **Mid-Scale Plus**	**FOUR DIAMOND** **Upscale**	**FIVE DIAMOND** **Ultra-Luxury**
Internet	Dial-up capability	High-speed access (cable or wireless) available in some rooms	High-speed cable access available in all rooms	**High-speed wireless access available in all rooms**	**4D, plus:** Available in some public areas of the property
Television Type and Placement *CRT (Cathode Ray Tube)* *LCD (Liquid Crystal Display)* *SED (Surface-conductor Electron-emitter Display)*	Standard CRT TV (curved screen); Wall-mounted; Limited viewing angles; **Basic cable**	**1D, plus: Standard CRT TV (curved screen)** with remote control; **Located on credenza, dresser, or other furniture piece** without a swivel base; Limited viewing angles; **Channel directory**	**2D, plus:** ≥ 25 inch screens **with portable full function remote control;** With swivel/pull-out base; **Multiple viewing angles; Multiple televisions in suites; Expanded Cable channel selection (at least 35 channels); Plus one additional feature, such as: free movie channel, pay-per-view movie channels, video games, etc.**	**3D, plus: ≥ 25 inch Flat Screen CRT or Flat Panel TV (such as: LCD, Plasma, SED, etc.); Located on credenza, dresser, or on/in other furniture piece with a swivel/pull-out base or wall mounted; Cables and cords are hidden from view**	**4D, plus:** Custom, decorative enhancement (e.g., framing, mantle placement, remote enclosure, mirrored screen, etc.); High-definition channels available
Other Electronics	Clock	Standard **clock radio**	**2D, plus: Decorative design**	**3D, plus: Digital display** DVD player (in lieu of pay-per- view movies)	**4D, plus:** CD player with at least one CD selection; MP3 docking station; Surround sound audio DVD Player; DVD library available

TECHNOLOGY IS MOVING AWAY FROM "PAY-PER-VIEW" MOVIE SYSTEMS. HOTEL MAY NOT INCORPORATE THIS OR DVD PLAYERS. (MOST LIKELY, WE WILL UTILIZE MULTI-MEDIA PORT SYSTEMS SO GUESTS MAY VIEW THEIR PERSONAL MOVIES VIA DEVICES).

GUESTROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Guest Information	**Local telephone directory**	**1D, plus:** Local Business flyers (food, attractions, transportation, etc.); Notepad and pencil	**2D, plus:** Guest-service directory; Complimentary daily newspaper available; **Notepad and pen**	**3D, plus:** Enhanced guest-service directory in folder, binder, or digital format; Complimentary daily newspaper delivered to room; **Additional reading materials, such as: magazines, books, etc.; Upgraded stationery package (envelopes, postcards, writing paper)**	**4D, plus:** Uniquely appointed guest-service directory in folder, binder or digital format; In-room comfort menu providing exercise, spa, butler, or other personalized services; Assortment of complimentary daily newspapers available for delivery to room
Comfort	Basic ice bucket (polystyrene foam, plastic, cardboard, etc.) with disposable cups	Plastic ice bucket with lid and disposable cups	Insulated plastic ice bucket with lid and disposable cups	Ice bucket with lid of upscale design, such as: insulated and padded vinyl, acrylic or metal; Glass tumblers	Ice bucket of luxurious design, such as: designer glass, silver, brushed or glossy metal finish, rings or handles, etc.; Selection of glassware; Ice tongs
		Iron & board available	**Full-size iron and board**		
			Refrigerator available	**3D, plus:** **In-room snacks, mini bar, or a refrigerator that can be custom stocked upon request**	**4D, plus:** Two robes; Two pairs of slippers
			Microwave oven available		Umbrella
			Extra pillows and blankets available		In-room comfort menu providing exercise, spa, butler, or other personalized services
			In-room safe	**In-room safe that is large enough for a standard 12" laptop computer**	
			Coffee maker and supplies, including tea bags		
		Full-length mirror	**Framed or beveled full-length mirror**		

HOTEL MAY NOT INCORPORATE THESE ITEMS.

GLOSSARY:

- **Climate controlled** – Heat, ventilation and/or air conditioning and cooling.
- **Dated** – Marked by features of the past; showing the effects of long use or wear; unfashionable.
- **Form** – The essence of design or configuration.
- **Function** – The action for which something is fundamentally fitted or purposed.
- **Plus** – When you see this term used (such as **2D, plus**), it means that the rating includes the **bolded** elements of the previous columns in addition to elements of the current column.
- **Residential** – Of, or relating to, or connected with, residential style; invokes a personal presence of home.

Diamond Rating Guidelines – Bathroom

BATHROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
General Décor Style	Predominantly basic or dated style with limited coordination of appointments that provide an adequate level of comfort	Increased coordination of appointments, combined with modest enhancements to function, design elements, room size, and/or amenities that provide an enhanced level of comfort	Predominantly **residential style with decorative appointments that are attractive, well-coordinated for form and function** that provide an obvious degree of comfort	**3D, plus:** Predominantly upscale style **that provides an excellent degree of comfort**	**4D, plus:** Predominantly elegant style with luxurious, unique, and artistic appointments
Free Floor Space	Obviously restricted by size and/or placement of appointments; however, provides guest an adequate level of comfort	Modest restrictions due to size and/or placement of appointments	No restrictions, as placement of appointments is well-proportioned to room size	Room size and placement of appointments provide an obvious degree of spaciousness, allowing increased ease of movement for multiple guests	Room size and placement of appointments provide a free-flowing abundance of space that contributes to the ultimate level of comfort and relaxation for multiple guests
Floor Coverings	Basic material, such as: linoleum, painted concrete, plain resin, or poured composite surface	Vinyl or ceramic tile	Decorative tile (ceramic, stone, concrete, terra cotta, etc.)	**Marble, granite, or other upscale stone floors; Area rug(s) as appropriate**	**4D, plus:** Custom inlays or textured enhancements provide an overall design that is obviously elegant and unique

BATHROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Wall Coverings	Basic material and design, such as: cinder block with a plain paint finish, standard grade wood, prefab modular laminate paneling, dated ceramic tile or wallpaper	Wall treatments are modestly enhanced, such as: drywall with basic paint finish or plain vinyl coverings; Rubber, vinyl, or ceramic tile baseboards	**Decorative wall treatments, such as: drywall with textured and painted finish, decorative vinyl coverings, or select grade wood/stone; Wood or decorative ceramic tile baseboards**	**3D, plus:** At least one significant upscale design enhancement, **such as: accent wall(s), furniture-finish wood paneling, soft wall coverings, ceiling trim, architectural feature, wainscot, etc.; Wood or high-end stone baseboards**	**4D, plus:** Wall finishes are of the highest grade materials; Accented with multiple luxurious design enhancements
Wall Hangings/ Decorative Enhancements				**Matted and framed artwork or other appointments that provide a distinctive or thematic upscale appeal**	**4D, plus:** Variety of styles and accent pieces, such as: limited edition prints, canvas art, tapestries, or lithographs with enhanced matting and preservation frames, assorted artisan pieces or sculptures, floral displays or plants
Ceilings	Basic material and design, such as: drop tile, concrete, or standard grade wood	Modest enhancements to material and design, such as: enhanced drop tile, painted drywall, popcorn finish, sand textured concrete, etc.	**Predominant use of decorative enhancements to painted drywall, such as: an advanced textured finish (knockdown, orange peel, comb, slap brush, etc.) or select grade wood/stone**	**3D, plus:** One architectural or design feature, **such as: treys, beams, moldings, medallions, raised/vaulted/ volume, murals/stencils, tin or skylights, ceiling fans, special effect lighting, etc.**	**4D, plus:** Multiple architectural or design features

BATHROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Tub	**Basic rectangular style, size (4½ ft. length and 14 in. depth) and materials (fiberglass, acrylic, or porcelain on steel);** Simple design (straight sided)	**1D, plus:** Modest design enhancement	**2D, plus:** Decoratively enhanced in design, or augmented for comfort or function	**Enhancements to size (>4½ ft. length and >14 in. depth), design, and/or style, such as: oval, round, or free form** HOTEL DESIGN & FLOORPLAN MAY NOT BE ABLE TO INCORPORATE THIS SPEC.	**4D, plus:** Obvious enhancements in comfort, design, function, and/or material, such as: larger, two person capability, contoured backs, built-in lumbar back support, water jets, enamel-coated cast iron, natural marble, stone, or other designer features
Shower	If separate from tub (or shower only), base is of basic material (metal or fiberglass) and of plain design **Basic square size (≤9 sq. ft.)**	**1D, plus:** If separate from tub (or shower only), base is of enhanced material (acrylic or ceramic tile) Modest enhancement to design -or- irregular shape (rectangular, rounded corner or neo angle)	If separate from tub (or shower only), base is decorative ceramic tile, cultured marble/granite, or poured acrylic Very good size (>9 sq. ft.)	If separate from tub (or shower only), base is of upscale material, such as: marble, granite, stone, or porcelain tiles. **Oversized (>12 sq. ft.)**	**4D, plus:** Separate shower stall in addition to the tub; base is of outstanding material and artistic design, such as: marble, granite, stone, or porcelain tiles with complementary inlays or treatments
Tub/Shower Surround	Fiberglass or metal	Acrylic or ceramic tile	Acrylic with enhancements for comfort, style, or function -or- decorative ceramic tile or other solid surface, such as: cultured marble/granite, poured acrylic, etc.)	Marble, granite, stone, or porcelain tiles; Enhanced solid surface; **Tub and shower height soap dishes**	**4D, plus:** Luxurious material and artistic design, such as: marble, granite, stone, or porcelain tiles with complementary inlays or treatments; Seating is integrated into design
Shower Curtain/Door	Lightweight vinyl curtain	Heavyweight vinyl curtain or plexi-glass door with aluminum frame	Decorative vinyl, polyester, or nylon curtains with curved shower rod; -or- lightweight glass door with aluminum frame; **-or- effective door-less design**	**3D, plus:** Double curtains -or- heavyweight glass door with/without metal frame	**4D, plus:** Fixed door enclosure (framed or frameless); Enhanced (etched, frosted, embossed, tinted, etc.) glass

BATHROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Shower Fixtures	Traditional, single function shower head	Multiple setting shower head	Multiple setting shower head with metal finish	Enhanced style, of modern design, fixed shower head	Custom water features, such as: body jets, hand-held sprayers, multiple shower heads, rain showers, or gentle flow environmentally friendly features
Toilet	**Two-piece, round**; Basic style	**1D, plus:** Enhanced style	**Two-piece, elongated**; Basic style	**3D, plus: Enhanced style or function**	**4D, plus:** Distinct toilet-only area; Enclosed or semi-enclosed
Vanity Area Size and Location (includes: Sink, Counter/Shelf Space, Mirror, Cabinetry and Fixtures)	**Combined with toilet area within an enclosed space** that is restricted by size and/or placement of appointments	**1D, plus:** Modest restrictions due to size and/or placement of appointments **OR** If vanity area is separate from the toilet area, it is positioned in plain view of the guestroom	**2D, plus:** No restrictions, as placement of appointments are well-proportioned to room size **OR** If vanity area is separate from the toilet area, it is positioned in restricted view from the rest of the guestroom	**3D, plus:** Vanity is well-integrated into the overall scheme of the bathroom for convenience and comfort; Room size and placement of appointments provide an obvious degree of spaciousness, allowing increased ease of movement for multiple guests	**4D, plus:** Room size and placement of appointments provide a free flowing abundance of space that contributes to the ultimate level of comfort and relaxation for multiple guests
Sink	Wall-mounted, basic style, porcelain	Standard self-rimming porcelain or porcelain on steel	Seamless (Poured acrylic or cultured marble/granite/ quartz) -or- Under-mounted porcelain or porcelain on steel	Porcelain or porcelain on steel, **with an upscale counter enhancement, such as: wall faucets or upscale counter-mounted faucets**	**4D, plus:** Multiple sinks of ornate design, such as: above counter vessel or pedestal -or- of designer materials, such as: glass, stainless steel, vitreous china, enameled cast iron, fireclay, brass, nickel, copper, marble, or either real/synthetic stone

BATHROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Available Counter/Shelf Space	Small size (<2 sq. ft.) shelf of basic material, such as: glass, metal, or sheet laminate	Moderate size (≥ 2 sq. ft.) laminate counter	Very good size (≥4 sq. ft.) counter space of solid surface, such as: poured acrylic, cultured marble/ granite/quartz, or ceramic tile	**Oversized (≥ 6 sq. ft.) counter space** of excellent quality, such as: marble, granite, or other solid stone FLOORPLANS MAY NOT INCORPORATE THIS SPEC. IN DESIGN.	**4D, plus:** Multiple counters and/or shelves; Artistic design, such as: marble, granite, solid stone, or porcelain tiles with complementary inlays or treatments
Mirror	Small (1½ ft. x 2 ft.) mirror	**Medium-sized (>3 sq. ft.) mirror**	**2D, plus:** Beveled or decoratively framed mirror	**Large (3 ft. x 5 ft.) mirror with an upscale frame**	**4D, plus:** Artistic design enhancement
Cabinetry		Skirting partially conceals plumbing	Enhanced skirting conceals plumbing	**Upscale, furniture-finished skirting**	**4D, plus:** Elaborate design features, cabinetry, multiple shelving, and/or drawers
Illumination	Basic design and function, such as: bulb and cover; Provide an adequate level of overall illumination	Modest design enhancements, such as: box/egg crate style or enhanced glass cover; Provide a good level of overall illumination	Decorative, **well-coordinated for form and function; Multiple bulbs and covers** provide a good level of overall illumination	**3D, plus:** Upscale design; **Multiple locations; Illuminated shower;** Provide an excellent level of overall illumination at each location	**4D, plus:** Designer fixtures; Custom function(s), such as: dimmers, point lighting, multiple switches, and/or natural light sources; Provide a unique illumination effect
Other Fixtures	**Standard function; Basic materials** of plain design	**1D, plus:** Modest **design enhancements**	**2D, plus:** Metal with decorative finishes, such as: chrome, pewter, brass, nickel, gold, etc.	Upscale **design enhancements, such as: satin or enamel finishes, two or more metal combinations,** embossing, etc.	**4D, plus:** Designer materials and style; Unique appointments MAY NOT INCORPORATE INTO DESIGN PLAN.
Towels	Basic, **lightweight; Rough to touch; Limp feel; Low absorbency;** Displayed on caddies	**1D, plus:** Modest enhancements in design; Displayed on bars and/or shelves	Medium weight; Soft to touch; Medium absorbency	**Heavyweight; Plush to touch; Firm, self-supporting feel; Premium cotton with high absorbency**	**4D, plus:** Generous sized towels or bath sheets; Luxurious appearance, with intricate and detailed enhancements to design

BATHROOM					
	ONE DIAMOND **Economy**	**TWO DIAMOND** **Mid-Scale**	**THREE DIAMOND** **Mid-Scale Plus**	**FOUR DIAMOND** **Upscale**	**FIVE DIAMOND** **Ultra-Luxury**
Personal Care	Two small (< ¾ oz.) bars of soap (or equivalent)	Two medium (≥ ¾ oz.) bars of soap (or equivalent); one packet or bottled item; modest presentation	Four-piece personal care package, includes: one large (≥ 1¼ oz.) and one medium (≥ ¾ oz.) bars of soap (or equivalent); two (≥ ¾ oz.) bottled items; Decorative presentation; **Additional amenities (such as: toothpaste/ brush, comb, sewing kit, mouthwash, etc.) are available onsite**	**3D, plus:** Seven-piece personal care package; Toiletries are enhanced by fragrance, natural supplement, packaging, etc.; Includes: two large (≥ 1¼ oz.) bars of soap (or equivalent), three (≥ 1 oz.) bottled items, and two additional items; Upscale presentation; **Freestanding soap dish at sink**	**4D, plus:** Ten-piece personal care package of designer/spa toiletries; Ample sized (≥ 1½ oz.) bars of soap and bottled items (≥1¼ oz.); Unique presentation MAY NOT IMPLEMENT EXACT NUMBER FOR TOILETRIES.
	Facial tissues	**1D, plus:** Wall-mounted with chrome covers	Facial tissues inset in vanity (no chrome)	**Facial tissues freestanding in** decorative container	**4D, plus:** Custom designed container
			Wall-mounted hair dryer	**Freestanding hair dryer;** Makeup mirror MAY NOT INCORPORATE	**4D, plus:** Illuminated makeup mirror; Scale; vanity seating
Other			**Night-light**	**3D, plus: Landline or cordless telephone available**	**4D, plus:** Television

The AAA Four and Five Diamond Rating

These prestigious ratings are achieved by less than four percent of all Approved properties—typically the most luxurious and pampering properties throughout North America. Less than one third of one percent of lodgings receives the Five Diamond® Rating while approximately three and one half percent receives the Four Diamond® Rating. Establishments must consistently reflect upscale and extraordinary characteristics (respectively) in both physical attributes and level of guest services.

If the AAA inspector determines that your establishment meets our Four or Five Diamond Guidelines, the property will next be scheduled for an anonymous hospitality evaluation. Only the Four and Five Diamond evaluations incorporate a review of twelve critical service areas and measure over 300 guest interaction points into the overall rating. In addition, all Five Diamond Rating recommendations are forwarded to AAA's Five Diamond Committee for further review. Once the committee's assessment is concluded, the establishment will be advised in writing of the outcome.

Four and Five Diamond Service Expectations

IN ADDITION TO THE FOLLOWING GUEST SERVICE INTERACTION POINTS, each section is assessed a subjective point value based on the overall levels of competency, refinement, and hospitality.

1.	Reservation Services		
Reservation Services	Service Level		
	5D	4D	
	X	X	Accepted 24 hours, either at property or through a central reservation system
	X	X	Operator answers phone promptly within three rings
	X	X	Operator provides a warm and sincere greeting
	X	X	Reservationist thanks caller for contacting the property
	X	X	Reservationist provides an introduction
	X	X	Reservationist asks for caller's name
	X		Reservationist addresses caller by name prior to closing
	X		Reservationist anticipates caller's needs or offers a personalized recommendation
	X	X	Reservationist provides rate structure and room availability
	X	X	Reservationist provides an overview of facilities and services
	X		Reservationist exhibits competent knowledge of all associated facilities and hours of operation
	X	X	Reservationist collects registration information
	X	X	Reservationist explains deposit and cancellation policies
	X	X	Reservationist explains unusual payment options
	X	X	Reservationist reviews reservation request
	X		Reservationist exhibits a sincere desire and compliance to all guest requests
	X	X	Reservationist provides confirmation number or contact's name
	X		Reservationist is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Reservationist provides a warm and sincere thank you to guest for calling
	X		Operator addresses guest by name during closing
	X	X	The guest feels well served
	X		Property offers follow-up reservation confirmation to guest in advance of arrival

2. Arrival Services

Arrival Services

Service Level		
5D	4D	
X		Cars in queue are acknowledged and directed as appropriate upon arrival
X	X	Uniformed attendant promptly opens the car door
X	X	Attendant provides a warm and sincere welcome greeting
X	X	Attendant makes a proper introduction
X	X	Attendant inquires about the guest's name
X		Attendant uses guest's name at least once prior to closing
X	X	Attendant explains parking procedure
X		Valet parking is automatic
X	X	Attendant promptly unloads luggage
X	X	Attendant explains luggage handling procedure
X	X	Attendant provides direction to registration area
X		Attendant anticipates guest's needs or offers a personalized recommendation
X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
X		Attendant exhibits a sincere desire and compliance to all guest requests
X		Attendant escorts guest to appropriate area
X	X	Attendant provides a warm and sincere closing
X		Attendant addresses guest by name during closing
X	X	The guest feels well served
X		Lobby greeters are available to escort guest to appropriate area

3. Check In Services

Check In Services

Service Level		
5D	4D	
X	X	Attendant provides a warm and sincere greeting; recognizes guest appropriately
X	X	Attendant inquires about guest's name
X		Attendant addresses guest by name during initial greeting without inquiry
X		Attendant uses guest's name at least once prior to closing
X		Staff associate acknowledges (with a warm and welcoming greeting) guests waiting in line
X	X	Registered guests are not asked for duplicate information
X	X	Attendant confirms rate and type of room
X	X	Attendant provides room number discreetly
X		Attendant places all registration materials into the guest's hand
X		Attendant exhibits a sincere desire and compliance to all guest requests
X		Attendant anticipates guest's needs or offers a personalized recommendation
X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
X	X	Attendant arranges escort of guest and belongings to room
X		Attendant provides introduction to escort
X	X	Attendant provides a warm and sincere closing
X		Attendant addresses guest by name during closing
X	X	The guest feels well served

4. Bell Services (Check In)

Bell Services (Check In)	Service Level		
	5D	4D	
	X	X	Escort provides a warm and sincere greeting
	X		Escort uses guest's name at least once prior to closing
	X	X	Escort is able to provide information about facilities when asked
	X		Escort takes the initiative in providing information about all facilities
	X		Escort anticipates guest's needs or offers a personal recommendation
	X		Escort exhibits a sincere desire and compliance to all guest requests
	X	X	Escort places luggage on luggage stand or in appropriate area
	X	X	Escort explains features and functions of room
	X	X	Escort offers to fill ice bucket
	X	X	Escort is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Escort provides a warm and sincere closing
	X		Escort addresses guest by name during closing
	X	X	The guest feels well served

THIS "SERVICE" MAY NOT OPERATE AT THIS LEVEL, AS IT WILL BE A "SHARED" SERVICE VIA VALET PARKING.

5. Evening Housekeeping Services

Evening Housekeeping Services	Service Level		
	5D	4D	
	X		Evening housekeeping service is automatic
	X		Attendant folds back or removes bedspread
	X		Attendant turns up pillows
	X		Attendant straightens bathroom
	X		Attendant re-points tissues
	X		Attendant cleans soiled surfaces
	X		Attendant replaces or straightens (Green Program) used towels
	X		Attendant replenishes used amenities
	X		Attendant empties wastebasket
	X		Attendant adjusts drapes
	X		Attendant adjusts room lighting
	X		Attendant delivers gift amenity, such as: goodnight wish, chocolates, etc.
	X		Attendant refreshes ice
	X		Attendant replaces used glasses
	X		Attendant displays evening services, such as: robe on bed, laundry, shoeshine, etc.
	X		Attendant leaves personalized message for guest
	X		There is additional evidence of personalized services

6. Wake-Up Call Services

Wake-Up Call Services	Service Level		
	5D	4D	
	X	X	Some type of service is available 24/7; Alarm clock or alternative method is used if there are no phones in room
	X	X	Service number is answered within three rings
	X	X	Operator provides a warm and sincere greeting
	X		Operator uses guest's name at least once prior to closing
	X	X	Operator asks appropriate questions and replies in a professional manner
	X		Operator anticipates guest's needs or offers a personalized recommendation
	X		Operator is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Operator provides a warm and sincere closing
	X		Operator addresses guest by name during closing
	X	X	Call is received within five minutes of requested time
		X	Call is an automated message
	X		Call is a live message
	X	X	Message includes a warm and sincere greeting
	X		Message includes the use of guest's name
	X		Message includes time of call
	X		Message includes other pertinent information, such as weather
	X		Operator anticipates guest's needs or offers a personalized recommendation
	X		Operator is efficient yet unhurried and sensitive to the manner of the guest
	X		Operator provides a warm and sincere closing
	X		Operator addresses guest by name during closing
	X	X	The guest feels well served
	X		There is additional evidence of personalized services

MAY ONLY BE AN "AUTOMATED" CALL & NOT ACTUAL AGENT.

7A. Room Service (Order Services)

Room Service (Order Services)	Service Level		
	5D	4D	
	X	X	Service is available at limited hours
	X		Service is available 24/7
	X	X	Service number is answered within three rings
	X	X	Operator provides a warm and sincere greeting
	X		Operator uses guest's name at least once prior to closing
	X		Operator exhibits a sincere desire and compliance to all guest requests
	X		Operator anticipates guest's needs or offers a personalized recommendation
	X	X	Operator asks appropriate questions and replies in a professional manner
	X	X	Operator repeats order to guest
	X		Operator is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Operator provides time estimate for delivery(within 30 minutes)
	X	X	Operator provides a warm and sincere closing
	X		Operator addresses guest by name during closing
	X	X	Operator calls to advise guest if order will be late or if items ordered are not available

	X	X	The guest feels well served
	X	X	Special express services are available for breakfast orders
	X		Evidence of personalized services exists

7B. Room Service (Delivery Services)

Room Service (Delivery Services)	Service Level		
	5D	4D	
	X	X	Delivered within five minutes of time promised
	X	X	Morning newspaper is presented with breakfast
	X	X	Attendant provides a warm and sincere greeting
	X		Attendant uses guest's name at least once prior to closing
	X		Attendant exhibits a sincere desire and compliance to all guest requests
	X		Attendant anticipates guest's needs or provides a personalized recommendation
	X	X	Attendant provides a suggestion as to tray/table placement
	X		Attendant is conversant during set-up and delivery
	X	X	Attendant reviews guest order
	X	X	Attendant prepares table set up and removes food covers, with guest permission
	X	X	Food presentation and quality of ingredients reflects an upscale experience
	X	X	All appropriate dishware and linens are of an upscale quality
	X	X	All food is served at the proper temperature (hot food hot and cold food cold)
	X	X	All food is prepared as ordered
	X		There is additional evidence of personalized services
	X	X	Attendant offers to pour beverage
	X	X	Attendant provides written or verbal direction for table/tray removal
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served
	X	X	Prompt (within 15 minutes) removal of trays/tables, upon request

HOTEL MAY NOT OPERATE AT THIS LEVEL

8. Bell Services (Check Out)

Bell Services (Check Out)	Service Level		
	5D	4D	
	X	X	Service number is answered within three rings
	X	X	Operator provides a warm and sincere greeting
	X		Operator uses guest's name at least once prior to closing
	X		Operator exhibits a sincere desire and compliance to all guest requests
	X		Operator anticipates guest's needs or offers a personalized recommendation
	X	X	Operator offers to retrieve car or arrange other transportation
	X		Operator is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Operator provides a warm and sincere closing
	X		Operator addresses guest by name during closing
	X	X	The guest feels well served
	X	X	Bell staff arrives promptly; If not within five minutes, guest is notified of delay at time of request
	X	X	Bell staff provides a warm and sincere greeting

BELL STAFF WILL BE COMBINED W/ VALET PARKING SO SERVICES ARE SOMEWHAT LIMITED PENDING DEMAND PEAKS.

	X		Bell staff uses guest's name at least once prior to closing
	X		Bell staff exhibits a sincere desire and compliance to all guest requests
	X		Bell staff anticipates guest's needs or offers a personalized recommendation
	X	X	Bell staff inquires about guest's stay
	X		Bell staff is appropriately conversant with guest while providing assistance
	X		Bell staff is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Bell staff provides a warm and sincere closing
	X		Bell staff addresses guest by name during closing
	X	X	The guest feels well served

9. Check Out Services

Check Out Services	Service Level		
	5D	4D	
	X	X	Express check out services are available 24/7
	X	X	Attendant provides a warm and sincere greeting; recognizes guest appropriately
	X		Attendant addresses guest by name during initial greeting, and as appropriate thereafter
	X		Staff associate acknowledges guests (with a warm and welcoming greeting) guests waiting in line
	X	X	Attendant inquires about guest stay
	X		Attendant exhibits a sincere desire and compliance to all guest requests
	X		Attendant provides a copy of bill for review in guest's hand
	X	X	Attendant confirms payment method
	X		Attendant places check out folio into the guest's hand
	X		Attendant expresses a warm and sincere thank you for staying at the property
	X		Attendant sincerely encourages guest to return
	X		Attendant anticipates guest's needs or offers a personalized recommendation
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served

10. Departure Services

Departure Services	Service Level		
	5D	4D	
	X		Guest's vehicle is waiting or comfortable accommodations are provided
	X	X	Guest does not wait more than five minutes for pre-arranged transportation
	X	X	Attendant provides a warm and sincere greeting
	X		Attendant uses guest's name at least once prior to closing
	X		Attendant anticipates guest's needs or offers a personalized recommendation
	X		Attendant is conversant pertaining to the guest's stay
	X		Attendant reviews all of guest's belongings and their placement in vehicle
	X	X	Attendant opens and closes door for guest(s)
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served

11. Concierge Services

Concierge Services	Service Level		
	5D	4D	
	X	X	Concierge is on duty with limited hours of availability
	X		Concierge is on duty, or a "special services" number is available for guests, 24/7
	X	X	Attendant provides a warm and sincere greeting
	X		Attendant uses guest's name at least once prior to closing
	X		Attendant exhibits a sincere desire and compliance to all guest requests
	X		Attendant anticipates guest's needs or offers a personalized recommendation
	X	X	Attendant demonstrates a general knowledge of area attractions and services
	X		Attendant demonstrates an extensive knowledge of area attractions and services
	X		Attendant fulfills guest's special request(s)
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served

DUE TO SIZE OF HOTEL, PROPERTY WILL NOT HAVE A "FULL-TIME" CONCIERGE POSITION. HOWEVER, FRONT DESK AGENTS WILL ACCOMODATE ALL GUEST INQUIRIES OR NEEDS

12. Miscellaneous Staff Services

Misc. Staff Services	Service Level		
	5D	4D	
	X		All associates exhibit a professional vocabulary that is devoid of common slang
	X		Guests are graciously escorted to areas when directions are requested
	X		All associates consistently maintain eye contact with guests
	X		There is evidence that all associates are empowered by management to resolve guest issues immediately
	X	X	All staff associates fulfill guest's special request(s)
	X		All phone calls are answered promptly within three rings
	X	X	All associates are appropriately attired; name tags are clearly visible
	X	X	All associates demonstrate appropriate behavior
	X	X	All associates demonstrate appropriate hygiene
	X		Short-notice pressing is available
	X		Shoe shine service is available
	X	X	Accurate pre-programmed phones
	X	X	Miscellaneous charges are billed directly to the guest room
	X		Butler services are available for all rooms
	X	X	At least one food and beverage outlet is comparable to a Three Diamond rating
	X		At least one food and beverage outlet is comparable to a Four Diamond rating
	X		At least one food and beverage outlet is comparable to a Five Diamond rating

Section Three

Additional Information

The Listing

ONCE A PROPERTY IS APPROVED, AAA PUBLISHING ESTABLISHES THE CONTENT AND FORMAT OF EACH LISTING IN ALL OF OUR PUBLICATIONS. **The listing is provided at no cost to the establishment** and does not contain advertising or promotional verbiage provided by the operator.

The listing copy describing the lodging is based in part on objective information provided by the establishment. This listing information is updated annually, and your establishment will be contacted either in person, by mail, or via the telephone.

Failure to provide this information in a timely manner may result in the deletion of your establishment from our publications.

Additionally, AAA's professionally trained inspectors enhance our inventory with descriptive prose for each establishment. This skilled degree of subjectivity enables us to capture the feel of an experience and pass along this valuable information to AAA members.

Each Diamond Rated property has the opportunity to participate in the AAA Official Appointment Program, entitling the establishment to use the renowned AAA (CAA in Canada) emblem and Diamond Rating in its advertising and promotions. This program also entitles the establishment to an enhanced listing in AAA publications. Personalized display advertising in AAA publications is also available.

FYI Designation
This designation means that a property has not been Diamond Rated by a AAA inspector, but is of notable significance and potential member value. The property is unrated due to one of the following reasons:

- The property is *too new to rate.*
- The property is *under construction.*
- The property is *undergoing extensive renovations.*
- The property *has not been evaluated.*
- The property *does not meet all Diamond Rating requirements.*

Lodging Classifications

ALL DIAMOND RATED LODGINGS ARE CLASSIFIED USING KEY DESCRIPTIVE ELEMENTS.

1. *FIRST,* ALL LODGINGS ARE CLASSIFIED BY STYLE OF OPERATION:

Bed and Breakfast: Typically smaller scale properties emphasizing a high degree of personal touches that provide guests an "at home" feeling. Guest units tend to be individually decorated. Rooms may not include some modern amenities such as televisions and telephones, and may have a shared bathroom. Usually owner-operated with a common room or parlor separate from the innkeeper's living quarters, where guests and operators can interact during evening and breakfast hours. Evening office closures are normal. A continental or full, hot breakfast is served and is included in the room rate.

Cabin: Vacation-oriented, typically smaller scale, freestanding units of simple construction—roughly finished logs or stone—and basic design or décor. Often located in wooded, rural, or waterfront locations. As a rule, basic cleaning supplies, kitchen utensils, and complete bed and bath linens are supplied. The guest registration area may be located off site.

Condominium: Vacation-oriented—commonly for extended-stay purposes—apartment-style accommodations of varying design or décor. Routinely available for rent through a management company, units often contain one or more bedrooms, a living room, full kitchen, and an eating area. Studio-type models combine the sleeping and living areas into one room. As a rule, basic cleaning supplies, kitchen utensils, and complete bed and bath linens are supplied. The guest registration area may be located off site.

Cottage: Vacation-oriented, typically smaller scale, freestanding units with home style enhancements in architectural design and interior décor. Often located in wooded, rural, or waterfront locations. Units may vary in design and décor. As a rule, basic cleaning supplies, kitchen utensils, and complete bed and bath linens are supplied. The guest registration area may be located off site.

Country Inn: Although similar in definition to a bed and breakfast, country inns are usually larger in scale with spacious public areas and offer a dining facility that serves—at a minimum—breakfast and dinner.

Hotel: Commonly, a multistory establishment with interior room entrances offering a variety of guest unit styles. The magnitude of the public areas is determined by the overall theme, location and service level, but may include a variety of facilities such as a restaurant, shops, fitness center, spa, business center, and/or meeting rooms.

Motel: Commonly, a one- or two-story establishment with exterior room entrances and drive up parking. Typically, guest units have one bedroom with a bathroom of similar décor and design. Public areas and facilities are often limited in size and/or availability.

Ranch: Typically a working ranch with an obvious rustic, Western theme featuring equestrian-related activities and a variety of guest unit styles.

Vacation Rental House: Vacation-oriented—commonly for extended-stay purposes—typically larger scale, freestanding, and of varying design or décor. Routinely available for rent through a management company, houses often contain two or more bedrooms, a living room, full kitchen, dining room, and multiple bathrooms. As a rule, basic cleaning supplies, kitchen utensils, and complete bed and bath linens are supplied. The guest registration area may be located off site.

2. *SECOND,* A DETERMINATION IS MADE PERTAINING TO OVERALL CONCEPT – AND (IF APPLICABLE), A LODGING MAY BE FURTHER DEFINED AS:

Boutique: Feeling small and intimate, offering a highly individualized experience; may have a luxurious or quirky style which is fashionable or unique.

Casino: Extensive gambling facilities are available, such as: blackjack, craps, keno, and slot machines.

Classic: Renowned and landmark properties, older than 50 years, well known for their unique style and ambiance.

Contemporary: Overall design and theme reflects characteristics of the present era's mainstream tastes and style. Trendy, modern, and typically equipped with all current technology.

Extended Stay: Offers a predominance of long-term accommodations with a designated full-service kitchen area or efficiency within each unit.

Historic: These properties are typically over 75 years of age and exhibit many features of a historic nature with respect to architecture, design, furnishings, public record, or acclaim. Properties must meet one of the following criteria:

- *Maintained the integrity of the historical nature*
- *Listed on the National Register of Historic Places*
- *National Historic* Landmark or located *in a National Register Historic District*

Resort: Recreation-oriented, geared to vacation travelers seeking a specific destination experience. Travel packages, meal plans, theme entertainment, and social and recreational programs are typically available. Recreational facilities are extensive and may include spa treatments, golf, tennis, skiing, fishing, or water sports. Larger resorts may offer a variety of guest accommodations.

Retro: Overall design and theme reflects a contemporary design reinterpreting styles from a bygone era.

Vacation Rental: Typically houses, condos, cottages or cabins; these properties are a "home away from home" offering more room and greater value for the money. In general, they provide the conveniences of home, such as full kitchens and washers/dryers. Located in resort or popular destination areas within close proximity to major points of interests, attractions, or recreation areas, these properties may require a pre-arranged reservation and check-in at an off-site location. Housekeeping services may be limited or not included during stay.

Vintage: Offers a window to the past and provides an experience reflecting a predominance of traits associated with the era of their origin.

Accessibility

Accessible Features: This property has some accessible features. It may be fully accessible, semi-accessible, or meet some of the needs of hearing-impaired individuals.

Accessibility is not a requirement for listing and will not affect your Diamond Rating. However, we strongly encourage you to make every effort to meet the needs of all your guests - including the mature traveler and those with disabilities.

Member Comment Procedures

AAA CLOSELY MONITORS THE NUMBER AND TYPE OF COMMENTS WE RECEIVE FROM MEMBERS REGARDING ALL APPROVED PROPERTIES. When members write to us expressing dissatisfaction with a particular lodging, it is tracked through the AAA National Office Member Relations department. All complaints are carefully reviewed for validity. The establishment is then notified of each complaint so they have an opportunity to respond and resolve the matter within a reasonable period of time. Even though a complaint may be satisfactorily resolved, the complaint becomes a permanent part of the establishment's record.

If a member complaint is determined to be of an extreme nature, an establishment may be disapproved immediately and without warning. This action is at AAA's sole discretion.

If a property has been disapproved for excessive member complaints, a written request for a reevaluation may be submitted, accompanied by an explanation of the actions taken to limit future complaints.
Note: Such properties may not reapply until one year has passed from the date of disapproval. All requests may be addressed to:

AAA Tourism Information Development
1000 AAA Drive
Mail Stop 51
Heathrow, FL 32746-5063

EXCLUSIONS

The following are modifications to the AAA Diamond Rating Guidelines pertaining to a four diamond hotel that shall be applicable in connection with Lessee's satisfaction of the Required Hotel Standard. Each heading below in all capital letters refers to the corresponding heading in the far left hand column of Section 2 of the AAA Diamond Rating Guidelines and all page number references refer to the corresponding page number of the AAA Diamond Rating Guidelines.

1. MAIN ENTRANCE (page 8): The main entrance shall not be required to have "oversized capacity." The capacity will be part of flowing parking lot traffic, not curbed porte-cochere.

2. WALL COVERINGS INCLUDING INTERIOR CORRIDORS (page 10): The public areas shall not be required to include wood paneling, wainscot or wood baseboards in corridors to the extent that such items are inconsistent with the approval design (including due to operational insensitivity).

3. CEILINGS (page 11): The ceilings in the public areas shall not be required to feature beams, murals, stencils, fans or special effect lighting to the extent that such items are inconsistent with the approved design.

4. LOBBY/REGISTRATION AREA (page 12): The lobby shall not be required to house multiple conversation grouping areas or provision for a guest service area if the lobby is not of sufficient size to accommodate such items. The lobby of the Hotel is expected to accommodate 1 or 2 seating areas and will not incorporate a concierge service area.

5. BUSINESS CENTER (page 13): The business center will not be required to be an enclosed area. It may function in an open area of the lobby area and incorporate other design elements.

6. MEETING ROOMS (page 14): The Hotel will not be required to contain a "theatre" space. The Hotel will be required to house only limited audiovisual equipment if these services are out-sourced to third party providers.

7. FOOD & BEVERAGE: RESTAURANT (page 15): Room service shall be available for breakfast, lunch and dinner, but the room service menu shall not be required to include all items available in the restaurant.

8. WALL COVERINGS (page 18): The wall coverings in the guestrooms shall not be required to include wood paneling, wainscot or wood baseboards to the extent that such items are inconsistent with the approved design (including due to operational insensitivity.

9. CEILINGS (page 19): The ceilings in the guestrooms shall not be required to incorporate trim molding, beams, fans or special effect lighting to the extent that such items are inconsistent with the approved design.

10. OTHER ELECTRONICS (page 22): The guest rooms shall be required to include either pay-per-view movies, a DVD player (or comparable technological evolution) or a multi-media port system (or comparable technological evolution) to permit guests to utilize their own media devices.

11. GUEST INFORMATION (page 23): The Hotel is not required to automatically deliver a daily newspaper to each guestroom, but newspapers shall be delivered upon request and will be available to guests in the lobby or other common areas (to the extent that the supply of newspapers continues to be included in the AAA Diamond Rating Guidelines). The Hotel is not required to provide additional reading materials (such as magazines, books, etc.) or upgraded stationery page (envelopes, postcards, writing paper).

12. AVAILABLE COUNTER/SHELF SPACE (page 28): The guestroom bathrooms shall not be required to incorporate "oversized" (6 square feet or greater) counter space if the particular bathroom dimensions in the approved design do not accommodate such amount of counter space.

13. PERSONAL CARE (page 29): The "seven-piece personal care package" may be reduced to a six-piece personal care package.

14. BELL SERVICES (CHECK IN) (page 32): The escort shall not be required to explain features and functions of the room or to offer to fill the ice bucket.

15. ROOM SERVICE (DELIVERY SERVICES) (page 34): A morning newspaper will be required to be delivered with breakfast only upon request by the guest.

16. CONCIERGE SERVICES (page 36): Concierge services may be provided by the front desk staff.

BOARD OF SUPERVISORS' ORIGINAL

AMENDED AND RESTATED LEASE AGREEMENT

by and between

COUNTY OF LOS ANGELES

and

IWF MDR HOTEL, L.P.

(Parcel 42 -- Lease No. 78022)

Dated as of August 30, 2013

78022

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AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 42 — MARINA DEL REY

THIS AMENDED AND RESTATED LEASE AGREEMENT ("**Lease**") is made and entered into as of the 30th day of August, 2013 ("**Effective Date**"), by and between the COUNTY OF LOS ANGELES ("**County**"), as lessor, and IWF MDR HOTEL, L.P., a California limited partnership (together with its permitted successors and assigns, "**Lessee**"), as lessee.

RECITALS

WHEREAS, County, as lessor, and Milton Weber, Elias Alan Fellman, Gerald Fellman and Edward Z. Fellman, a partnership (collectively, "**Original Lessee**"), as lessee, entered into Lease No. 5577 dated May 7, 1962, as amended (the "**Existing Lease**"), concerning the lease of certain real property in the Marina del Rey Small Craft Harbor commonly known collectively as Parcels 42 and 43 and more particularly described in the Existing Lease (the "**Existing Premises**");

WHEREAS, Lessee is the current successor-in-interest to the Original Lessee's right, title and interest as lessee under the Existing Lease;

WHEREAS, the term of the Existing Lease is currently scheduled to expire on February 28, 2022 (the "**Existing Expiration Date**");

WHEREAS, County and Lessee entered into that certain Option Agreement Regarding Leasehold Interest (Parcels 42 and 43) dated May 17, 2011 (the "**Original Option Agreement**"), pursuant to which County granted Lessee two options concerning the Existing Lease, one referenced in the Option Agreement as the "Parcel 42 Option" (the "**Parcel 42 Option**") and one referenced in the Option Agreement as the "Parcel 43 Option" (the "**Original Parcel 43 Option**");

WHEREAS, County and Lessee entered into that certain Amendment to Option Agreement Regarding Leasehold Interest (Parcels 42 and 43) dated November 13, 2012 (the "**Option Agreement Amendment**") pursuant to which the Original Option Agreement was amended in certain respects, including the extension of the required dates for the exercise of the Parcel 42 Option and the Original Parcel 43 Option; the Original Option Agreement, as amended by the Option Agreement Amendment is referred to herein as the "**Option Agreement**;"

WHEREAS, the Parcel 42 Option included an option in favor of Lessee to: (a) bifurcate and re-divide the Existing Premises into two separate leaseholds consisting of the Premises described in this Lease and a modified Parcel 43 premises described in the Option Agreement; (b) the recordation of a reciprocal easement agreement with respect to the two premises; (c) the division of the Existing Lease into two separate amended and restated leases, one consisting of this Lease and the second consisting of an amended and restated lease for the modified Parcel 43 premises; (d) the extension of the term of the lease for the Premises under this Lease from the Existing Expiration Date to February 28, 2061; and (e) the complete renovation of the

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improvements located on the Premises under this Lease in accordance with the terms and provisions of this Lease;

WHEREAS, Lessee has exercised the Parcel 42 Option in accordance with the terms and provisions of the Option Agreement;

WHEREAS, the Original Parcel 43 Option has not yet been exercised; and

WHEREAS, concurrently herewith (a) County and Lessee are entering into an Amended and Restated Lease Agreement (Pre-Parcel Parcel 43 Option Exercise) with respect to the "Modified Parcel 43 Premises (Pre-Expansion)" described in the Option Agreement, to amend and restate the Existing Lease in its entirety with respect to the "Modified Parcel 43 Premises (Pre-Expansion)" (as the same hereafter may be amended prior to the exercise of the Parcel 43 Option, the "**Pre-Expansion Parcel 43 Lease**"); (b) Lessee's rights, title and interests under the Pre-Expansion Parcel 43 Lease are being assigned by Lessee to MDR MARINA, L.P., a California limited partnership ("**MDRM**"), an affiliate of Pacific Marina Development, Inc., and MDRM is assuming Lessee's obligations and liabilities under the Pre-Expansion Parcel 43 Lease; and (c) County and MDRM are entering into an Option Agreement Regarding Leasehold Interest (Parcel 43) pursuant to which MDRM has been granted an option (the "**Parcel 43 Option**") to replace the Original Parcel 43 Option.

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 with respect to the Premises, 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 "ALTERATIONS" shall have the meaning set forth in Section 5.2.

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

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

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

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

1.1.13 "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.

1.1.14 "APPLICABLE RENOVATION COSTS" shall have the meaning set forth in Section 5.1.

1.1.15 "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.

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

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

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

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

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

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

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

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

1.1.24 "CAPITAL IMPROVEMENT FUND" shall have the meaning set forth in Section 5.13.

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

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

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

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

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

1.1.30 "CO DATE" means the date of the issuance of a certificate of occupancy (whether temporary or permanent) or other applicable governmental certificate or approval, for legal use and occupancy of the Hotel, as renovated by the Renovation Work.

1.1.31 "CONSTRUCTION COMPLETION DATE" means the date of the substantial completion of the Renovation Work, including 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 Hotel, as renovated by the Renovation Work.

1.1.32 "CONSTRUCTION PERIOD" shall have the meaning set forth in Subsection 4.2.1.

1.1.33 "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.

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

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

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

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

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

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

1.1.40 "CVB PAYMENT" shall have the meaning set forth in Subsection 4.2.2.9.

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

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

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

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

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

1.1.46 "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.

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

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

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

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

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

1.1.52 "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.

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

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

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

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

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

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

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

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

1.1.61 "EXISTING EXPIRATION DATE" shall have the meaning set forth in the Recitals to this Lease.

1.1.62 "EXISTING LEASE" shall have the meaning set forth in the Recitals to this Lease.

1.1.63 "EXISTING PREMISES" shall have the meaning set forth in the Recitals to this Lease.

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

1.1.65 "EXTENSION FEE" shall have the meaning set forth in Subsection 2.1.2.

1.1.66 "EXTENSION FEE BALANCE" shall have the meaning set forth in Subsection 2.1.2.

1.1.67 "EXTENSION FEE INSTALLMENT PAYMENT" shall have the meaning set forth in Subsection 2.1.2.

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

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

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

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

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

1.1.73 "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 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 or 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 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, the Parcel 43 Lessee, or any person or entity affiliated with Lessee or the Parcel 43 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.

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

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

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

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

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

1.1.79 "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.

1.1.80 "HOTEL" means the hotel located on the Premises.

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

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

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

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

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

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

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

1.1.88 "LANDSIDE ANCHORAGE IMPROVEMENTS" means the commercial store, harbor master's office, restrooms, showers, laundry facilities or other Improvements located on the land portion of the Parcel 43 Premises.

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

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

1.1.91 "LEASE YEAR" shall have the meaning set forth in Subsection 2.1.1.

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

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

1.1.94 "MAINTENANCE STANDARD" shall have the meaning set forth in Section 10.1.

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

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

1.1.97 "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 hotel rooms, (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 hotel rooms, or (c) pertains to the Promenade.

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 commercial projects 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 "OPERATING COVENANT EXCEPTIONS" shall have the meaning set forth in Section 3.3.

1.1.106 "OPTION" shall have the meaning set forth in the Recitals to this Lease.

1.1.107 "OPTION AGREEMENT" shall have the meaning set forth in the Recitals to this Lease.

1.1.108 "OPTION FEE" shall have the meaning set forth in Subsection 4.8.1.1.

1.1.109 "ORIGINAL LESSEE" shall have the meaning set forth in the Recitals to this Lease.

1.1.110 "ORIGINAL PARCEL 43 OPTION" shall have the meaning set forth in the Recitals to this Lease.

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

1.1.112 "PARCEL 43 LEASE" means the Pre-Expansion Parcel 43 Lease, as amended and restated after the exercise of the Parcel 43 Option.

1.1.113 "PARCEL 43 LESSEE" shall mean the lessee under the Parcel 43 Lease (as assigned, if applicable).

1.1.114 "PARCEL 42 OPTION" shall have the meaning set forth in the Recitals to this Lease.

1.1.115 "PARCEL 43 OPTION" shall have the meaning set forth in the Recitals to this Lease.

1.1.116 "PARCEL 43 PREMISES" shall mean the premises leased under the Parcel 43 Lease, as such premises may be reduced, enlarged or otherwise modified or reconfigured from time to time. During any period during which no Parcel 43 Lease is in effect, the Parcel 43 Premises shall mean the "Parcel 43 Property" under the Reciprocal Easement Agreement.

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

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

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

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

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

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

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

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

1.1.125 "PREMISES" shall mean the real property described on Exhibit A attached to this Lease.

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

1.1.127 "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.

1.1.128 "PROMENADE" shall have the meaning set forth in Section 15.20.

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

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

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

1.1.132 "RECIPROCAL EASEMENT AGREEMENT" means that certain Reciprocal Easement Agreement dated as of the Effective Date between and among, Lessee, the Parcel 43 Lessee and County with respect to the Premises and the Parcel 43 Premises, as amended from time to time.

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

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

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

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

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

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

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

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

1.1.141 "REQUIRED HOTEL STANDARD" shall have the meaning set forth in Section 3.1.

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

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

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

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

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

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

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

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

1.1.150 "STATE" shall mean the State of California.

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

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

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

1.1.154 "SUBSEQUENT RENOVATION" shall have the meaning set forth in Section 5.11.

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

1.1.156 "SUBSEQUENT RENOVATION PLAN" shall have the meaning set forth in Section 5.11.

1.1.157 "substantial completion" means the completion of the Renovation Work, 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 subject Improvements (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.

1.1.158 "TERM" shall have the meaning set forth in Subsection 2.1.1.

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

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

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

1.1.162 "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 with respect to the Premises.

1.2.1 As-Is. Lessee acknowledges that (1) it is currently in possession of the Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Premises since 1962, and (3) the Improvements now existing on the Premises were constructed by Lessee or its predecessors with contractors selected by them. Except as provided in 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.

2.1.1 General. The term of the Lease ("**Term**") commenced on March 1, 1962 and, unless terminated sooner in accordance with the provisions of this Lease, shall expire at 11:59 p.m. on February 28, 2061. For purposes of this Lease, "**Lease Year**" shall mean each calendar year (or partial calendar) during the Term of this Lease.

2.1.2 Extension Fee. In consideration for County's agreement to enter into this Lease, Lessee shall pay to County as hereinafter provided the principal sum of Three Hundred Thousand Dollars ($300,000.00) (the "**Extension Fee**"). County received the first One Hundred Thousand Dollars ($100,000.00) of the Extension Fee in the form of the "Parcel 42 Option Fee"

that was paid by Lessee by County concurrent with the execution of the Option Agreement. The remaining balance of the Extension Fee in the amount of Two Hundred Thousand Dollars ($200,000.00) (the "**Extension Fee Balance**") shall be paid by Lessee in ten (10) equal annual installments of Twenty Thousand Dollars ($20,000.00) each, plus accrued interest at the Prime Rate on the unpaid balance (each, an "**Extension Fee Installment Payment**"), with the first Extension Fee Installment Payment due on the Effective Date and the nine (9) remaining Extension Fee Installment Payments due on each of the first nine (9) anniversaries of the Effective Date. For the purpose of the calculation of accrued interest, the Prime Rate shall initially be the Prime Rate in effect as of the Effective Date and shall thereafter adjust annually as of each anniversary of such Effective Date. The Extension Fee Balance (including accrued interest thereon), may be prepaid by Lessee, in whole or in part, at any time. Any failure by Lessee to pay an Extension Fee Installment Payment (including all unpaid accrued interest) by the date required in this Section 2.1.2 shall constitute a breach by Lessee of the terms and conditions of this Lease and shall give rise to County's remedies as set forth herein, including without limitation County's right to receive a Late Fee in connection with such late payment and/or County's right to terminate this Lease if such breach is not cured after written notice and the expiration of the cure period set forth in Subsection 13.1.1 of this Lease. Upon the occurrence of an Event of Default, County shall have the right to declare the entire remaining unpaid Extension Fee Balance (including accrued, but unpaid interest) immediately due and payable.

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 eleven (11) years, and no later than ten (10) years prior to the expiration of the Term, Lessee shall deliver to County a report prepared by

a construction and demolition expert 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**") by the later of (a) one (1) year following delivery by Lessee to County of the Demolition and Removal Report, or (b) nine (9) 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 County ("**Demolition Security**"), and (ii) a schedule satisfactory to County for the delivery by Lessee of the security described in clause (i) above, which schedule shall in all events provide for a full funding of the security not later than two (2) years prior to the expiration of the Term. The amount of 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. Lessee shall have the right to use surplus funds in the Capital Improvement Fund and/or FF&E Fund towards satisfaction of the Demolition Security requirements under this Subsection 2.3.2 to the extent permitted under the last paragraph of Section 5.13 or the last paragraph of Section 5.14 (as applicable). 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 a luxury hotel of approximately 154 hotel rooms, with associated conference center, meeting rooms, spa/exercise facilities, dining facilities, outdoor swimming pool and other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the "**Permitted Uses**"). Except as specifically provided herein, the Premises 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.

The Hotel shall be operated in accordance with a standard of operation at least commensurate with the Required Hotel Standard. The "**Required Hotel Standard**" means a standard of operation that meets all criterion (including without limitation, operational, amenities,

services, improvements, furniture, fixtures and equipment, and appearance) for a "four diamond" hotel rating under the AAA Diamond Rating Guidelines hotel rating system of the American Automobile Association (or its successor) ("**AAA**"), except for the specific modifications to such guidelines listed under the heading "Exclusions" on the last page of Exhibit F attached to this Lease (the "**Exclusions**"), or if the AAA Diamond Rating Guidelines change, then the criterion for a standard equivalent to the AAA four diamond hotel standard as of the Effective Date, excluding the Exclusions; provided, however, that if the AAA ceases to publish hotel rating guidelines, then the "**Required Hotel Standard**" shall mean a standard of operation that meets all criteria (exception for the Exclusions) for the most substantially equivalent standard to a AAA four diamond hotel standard under such other rating system that is then generally recognized by the hotel industry. If in connection with any change in, or choice of a replacement, rating system County and Lessee are unable to agree upon such changed or replacement rating system, then the dispute shall be resolved in accordance with the procedures set forth in Article 16 of this Lease. Attached as Exhibit F are the AAA Diamond Rating Guidelines in effect as of the date of the Option and the list of Exclusions to those guidelines agreed upon by Lessee and County.

The Premises and Improvements shall initially be operated under the trade name of "Marina Del Rey Hotel" or other trade name reasonably acceptable to Director. Lessee shall have no right to change the trade name of the Premises and Improvements without the prior written consent of Director, which consent shall not be unreasonably withheld. Throughout the Term of the Lease the Hotel shall be operated by an experienced hotel operator with a nationwide reservation system in which the Hotel participates. Lessee shall have no right to change the operator of the Hotel without County's prior written consent, which consent shall be granted or denied in accordance with the reasonable judgment of County. Notwithstanding any contrary provision of this Lease, any change to the trade name or the operator of the Hotel shall be consistent with the operation of the Hotel in accordance with an operation standard at least commensurate with the Required Hotel Standard.

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, non-business activity of an individual that is confined to such individual's hotel room;

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.

3.3 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, temporary interruption as necessary for maintenance and repair, or temporary interruption as necessary to accommodate renovation, alteration or other improvement work required or permitted to be performed by Lessee under this Lease (collectively, "**Operating Covenant Exceptions**")) in light of these objectives, consistent with the operation of comparable hotel 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 15.20) 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. Any changes in the days or hours of operation of the Promenade shall be subject to the written approval of Director, which approval shall not be unreasonably withheld, conditioned or delayed. The other Improvements on the Premises shall be open every day of the year for at least hours commensurate with the hours of operations of other similar hotel facilities in Los Angeles County, California, subject to Operating Covenant Exceptions and except for such holidays, if any, during which similar businesses in Marina del Rey are customarily closed.

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 hotel and related commercial 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, this Lease shall be subject to the Reciprocal Easement Agreement. Lessee agrees during the Term of this Lease, as a covenant of Lessee under this Lease, to perform and comply with all obligations, covenants and liabilities of Lessee, and all other terms and provisions applicable to Lessee, under the Reciprocal Easement Agreement. Notwithstanding any contrary provision of this Lease, County shall have no liability to Lessee under this Lease, and Lessee's obligations under this Lease shall not be excused, delayed, deferred, extended or otherwise affected, by (a) any breach, default, act or omission by or on behalf of the Parcel 43 Lessee, its employees, agents, affiliates, subtenants, licensees, contractors, successors or assigns, under the Reciprocal Easement Agreement; (b) any events, occurrences, conditions or other matters pertaining or relating to the Landside Anchorage Improvements; or (c) any redevelopment or renovation of the Parcel 43 Premises or improvements located thereon (or any failure of, or delay in, the redevelopment or renovation of the Parcel 43 Premises or improvements located thereon), including, without limitation, any disturbance, inconvenience, disruption, noise or other adverse effect upon the Premises or Improvements, or the use or operation thereof, incurred or resulting therefrom. The terms and provisions of this paragraph are not intended to modify or affect any express obligations of County under the Reciprocal Easement Agreement that may be applicable under the Reciprocal Easement Agreement with respect to any

period during which neither the Parcel 43 Lease nor any new or replacement lease is in effect with respect to the Parcel 43 Premises or a portion thereof.

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 day preceding the earlier of the CO Date or the Required Construction Completion Date (the "**Construction Period**"), the Annual Minimum Rent shall be equal to $273,617.17 per year. Lessee shall provide written notice to County of the CO Date promptly upon the occurrence thereof.

During the period commencing on the day following the Construction Period and continuing through the December 31 next following the third (3rd) anniversary of the last day of the Construction Period (or through the December 31 immediately preceding the third (3rd) anniversary of the last day of the Construction Period if the last day of the Construction Period is January 1), the Annual Minimum Rent shall be equal to seventy-five percent (75%) of the average total Annual Rent projected to be payable by Lessee during the three (3) year period following the CO 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 Construction Period. Not later than three (3) months prior to the earlier of the projected CO Date or the Required Construction Completion 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 CO Date. Upon approval by Director, such projected Gross Receipts shall be used to calculate the Annual Minimum Rent payable by Lessee under this paragraph.

As of the date immediately following the period described in the immediately preceding paragraph (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) Intentionally omitted;

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

(c) SEVEN AND ONE-HALF PERCENT (7.5%) of Gross Receipts or other fees charged for the rental, occupancy or use of the following structures: (1) hotel and/or motel accommodations, and (2) meeting rooms; and TEN PERCENT (10%) of Gross Receipts from filming or other television and/or motion picture activities;

(c1) ELEVEN PERCENT (11%) 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 commercial establishments; provided that, except as provided in Subsection 4.2.2.5, Gross Receipts or other fees charged for the occupancy of restaurants, stores, shops or other commercial establishments shall not be included in the calculation of Percentage Rent under this 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) With respect to services such as 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, and other similar activities where earnings are normally on a commission basis, 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 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;

(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 the rental of boats or from other commercial boating activities including, but not limited to, charter boats, bareboat charters and sport fishing, or from the rental of bicycles, cycles carriages, scooters or other similar equipment;

(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) (1) In the case where parking facilities are operated by a third party operator under a parking operation agreement with Lessee or a Sublessee, (i) TWENTY PERCENT (20%) of the fee or other compensation paid by such third party operator to Lessee (or Sublessee) if the operator is entitled to receive parking revenue and is responsible for the payment of operating expenses; or (ii) FIVE PERCENT (5%) of the Gross Receipts from the operation of such parking if the operator collects such Gross Receipts on behalf of Lessee (or Sublessee) and Lessee (or Sublessee) is responsible for the payment of the operating expenses for such parking operation (which operating expenses include a fee or other compensation to the parking operator for the rendering of such parking services); or

(2) In the case where parking facilities are operated by Lessee or a Sublessee, FIVE PERCENT (5.0%) of Gross Receipts from such parking.

Notwithstanding the foregoing, if other comparable hotel projects in the Relevant Market (as defined below) generally provide parking at no charge or for a charge less than that charged by Lessee, then at Director's election the Gross Receipts under this Lease attributable to parking charges in excess of the market hotel rate for such parking shall not be included in Percentage Rent under this category (r) but shall instead be considered Gross Receipts from the rental, occupancy or use of hotel accommodations under category (c) above; the "**Relevant Market**" shall mean the following hotels (or successor operations at the same location) that are then in operation: (I) Marina del Rey Marriott located on Parcel 141V; (II) Ritz Carlton Hotel located on Parcel 125H; (III) Marina International Hotel (or Hilton Garden Inn or other trade name) located on Parcel 145; (IV) Courtyard Los Angeles Marina del Rey located at 13480 Maxella Avenue; and (V) any other then existing hotel located in Marina del Rey with 50 or more hotel rooms; provided, however, that a hotel that is otherwise included in the Relevant Market as described above and that is located on a leasehold with County that requires the lessee to pay to County percentage rent shall not be included in the Relevant Market unless in such lessee's lease with County the percentage rental rate applicable to gross receipts from parking revenues collected by or for the benefit of such lessee (i.e., gross receipts collected on a basis similar to that described in clauses (r)(1)(ii) and (r)(2) above and not gross receipts consisting of compensation paid to the lessee by the operator for the right

to operate such parking facilities as in clause (r)(1)(i) above) is less than the percentage rental rate applicable to gross receipts from hotel room occupancy;

(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;

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

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

4.2.2.1 Other Activities. If Director or Lessee reasonably determine that a percentage of Gross Receipts is not suitable or applicable for a particular activity not described above, although permitted hereunder, Director and Lessee shall mutually establish a minimum monthly payment to County as payment for the privilege of engaging therein, which shall remain effective until the next Renegotiation Date. Said minimum monthly amount shall be reasonable in accordance with the revenue generated by such activity and shall be included in Percentage Rent, as determined hereunder, in lieu of a percentage of Gross Receipts therefor.

4.2.2.2 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) Gross Receipts shall not include any of the following items; provided, however, that the non-inclusion in Gross Receipts of the following items shall not be construed or interpreted to permit the reduction of, or any offset against, Gross Receipts by or for the amount of such 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. any payments or reimbursements received by Lessee from the Parcel 43 Lessee pursuant to the Reciprocal Easement Agreement that constitute or represent payment or reimbursement by the Parcel 43 Lessee to Lessee for costs incurred by Lessee in connection with the operation, maintenance or repair of any common or shared areas under the Reciprocal Easement Agreement.

(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.

4.2.2.9 CVB Surcharge. Lessee funds its share of the cost of the operation of the Marina del Rey Convention and Visitor's Bureau ("**CVB**") through the self-imposed collection from its customers of a one percent (1%) surcharge against the fees charged to its customers for the occupancy of hotel and motel sleeping accommodations (the "**Surcharge**") and the monthly payment of the Surcharge to the CVB (the "**CVB Payment**"). In recognition of the mutually beneficial services provided by the CVB and in acknowledgment of the intended use of the Surcharge, County and Lessee agree that the Surcharge shall be excluded from Gross Receipts to the extent that Lessee pays the Surcharge to the CVB in the form of the CVB Payment prior to the date on which the monthly Gross Receipts report for the month during which the Surcharge is collected is due. Lessee shall report, as separate line items in the monthly Gross Receipts report, the amounts of the Surcharge excluded from Gross Receipts and the CVB Payment for such reported month. If for any month the CVB Payment is less than the Surcharge, then the allowable exclusion shall be limited to the actual CVB Payment, and Percentage Rent shall be payable under the 7½% percent subcategory of category (c) of Subsection 4.2.2 with respect to the amount by which the Surcharge exceeds the CVB Payment. All records relating to the Surcharge and CVB Payments shall be maintained by Lessee in conformance with the requirements of Article 14 of this Lease.

4.3 Adjustments to Annual Minimum Rent. As of the First Adjustment Date and every three (3) years thereafter until the first Renegotiation Date, and thereafter each third (3rd), sixth (6th) and ninth (9th) 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 end of the Construction Period, and the January 1 following each subsequent tenth (10th) anniversary thereafter (each a "**Renegotiation Date**" and collectively, the "**Renegotiation Dates**"), the Annual Minimum Rent and Percentage Rent shall be readjusted to the Fair Market Rental Value (as defined below) of the Premises.

4.4.1 Fair Market Rental Value. As used herein, "**Fair Market Rental Value**" shall mean, as of each Renegotiation Date, the fair market rent, including an annual minimum rent 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;

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, but excluding any event as to which the Net Proceeds Share is expressly stated to be $0 under the provisions of the first paragraph of Section 4.8 below) 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. The Net Proceeds Share shall be $0 for any Change of Ownership occurring prior to the sixth (6th) anniversary of the last day of the Construction Period (and for any Financing Event to fund such Change of Ownership).

In the case of a Change of Ownership (excluding Excluded Transfers) that occurs during the period between the seventh (7th) and tenth (10th) anniversaries of the last day of the Construction Period, the Net Proceeds Share shall be equal to the greater of (a) the lesser of (i) the Net Transfer Proceeds from such transfer, or (ii) two and one-half percent (2.5%) of the Gross Transfer Proceeds from such transfer, or (b) twenty percent (20%) of the Net Transfer Proceeds from such transfer.

In the case of a Change of Ownership (excluding Excluded Transfers) that occurs after the tenth (10th) anniversary of the last day of the Construction Period, the Net Proceeds Share shall be equal to the greater of (a) the lesser of (i) the Net Transfer Proceeds from such transfer, or (ii) five percent (5%) of the Gross Proceeds from such transfer, or (b) twenty percent (20%) of the Net Transfer Proceeds from such transfer.

"**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).

In the case of the following Financing Events (collectively, the "**Financing Event Net Proceeds Share Exclusions**"), the Net Proceeds Share shall be $0: (i) the origination of the initial construction loan for the construction of the Renovation Work (the "**Initial Construction Loan**"), (ii) the first conversion or refinancing of the Initial Construction Loan to permanent financing (or a mini-perm financing) prior to the sixth (6th) anniversary of the last day of the Construction Period, or (iii) any other Financing Event occurring prior to the sixth (6th) anniversary of the last day of the Construction Period. With respect to any other Financing Event not described in the immediately preceding sentence or in the parenthetical in the first paragraph of this Section 4.8 above, the Net Proceeds Share (if any) shall be equal to twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event. 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 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 Initial Lessee Under this Lease. 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) Sixteen Million Nine Hundred Eighty Thousand Dollars ($16,980,000), plus (b) the total amount of the Extension Fee (including the "Parcel 42 Option Fee" paid by Lessee under the Option Agreement) that has been paid by Lessee as of the date of the Change of Ownership, 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 costs paid by Lessee in connection with (I) the Renovation Work, or (II) other physical capital Improvements or Alterations made to the Premises by Lessee after the Effective Date in compliance with Article 5 of this Lease (in each instance excluding the amount of any such costs reimbursed or paid by the Parcel 43 Lessee), in each case to the extent that such costs have been submitted to County within ninety (90) days after the completion of such Improvements, together 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 (the amounts described in this clause (e) are referred to as "**Improvement Costs**"). Notwithstanding the foregoing, with respect to Improvements or Alterations which are not part of the Renovation Work, Lessee shall submit the cost of such Improvements on an annual basis within ninety (90) days following the end of each fiscal year. If by the date that is ninety (90) days after the completion of the Renovation Work (or other Improvements) the final amount of the Improvement Costs is not established because of a dispute or disputes between Lessee and its contractor(s), then Lessee shall note such dispute(s) in its submission of the Improvement Costs (including a description of the costs and the amounts under dispute). Lessee shall thereafter notify County in writing within thirty (30) days after the resolution of any such dispute as to any final adjustment required to the amount of the Improvement Costs to reflect the resolution of such dispute. 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.

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, including the Administrative Charge paid to County for such transaction (but without double counting) (collectively, "**Documented Transaction Costs**").

4.8.1.3 That portion of the principal amount of any Financing Event after the Effective Date that constituted Net Refinancing Proceeds on which Lessee paid County a Net Proceeds Share (or that would have constituted Net Refinancing Proceeds on which Lessee would have been required to pay a Net Proceeds Share but for the Financing Event Net Proceeds Share Exclusions).

4.8.2 Transfer by Lessee's Successor. In the case of a transfer by a Lessee other than the original Lessee, "**Net Transfer Proceeds**" shall mean the Gross Transfer Proceeds received by that successor, minus the following costs with respect to such successor Lessee:

4.8.2.1 The greatest of (a) the sum of the Base Value, plus Improvement Costs incurred subsequent to the Effective Date but prior to the acquisition of the leasehold interest by such successor; (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired (or 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 (or, in the case of a Financing Event on which Lessee would have paid a Net Proceeds Share but for the Financing Event Net Proceeds Share Exclusions), 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 (if any) 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 the existing Improvements located on the Premises in accordance with the renovation plan attached to this Lease as Exhibit B (the "**Renovation Plan**"), including without limitation, the complete renovation of the existing hotel (to contain 154 rooms) existing on the Premises, including the renovation of the interiors, bathrooms, windows and doors of all rooms, the replacement of all building systems (including HVAC, electrical, plumbing, elevators and other building systems), and the renovation of building facades, interior and exterior common areas, landscaping and hardscape (including Promenade). 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 construct for Director's approval a mock-up room that depicts the typical hotel room as renovated. Such mock-up room shall be completed in accordance with a schedule that permits Director to approve the mock-up room prior to the application of the various components of the mock-up room to the other hotel rooms. If the mock-up room is not completed, and Director's approval of the mock-up room received, prior to the commencement of construction of the Renovation Work, then Lessee shall assume the risk that portions of the Renovation Work performed prior to Director's approval of the mock-up room may be required to be altered to accommodate changes or modifications required by Director with respect to the mock-up room. Director's approval or disapproval of the mock-up room shall not be limited or constrained by any additional cost, delay or other adverse affect that results from Lessee's failure to receive Director's approval of the mock-up room prior to the commencement of construction of the Renovation Work.

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.

The Renovation Work to be performed by Lessee includes the development and/or renovation by Lessee of the Promenade in accordance with the Renovation Plan. The Reciprocal

Easement Agreement includes certain covenants and agreements between Lessee and the Parcel 43 Lessee concerning the development and/or renovation of the Promenade, including without limitation, a covenant on the part of the Parcel 43 Lessee to pay or reimburse Lessee for a portion of the cost of the development and/or renovation of the Promenade in accordance with the terms and provisions of the Reciprocal Easement Agreement (the "**Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount**"). Notwithstanding any contrary provision of this Lease (including without limitation, Section 5.6 below), County shall have no liability to Lessee, and Lessee's obligations under this Lease with respect to the completion of the Renovation Work (including the development and/or renovation of the Promenade) shall not be excused, delayed, deferred, extended or otherwise affected, by any breach, default, act or omission by or on behalf of the Parcel 43 Lessee, its employees, agents, affiliates, subtenants, licensees, contractors, successors or assigns, pertaining or relating to the development and/or renovation of the Promenade; provided, however, if the Parcel 43 Lease is terminated and at the time of such termination the Parcel 43 Lessee has not fully paid to Lessee the Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount, then (A) if and to the extent that after the termination of the Parcel 43 Lease County operates the Parcel 43 Premises, either directly or through a third party management company (as opposed to leasing the Parcel 43 Premises to a replacement lessee) and County receives revenue from such operation in excess of the expenses incurred by County in connection with such operation, then County shall pay the unpaid portion of the Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount to Lessee to the extent of, and not in excess of, the amount of the net revenue (i.e., revenue less expenses) received by County (in its capacity as owner of the Parcel 43 Premises and not in its governmental capacity as the recipient of tax revenues or other governmental fees or charges) in connection with such operation of the Parcel 43 Premises; and/or (B) if after the termination of the Parcel 43 Lease County enters into a new lease with a replacement lessee for the operation of Parcel 43, then in connection with such new lease, County shall require the new lessee to pay to Lessee no later than thirty (30) days after the execution of such new lease any remaining unpaid portion of Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount. In no event shall County have any obligation whatsoever to operate the Parcel 43 Premises to generate revenue to pay any unpaid portion of the Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount, and any election by County to operate the Parcel 43 Premises after a termination of the Parcel 43 Lease shall be in the sole and absolute discretion of County. In addition, in no event shall County have any obligation whatsoever after a termination of the Parcel 43 Lease to enter into a new lease with a replacement lessee to operate the Parcel 43 Premises, and any election by County to enter into any such new lease shall be in the sole and absolute discretion of County. For purposes of the calculation of the net revenue available to pay the Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount pursuant to clause (A) above in this paragraph, such net revenue shall be calculated on a calendar year (or at County's election, County's fiscal year) basis. Within ninety (90) days after the end of each such calendar (or fiscal) year County shall deliver to Lessee a statement of the net revenue received by County from the operation of the Parcel 43 Premises during such year and remit to Lessee the amount of such net revenue until the unpaid Parcel 43 Lessee's Promenade Development Cost Reimbursement Amount for which County has responsibility hereunder is paid in full.

Lessee shall be solely responsible for all costs and expenses incurred in connection with the performance of the Renovation Work (including all design, engineering, entitlement and

construction activities). Lessee shall expend on the Renovation Work not less than the Required Cost Amount (as defined below) for out-of-pocket costs paid to third parties for the performance of the Renovation Work that comply with the definition of Applicable Renovation Costs set forth below. The immediately preceding sentence shall not be construed as a maximum amount that Lessee is required to expend for Applicable Renovation Costs for the Renovation Work, but only as a minimum amount, and Lessee shall be required to perform the Renovation Work in accordance with the requirements and standards set forth in this Article 5 even if the Applicable Renovation Costs necessary to do so exceed the Required Cost Amount. Only Applicable Renovation Costs may be used to satisfy the Required Cost Amount. "**Applicable Renovation Costs**" shall mean all out-of-pocket hard construction costs paid to unaffiliated third parties for the construction of the Renovation Work plus the following additional out-of-pocket soft costs paid to unaffiliated third parties: (a) architectural, design and engineering fees not to exceed 8% of the Required Cost Amount; (b) governmental permit fees; (c) project oversight and management fees; provided, however, that the aggregate amount of project oversight and management fees, whether paid to the general contractor or another third party construction manager shall not exceed 5% of the Required Cost Amount; (d) costs for furniture, fixtures and equipment not to exceed an aggregate of $4,113,000; (e) the initial franchise fee paid to the third party operator of the Hotel (if and to the extent the Hotel is operated by a franchisee under a national franchise and the franchise fee is paid); (f) accounting, legal and insurance costs incurred in connection with the Renovation, not to exceed $280,000; (g) working capital for the initial operation of the Hotel, not to exceed $1,100,000; and (h) construction loan fees and costs, and construction loan interest during the period of the Renovation Work until the Renovation Work is substantially completed. The hard construction costs for the Renovation Work may include up to $1,500,000 of hard construction costs incurred for leasehold improvements to the restaurant, whether incurred by Lessee or a restaurant Sublessee. The Applicable Renovation Costs shall not include any hard or soft or other costs incurred in connection with the renovation of the Landside Anchorage Improvements, or costs incurred or required to be reimbursed by the Parcel 43 Lessee with respect to the renovation of the Promenade, exterior parking or common areas or any other improvements on the Premises or the Parcel 43 Premises. The Applicable Renovation Costs shall also not include the Option Fee or the Extension Fee, syndication fees or costs, any imputed cost or value of the existing Improvements, or any imputed cost or value of land or the existing leasehold interest.

The "**Required Cost Amount**" for the Renovation Work means $14,300,000, as adjusted in accordance with the terms and provisions of this paragraph; provided, however, that the Required Cost Amount shall not be adjusted to an amount that is less than $14,300,000. For purposes hereof, the term "**Required Cost Adjustment Date**" shall mean each of the four dates that constitute the last day of each month during which the Renovation Work is first twenty-five percent (25%) completed, fifty percent (50%) completed, seventy-five percent (75%) completed and one hundred percent (100%) completed, respectively. The initial Required Cost Amount of $14,300,000 shall be increased as of the first Required Cost Adjustment Date by the same percentage increase in the Consumer Price Index during the period from (I) the month of July, 2007 until (II) the month of the first Required Cost Adjustment Date. Thereafter, on each subsequent Required Cost Adjustment Date, the Required Cost Amount shall be adjusted to an amount equal to the sum of (x) the Previous Adjusted Required Cost Amount, plus (y) the product of (A) the Previous Adjusted Required Cost Amount minus the total amount of Applicable

Renovation Costs incurred by Lessee as of the most recent preceding Required Cost Adjustment Date, multiplied by (B) the percentage increase (if any) in the Consumer Price Index during the period from the month of the most recent preceding Required Cost Adjustment Date to the month of the current Required Cost Adjustment Date. The "**Previous Adjusted Required Cost Amount**" for each respective Required Cost Adjustment Date means the revised Required Cost Amount as of the most recent preceding Required Cost Adjustment Date. The Required Cost Amount as revised as of the last Required Cost Adjustment Date, shall be the Required Cost Amount under 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 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) cause the commencement of construction of the Renovation Work to occur on or before the date (the "**Required Construction Commencement Date**") which is sixty (60) days following the Effective Date; (2) following commencement of construction of the Renovation Work diligently continue performance of the Renovation Work through completion of the Renovation Work in accordance with the construction schedule submitted to and approved by Director pursuant to Section 5.4.6 below; and (3) substantially complete the Renovation Work not later than the second (2nd) anniversary of the Effective Date (the "**Required Construction Completion Date**"). Notwithstanding any contrary provision of this Article 5 in no event shall the Required Construction Commencement Date or Required Construction Completion Date be extended for more than one (1) year for any Force Majeure delay.

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 and complete the Renovation Work by the Required Construction Commencement Date and Required Construction Completion Date, respectively (as such dates may be extended pursuant to 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 automatically shall be 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 (a) to reflect that the leased premises shall include only the Premises described in this Lease, and (b) to incorporate the terms and provisions of the "Non-Exercise Amendment" described in the Option Agreement (the "**Reversion Amendment**"). Notwithstanding the foregoing, if and as long as Lessee has commenced construction of the Renovation Work and is diligently prosecuting and continues to diligently prosecute such construction to completion, then the Lease shall not be amended by the Reversion Amendment unless and until such time as the delay in the completion of the Renovation Work exceeds the Required Construction Completion Date (as extended pursuant to Section 5.6, if applicable) by more than six (6) months.

During the period from the Required Construction Completion Date (as extended pursuant to 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 Required Construction Completion Date (as extended pursuant to 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 under Section 13.1 of this 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 Subsequent Renovation described in Section 5.11 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 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 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, 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.

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, unless the construction schedule for the Renovation Work is submitted to and approved by Director prior to the Effective Date, Lessee shall submit to Director no later than thirty (30) days after the Effective Date a construction schedule for the performance of the Renovation Work. Director shall have the right to reasonably approve such construction schedule as being consistent and compatible with the Required Construction Commencement Date and Required Construction Completion Date set forth in Section 5.1 above; provided, however, that Director shall have no liability in connection with the approval of such construction schedule, nor shall Director's approval of such construction schedule in any manner relieve or otherwise affect Lessee's obligations under this Lease with

respect to 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 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 Required Construction 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 Required Construction Commencement Date and the Required Construction 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; (b) in no event shall the Required Construction Commencement Date be extended for more than an aggregate of one year due to Force Majeure; and (c) in no event shall the Required Construction Completion Date be extended beyond the third (3rd) 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 and the Subsequent Renovation, the definition of Force Majeure shall also include delays in the commencement and completion of the Renovation Work or 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 or 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 or 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 or 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 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 Subsequent Renovation. In addition to the Renovation Work to be performed by Lessee pursuant to Section 5.1, Lessee shall be required to complete an additional renovation of the Improvements during the remaining Term of the Lease in accordance with the terms and provisions of this Section 5.11 (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 February 28, 2038; provided, however that Lessee shall not commence the Subsequent Renovation prior to March 1, 2035. Lessee shall substantially complete the Subsequent Renovation by not later than February 28, 2038. 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 to a condition and appearance at least equal to that of other hotel projects then recently constructed or renovated (or then currently being constructed or renovated) in Marina del Rey or the west side of Los Angeles that satisfy the Required Hotel Standard. In addition to the above-required renovation and construction work, the Subsequent Renovation shall also include the revitalization and upgrade of the quality, furnishings and décor of the interiors of the individual Hotel rooms to the extent that the quality, furnishings and décor of the interiors of the individual Hotel rooms are not at least commensurate with the then-current quality, furnishings and décor of the interior of individual Hotel rooms of other typical hotels that then satisfy the Required Hotel Standard.

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 5.11 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 5.11. 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 5.11 (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 5.11, 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.

5.12 Subsequent Renovation Fund. Commencing with the month following the month during which the tenth (10th) anniversary of the Effective Date occurs, and continuing until the completion of the Subsequent Renovation, Lessee shall establish and maintain a reserve fund (the "**Subsequent Renovation Fund**") in accordance with the provisions of this Section 5.12 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 pursuant to this Section 5.12. On or before the fifteenth (15th) day of each month during the period during which the Subsequent Renovation Fund is required to be maintained by Lessee hereunder, Lessee shall make a monthly deposit to the Subsequent Renovation Fund in an amount equal to two percent (2%) of total Gross Receipts for the previous 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 5.12. In lieu of monthly deposits to the Subsequent Renovation Fund, 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 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.

5.13 Capital Improvement Fund. Commencing with the month following the month during which the earlier of the CO Date or the Required Construction Completion Date occurs, and continuing during the remaining Term of the Lease, Lessee shall establish and maintain a reserve fund (the "**Capital Improvement Fund**") in accordance with the provisions of this Section 5.13 for the cost of Permitted Capital Expenditures (as defined below) for the Premises. On or before the fifteenth (15th) day of each month during the period described in the immediately preceding sentence, Lessee shall make a monthly deposit to the Capital Improvement Fund in an amount equal to the sum of two percent (2%) of total Gross Receipts for the previous month from the operation of the Premises and Improvements. All interest and earnings on the funds in the Capital Improvement Fund shall be added to the Capital Improvement Fund, but shall not be treated as a credit against the Capital Improvement Fund deposits required to be made by Lessee pursuant to this Section 5.13.

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**"). 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 5.13. The amounts to be added to the Capital Improvement Fund shall be inclusive of amounts required to be deposited with and held by an Encumbrance Holder, provided that the Encumbrance Holder acknowledges that such amounts are subject to, and administered in accordance with, the requirements of this Section 5.13.

No disbursements shall be made from the Capital Improvement Fund until after the fifth (5th) anniversary of the CO Date. In addition, no disbursements shall be made from the Capital Improvement Fund after the fifth (5th) anniversary of the CO Date to cure deficiencies arising from the failure of Lessee to maintain and repair the Improvements in accordance with the requirements of this Lease during such five (5) year period. Disbursements shall be made from the Capital Improvement Fund for costs reasonably approved by Director which have been incurred after the fifth (5th) anniversary of the CO Date and that satisfy the requirements of this Section 5.13. 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 ten (10) 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 5.13; 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 5.13 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.

5.14 FF&E Fund. Commencing with the month following the month during which the earlier of the CO Date or the third (3rd) anniversary of the Effective Date occurs, and continuing during the remaining Term of the Lease, Lessee shall establish and maintain a reserve fund (the "**FF&E Fund**") in accordance with the provisions of this Section 5.14 to fund the cost of the purchase and installment of replacements, additions or upgrades of or to the furniture, fixtures and equipment used in the Improvements throughout the Term. The FF&E Fund shall not be used for (a) maintenance or repair purposes, (b) the cost of the Renovation Work or the initial furniture, fixtures and equipment to be installed in the Improvements in connection with the Renovation Work, (c) the cost of the Subsequent Renovation, or (d) the cost of Permitted Capital Expenditures to be funded by the Capital Improvement Fund. All specific purposes and costs for which Lessee desires to utilize amounts from the FF&E Fund shall be subject to Director's approval, which approval shall not be unreasonably withheld.

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

On or before the fifteenth (15th) day of each month during the period during which the FF&E Fund deposits are required to be made pursuant to the first paragraph of this Section 5.14, Lessee shall make a monthly deposit to the FF&E Fund in the following amounts:

(a) during the first (1st) year of the required deposits, one percent (1%) of total Gross Receipts for the previous month from the operation of the Premises and Improvements;

(b) during the second (2nd) year of the required deposits, two percent (2%) of total Gross Receipts for the previous month from the operation of the Premises and Improvements; and

(c) during the third (3rd) and each subsequent year of the required deposits, three percent (3%) of total Gross Receipts for the previous month from the operation of the Premises and Improvements.

If deposits are required to be made based on Gross Receipts for periods prior to the CO Date, then until the CO Date occurs the monthly deposits to the FF&E Fund shall not be based on actual Gross Receipts, but instead shall be based on the Tenant's projected Gross Receipts (as reasonably approved by Director) for the same period following the CO Date as if the CO Date had occurred as required under this Lease. All interest and earnings on the FF&E Fund shall be added to the FF&E Fund, but shall not be treated as a credit against the FF&E Fund deposits required to be made by Lessee pursuant to this Section 5.14.

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

Amounts in the FF&E Fund shall be expended periodically as necessary for Lessee to comply with the standard of operation for the Premises applicable under this Lease. If County elects to require Lessee to remove the Improvements at the end of the Term and requires Lessee to provide a Removal Security Fund 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 to the Removal Security Fund any amounts in the FF&E Fund that are not (and will not be) required for the purposes of this Section 5.14, as determined by Director in Director's reasonable judgment. If County does not require the removal of the Improvements, and at the end of the Term there are amounts remaining in the FF&E Fund that in Director's reasonable judgment were not required for the purposes of this Section 5.14, then Lessee shall be entitled to the return of such funds.

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 Subsection 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). If as of a particular date for adjustment to the amount of the Security Deposit as provided above, Lessee has not at any time during the immediately preceding three (3) year period committed an Event of Default under this Lease, then effective as of such adjustment and continuing until the earlier of the occurrence of an Event of Default or the next date for adjustment of the amount of the Security Deposit as provided above, the amount of the Security Deposit required to be maintained by Tenant shall be reduced to two (2) times the Monthly Minimum Rent placed into effect as of such Security Deposit adjustment date.

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 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 following the completion by Lessee of the development and/or renovation of the Promenade and the commencement of use thereof by the public, the respective liability, if any, of Lessee and County 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.

9.2 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 and 9.1.3 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 the Minimum Standards regarding the use and occupancy of commercial (including hotel) projects in Marina del Rey (such as the Premises) as revised from time to time by County in a manner consistent with commercially reasonable maintenance standards applicable to other comparable commercial projects in Marina del Rey (the "**Maintenance Standard**"). Any dispute as to whether revisions to the Maintenance Standard adopted by the County from time to time pursuant to the immediately preceding sentence is commercially reasonable shall be submitted to arbitration pursuant to Article 16 of this Lease. Without limiting the foregoing, at Lessee's sole cost and expense, but subject to the terms and conditions of this Lease, Lessee shall keep and maintain the Premises (including the Promenade) and all equipment, Improvements or physical structures of any kind which may exist or be erected, installed or made on the Premises in good and substantial repair and condition, including without limitation capital improvements and structural and roof repairs and replacement, and shall make all necessary repairs and alterations and replacements thereto, except as otherwise provided in this Article 10 (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 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 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 Intentionally Omitted.

10.3 Tree Trimming. 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 the

Marina Del Rey tree trimming policy referenced in Exhibit E, as such policy is updated 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 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.

11.1.3 Major Sublease. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable hotel 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 (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. Prior to the CO Date, County shall have the right to withhold its consent to any assignment or Major Sublease in its sole and absolute discretion. After the CO Date, County shall not unreasonably withhold or delay its consent to a proposed assignment or Major Sublease if (a) the assignee or Major Sublessee, either directly or through its affiliate or through a contractual relationship with a third party hotel operator that will operate and manage the Premises, has adequate experience in the operation of hotels in accordance with a standard at least commensurate with the Required Hotel Standard and has a nationwide reservation system in which the Premises will participate; and (b) the Assignment Standards are satisfied to the reasonable satisfaction of County. If County withholds its consent to an assignment or Major Sublease, 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 after March 1, 2022 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 ninety-five percent (95%) of 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, (II) those events identified in Subsection 4.6.2 of this Lease, or (III) any assignment, Major Sublease or transfer of a Controlling Interest that is consummated prior to March 1, 2022.

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 Restroom Sublease. Concurrently or substantially concurrently with the execution and delivery of this Lease, Lessee and the Parcel 43 Lessee have executed and delivered a Restroom Sublease Agreement ("**Restroom Sublease**") pursuant to which Lessee has subleased to the Parcel 43 Lessee certain portions of the Premises consisting of the interior portions of two restrooms and the outside accessways thereto, as more particularly described in the Restroom Sublease (the "**Restroom Sublease Premises**"). In the event that the Parcel 43 Lease is terminated prior to the termination of this Lease, Lessee agrees upon the request of County to sublease the Restroom Sublease Premises to County or a replacement lessee of the Parcel 43 Premises during the remaining Term of this Lease on the same terms and conditions as set forth in the Restroom Sublease.

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 the Extension Fee Balance or any other financial obligation of Lessee under this Lease, (iii) any recapture right on the part of County, or (iv) any termination right under this Lease. Any Foreclosure Transfer, and any single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to Subsection 12.2.3, shall be deemed to be excluded from the definition of "Change of Ownership" for all purposes of this Lease. For clarification purposes, the "single subsequent transfer" referred to above applies to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder (as more fully explained in 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).

12.13 Acceleration of Extension Fee. So long as (i) no Event of Default exists based on nonpayment of an individual Extension Fee Installment Payment (even if any other Event of Default exists that is not based on nonpayment of an individual Extension Fee Installment Payment), or (ii) if an Event of Default exists based on nonpayment of an individual Extension Fee Installment Payment, an Encumbrance Holder, Foreclosure Transferee or the single subsequent transferee of a Foreclosure Transferee pursuant to Subsection 12.2.3 cures such Event of Default by paying to County all past-due individual Extension Fee Installment Payments, together with any default interest and/or Late Fees that may be owing thereon; then County shall not declare the entire remaining unpaid Extension Fee Balance immediately due and payable, or, if County has previously declared the entire remaining unpaid Extension Fee Balance immediately due and payable, County shall rescind such acceleration and permit the reinstatement of the original payment terms of the Extension Fee (i.e., by annual payments).

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, payment of the Extension Fee Installment Payments or deposits to the Subsequent Renovation Fund, Capital Improvement Fund and/or FF&E 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 Required Construction Commencement Date or Required Construction Completion Date set forth in Section 5.1 (as such dates may extended pursuant to Sections 5.6, 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; provided, however, if any portion of the Premises used for the operation of a restaurant is subleased to a Sublessee and such Sublessee fails to remain open for business to the public, then such failure to remain open for business shall not constitute an Event of Default under this Subsection 13.1.4 if Lessee uses its best efforts to recover possession of the restaurant from the Sublessee and to re-sublease the restaurant to another Sublessee as soon as possible; provided, further, that except as provided below the restaurant must be re-opened for business to the public no later than one hundred eighty (180) days following the date that the restaurant was first closed for business. The one hundred eighty (180) day period set forth in the immediately preceding sentence shall be tolled for delays incurred by Lessee beyond such one hundred eighty (180) day period in recovery of possession of the restaurant due to the Sublessee's bankruptcy or contest of unlawful detainer proceedings, as long as Lessee diligently continues to prosecute its action to recover possession of the restaurant. In addition, notwithstanding any contrary provision of this Subsection 13.1.4, an Event of Default shall not be triggered under this Subsection 13.1.4 due to the termination of operations by the restaurant Sublessee as long as (i) Lessee diligently attempts to re-open the restaurant as soon as reasonably possible and the restaurant is re-opened for business not later than three hundred sixty five (365) days after the date that such operations were closed, and (ii) during any period between the end of the one hundred eighty (180) day period set forth above in this Subsection 13.1.4 (as such period may be extended as provided above) and the date that the subject portion of the Premises is re-opened for business, Lessee pays County Percentage Rent for the restaurant based upon an imputed Gross Receipts for the restaurant equal to the actual Gross Receipts for the restaurant during the one year period prior to the closure of the restaurant.

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) expenses are accrued on an approximate basis each month during the fiscal year with full accrual treatment for the full fiscal year financial statements, (B) Gross Receipts are reported monthly on a cash basis with full reconciliation to accrual treatment on the annual statement of Gross Receipts, 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.

For purposes of clarification, in addition to application of this Section 14.4 to portions of the Term after the Effective Date, this Section 14.4 shall also apply with respect to unaudited periods under the Existing Lease from and after April 1, 2013. In the event of any deficiency in the payment of percentage rent under the Existing Lease for the period between April 1, 2013 through the date preceding the Effective Date, Lessee shall be liable for the entire deficiency regardless of whether the deficiency pertains to percentage rent attributable to the Premises or

percentage rent attributable to the Parcel 43 Premises. Such liability of Lessee shall be joint and several with the Parcel 43 Lessee with respect to any portion of the deficiency that pertains to percentage rent attributable to the Parcel 43 Premises.

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

14.9 Accounting Obligations of Sublessees. Lessee shall cause all Sublessees 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 1962. Lessee accepts the Premises in their present condition notwithstanding the fact that there may be certain defects in the Premises, whether or not known to either party to this Lease, at the time of the execution of this Lease by Lessee and Lessee hereby represents that it has

performed all investigations necessary, including without limitation soils and engineering inspections, in connection with its acceptance of the Premises "AS IS".

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

15.4.1.3 Lessee hereby waives, withdraws, releases, and relinquishes any and all claims, suits, causes of action (other than a right to terminate as otherwise provided in this Lease), rights of rescission, or charges against County, its officers, agents, employees or volunteers which Lessee now has or may have or asserts in the future which are based upon any defects in the physical condition of the Premises and the soil thereon and thereunder, regardless of whether or not said conditions were known at the time of the execution of this instrument. The waiver and release set forth in this Subsection 15.4.1.3 (i) shall not apply to the Excluded Conditions, and (ii) shall not alter the parties' rights and obligations under the Existing Lease with respect to any abandoned wells or other environmental conditions existing on the Premises as of the Effective Date.

15.4.1.4 California Civil Code Section 1542 provides as follows:

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

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

_____
Lessee's Initials

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

15.5 Holding Over. If Lessee holds over after the expiration of the Term for any cause, with or without the express or implied consent of County, such holding over shall be deemed to be a tenancy from month-to-month only, and shall not constitute a renewal or extension of the Term. During any such holdover period, the Minimum Monthly Rent and Percentage Rent 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:	IWF MDR Hotel, L.P. 1933 Cliff Drive Santa Barbara, CA 93109 Attn: President Phone: 805/957-0095 Fax: 805/957-0082
With a Copy to:	Cox, Castle & Nicholson LLP 2049 Century Park East 28th Floor Los Angeles, California 90067 Attn: 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 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.

15.20 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.

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, then 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

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.

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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

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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.

SIGNATURES ON FOLLOWING PAGE

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

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

IWF MDR HOTEL, L.P., a California limited partnership

By: IWF MDR Hotel, LLC, a California limited liability company, its general partner

By: Invest West Financial, LLC, a California limited liability company, its sole member

By: _____
Name: _____
Title: _____

ATTEST:

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

By: _____
Deputy

AUG 28 2013

78022

ATTEST: SACHI A. HAMAI
EXECUTIVE OFFICER
CLERK OF THE BOARD OF SUPERVISORS

By _____, Deputy

AUG 28 2013

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

AUG 28 2013

APPROVED AS TO FORM:

JOHN F. KRATTLI,
COUNTY COUNSEL

By _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By _____

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

30 MAY 17 2011

SACHI A. HAMAI
EXECUTIVE OFFICER

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THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

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By: IWF MDR Hotel, LLC, a California limited liability company, its general partner

By: Invest West Financial, LLC, a California limited liability company, its sole member

By: _____
Name: Matthew D. Marquis
Title: President

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 718 and 720, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 through 70, inclusive, of Assessor's Maps, in the office of the Registrar-Recorder/County Clerk of the County of Los Angeles, State of California.

EXCEPTING therefrom that portion within the following described boundaries:

COMMENCING at the northwesterly corner of said Parcel 718; thence North 60°00'00" East, along the northwesterly line of said Parcel 718, a distance of 578.76 feet to the most northerly corner of said Parcel 718; thence South 54°19'21" West 167.99 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 41.00 feet; thence South 30°00'00" East 34.00 feet; thence North 60°00'00" East 41.00 feet; thence North 30°00'00" West 34.00 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPTING therefrom that portion within the following described boundaries:

COMMENCING at the most northerly corner of said Parcel 720; thence South 30°00'00" East, along the northeasterly line of said Parcel 720, a distance of 150 feet to the most easterly corner of said Parcel 720; thence South 73°23'09" West 137.91 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 104.00 feet; thence North 30°00'00" West 45.00 feet; thence North 60°00'00" East 104.00 feet; thence South 30°00'00" East 45.00 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPTING therefrom an undivided one-half interest in all oil, gas, and other hydrocarbons lying at or below a depth of 500 feet from the surface, but without any right of entry upon the surface or the first 500 feet below the surface, as reserved to the defendants in a Final Order of Condemnation, had in Superior Court Case No. S.M.C. 5262, certified copies of which were recorded on December 5, 1958, in Book D297, page 221, of Official Records, in the office of said Registrar-Recorder/County Clerk, and on August 21, 1959, in Book D580, page 230, of said Official Records.

RESERVING therefrom to the County of Los Angeles easements for sanitary sewer, fire access, harbor utility, and storm drain purposes within those portions thereof designated on said map to be reserved by said county for such purposes.

EXHIBIT B

RENOVATION PLAN

PARCEL 42 LEASE EXTENSION OPTION

MARINA DEL REY HOTEL

RENOVATION PLAN

Initials _____

TERM SHEET EXHIBIT – RENOVATION PLAN – PARCEL 42
December 11, 2009

Term Sheet Item	*Lessee Proposal* *Parcel 42*
1) SCOPE OF WORK	

a) Hotel	
• **Demolition (of existing improvements prior to commencing work)**	**Exterior demolition to consist of:** • Exterior doors and windows (to be replaced) • Canvas awning and entry awnings porte-cochere • Balcony railings and divider panels (to be replaced) • Entry doors (to be replaced) • Gazebo on terrace • Portion of unloading screen wall and gate (to be reconfigured) • Perimeter railing at terraces (to be replaced) • Mechanical equipment enclosure next to stairway (west) and flue to roof • Stairwell railing (to be replaced)
• **New building construction**	**Exterior construction to consist of:** • New entry structure eyebrow with glazing accent, oversized glass doors and new storefront • Radiused entry canopy • Façade "pop-outs" of 6" (see elevations) to break up linear elevation and provide color contrast in stucco finish • Arched acrylic/stainless steel eyebrows over alternating sliding doors/windows per elevations • New decorative surfacing at terrace and pool deck, addition of cabanas at guestrooms • Addition of hot tub on pool deck • Glass guardrail at perimeter of terraces • Redesigned entry drive, guest drop-off and parking layout with new landscaping • New perimeter promenade per "The Marina Walk" waterfront guidelines

Initials _____

b) Promenade	
• **Design and materials**	Promenade surfacing to be stamped concrete in the "wave" pattern per "The Marina Walk" guidelines or like quality to conform with hotel design. A 20' minimum width fire lane to be provided on the 3 seawall sides of the hotel. Balance of existing promenade width (± 4'-0") to have amenities as described below, with the addition of uplit palm and accent trees with underplanting per the guidelines.
• **Guardrail, lighting and bench**	Existing guardrail to remain. Decorative light poles, benches and trash receptacles provided per "The Marina Walk" guidelines, adjusted to existing site conditions.

c) Signage	
• **New signage program**	Refurbished and updated main entrance sign at the intersection of Bali and Admiralty, with integral lighting and a combination of materials, white power-coated metal and stainless steel. Sign package not available at this time.

Initials _____

RENOVATION COMPARISON WORKSHEET – PARCEL 42
December 11, 2009

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
1) EXTERIOR	
a) Building Exterior - All building exteriors will receive a facelift to give the building a more contemporary look and will include the following:	**EXTERIOR** **Curb Appeal**: The combination of all exterior elements provides a well-integrated, and excellent level of curb appeal. A variety of landscaping professionally planned and manicured. Architectural features well integrated into the surrounding area. The landscape will be fresh and lush to emphasize the marine coast resort environment. An alley of ornamental trees and Monument sign announces the drive entry and a sweep of Palms guides visitors to the hotel entrance. Where possible, the existing palms will remain and existing Coral trees will be highlighted with complimentary plantings. All in-ground planting will be lower water use; higher water use plants will be reserved for pots. Drawings are being developed and will be issued at a later date. **Parking**: Lighting is well-positioned and provides very good overall illumination; porte-cochere; lighting fixtures reflect characteristics of the design of the property; evidence of added security exists; excellent overall illumination. Lighting to be provided by lighting designer.
• **Exterior surface – Revitalization of the stucco surface**	**Stucco Siding**: 3- coat stucco, sand finish as needed with Integral color in top coat. Omega, La Habra, or equal.
• **Patios/Balconies – [Replace wooden railing and surfaces with metal (finish)]**	**Guest room Balcony Railing**: Tube railing per elevations. Finish TBD. Alternate per Designer.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
b) Common Areas	**Planters & Pots**: Shape, size & locations per designer. Built-in water reservoirs. **Outdoor Seating**: Seasonal outdoor heating elements. Seating as directed by Designer. Park-style seating benches around fire pit and adjacent to garden overlooking marinas. **Public Area Deck Coating**: 1/4" thick fluid-applied waterproof deck system. Fiberglass mat & elastomeric acrylic base coat. Pattern, finish & color to be determined. PLI-Dek, Dex-o-tex or equal. **Pool**: Resurface pool interior. New coping and decorative tile accent per Designer. **Cabanas**: Metal or wood-framed structures with openable canvas canopy & privacy curtains. Locations & sizes per plans. Canvas: Sunbrella, Dickson or equal. These are built-in, powder coated steel square section to concrete slab. **Features**: Landscaped stone walkway paths. Built-in powder coated steel and natural stone fire pit. Gazed-Style outdoor bar with natural wood & painted metal finishes. **Pool Area Deck**: Finish, and color by Designer. **Lobby - Registration Desk**: Floor: Custom carpet and pad, Natural stone. Stone: Calcutta marble, or equal. Carpet and Italian "Calcutta" marble flooring at the lobby. Carpet: Custom border and inset, per design. Base: Natural Stone, to match floor, per design.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
- **Main entrance areas — [summary of change.]**	**Exterior - Porte-cochere / Main Entry**: **Driveway**: Concrete pavers or stamped concrete with concrete accent bands. Akerstone interlocking pavers with accent bands by Quick Crete or equal. Pattern to be determined . **Entry**: Porcelain or Stone Tile, pattern to be determined by Designer. Crossville, CMR or equal. **Store Front**: Anodized aluminum & glass with glass oversized doors, custom colored framework. Kawneer, Arcadia, Vistawall or equal. **Canopy**: Galvanized, painted metal and glass structure per design, with metal soffit cladding. Custom paint finish. **Miscellaneous**: Internally illuminated metal bollards at edge of entry walkway / curb. Lighting to be specified by lighting designer. Landscaping & potted planting per Designer. Monument sign at drive entrance. Landscaped island at hotel entrance. Bench will be incorporated at hotel entrance. Plantings will be clean and fresh to compliment the architectural elements at the hotel entry.
c) Signage - Replace all existing building monument, building ID, and amenity signage.	**Signage**: Illuminated attached to canopy face per design. Sign package not available at this time.
d) Lighting - Replace all existing exterior lighting fixtures	**Lighting**: Decorative sconces at columns & pilasters as specified by lighting designer. Recessed lighting in entry canopy per Designer. Lightoiler, Halo or equal. Finish by Designer. Recessed down-lights for general & plant lighting by Designer. In-Ground accent up-lighting as directed. In Ground up-lights & LED Long Life bulbs as specified by lighting designer. Custom lighting fixtures.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
2) INTERIOR	
a) Common Areas	**PUBLIC AREAS** **Furnishings and Décor**: Upscale, well-appointed, and in the theme of the property; high degree of comfort, featuring professionally fitted coverings; an abundant variety of live plants. Custom furniture. **Floor Coverings**: Excellent quality carpet, wood, marble, or granite floors with unique area rugs (area rugs if applicable). Flooring – carpet, bleached wood flooring and Italian "Calcutta" marble. Custom carpet. **Illumination**: Light fixtures are well appointed and of an upscale design that compliments the overall theme of the property; multi-placement provides overall excellent illumination. Custom lighting fixtures. Illumination – Architectural recessed downlights by Halo. New steel and fabric central chandelier by Triton (California) or equal. Fabric pendant over front desk by Triton or equal. Miscellaneous custom floor and table top plug-ins. **Corridors**: Walls are painted, stuccoed, or have vinyl wall coverings with vinyl or carpeted baseboard; ceilings are painted plasterboard or have an enhanced, textured finish. Corridors – to have vinyl wallcovering by Trikes or equal as general finish on walls and painted accent walls at entries, including door, trim and baseboards; paint by Benjamin Moore. Custom vinyl.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Signage: Design is well defined in harmony with the theme of the property. Location of signage is extensive. Spacious registration area located away from main traffic areas with multiple conversational groupings accommodating several small groups; upgraded luggage carts; recognizable guest service area and bell-stand. Signage – Meeting room and guestroom entrances – LED internally illuminated signage, stainless steel backlit resin or per Designer. Fixture incorporates Braille, room number as required. Directional signage throughout the hotel – individually mounted steel area names, letters and arrows. Sign package not available at this time. **Miscellaneous**: Telephones and house phones are located conveniently inside the building; internet access is available. Elevator landings are well appointed with an upscale design keeping in the theme of the property. Vending located in a recessed area and vending and sealed ice machines. Valet laundry available at specific times.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Restaurant & Dining Facilities (The number and type of food & beverage outlets should be in harmony with the theme of the property. Multiple outlets are expected at resorts): Upscale, full-service restaurant; separate lounge or bar area. **New full-service restaurant and lounge with indoor and outdoor seating.** Built-in wood, marble, and stainless steel bar counter with ability to extent outdoor service counter. Decorative glass pendants over bar counter. Decorative fabric pendant over private dining table. Combo of materials on walls, paint, wood veneered panels. Painted sheet-rocked ceiling with Halo pinhole recessed lighting. Built-in back wall at bar with mirror, glass shelves, wood bottle risers with integrated lighting. • Timeless Design accentuating the outside coming in and the inside moving out through the expansive floor to ceiling windows around the perimeter of the space; • Warm wood or tile flooring throughout accented by well-positioned, recessed area carpets; • A large, rectangular, wooden bar dye, accented by a granite bar top will be the first design element encountered upon entry; • The back bar will have a dramatic up-lit, down-lit bottle display that will also have two 46" flat screen, HD TV's; • The ceiling will be accented with a wood-beam system supporting oversized, custom light fixtures; • Circulation aisles will be accented ledger stone columns supporting eat-at, drink-at ledges; • The perimeter of the space will be accented with well-positioned, oversized horseshoe booths; and • The space is highlighted with the classic uses of lighting, wood, stone and mirror.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Recreational Facilities: Swimming pool area is well-appointed with upscale design elements and an excellent quality and variety of pool furniture; food and beverage is available poolside. Exercise room is in a designated room with extra amenities. **Meeting Rooms**: Expanded meeting room with enhanced comfort and décor elements; a very good variety of audiovisual equipment available. **Restrooms**: Separate ladies and men's restrooms convenient to public areas and adequate for the number of meeting rooms. **Ice machine Alcove**: Floor: Porcelain tile Base: Tile to match floor Walls: Painted drywall; smooth finish Ceiling: Painted drywall; smooth finish Lighting: Recessed down-lights. Down-lights: Lightolier, Halo, or equal. Will have decorative blue tint. Finish by designer. **Guestroom Level Electrical and Telephone Closets**: Floor: Vinyl. Base: Vinyl Walls: Painted Drywall; smooth finish Ceiling: Painted Drywall; smooth finish Lighting: 1' x 4' ceiling mounted fluorescent Doors: Painted

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Exit Stairs: Floor: Carpet at stairs and landings. Base: Vinyl Walls: Painted, Maximum of two (2) paint colors Ceiling: Painted Lighting: 1' x 4' wall-mounted fluorescent **Public Areas** – Mechanical, Electrical, & Plumbing: Mech.: New roof top package AC units. Carrier, Honeywell, or equal. **Electrical /Lighting**: Recessed down-lights; or FF&E decorative sconces; Recessed down-light shall be fluorescent type with some low voltage accent lighting for artwork. Down-lights: Ligholier, Halo, or equal. And FF&E Finish by lighting designer. **Plumbing**: All toilet rooms to be upgraded with new ADA compliant plumbing fixtures. Auto-faucets by Grohe or equal; sinks by Kohler or equal, Toilets by Toto or equal.
	Lobby, Meeting Room, & Fitness Room Restrooms: Toilet –Commercial Flushometer Toilet, 1.6 GPF – ADA, White finish Urinal –Low consumption washout urinal with #01 Cotton finish. Flush Valve at Urinal –AC Sensor Urinal Flush Valve, Concealed – 1.0GPF TEU2ANS-11, with Satin finish, Complete Set (3/4"V.B.).

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
• **Hallways -- new paint/wall coving, door moldings, chair rail molding, carpet and padding, light fixtures and door tags.**	**Guestroom Corridors and Elevator Lobby:** Floor: Custom carpet and pad with border carpet at guestroom entry doors. Custom carpet: Durkan Commercial, Shaw Hospitality, or equal; minimum 32oz. Accent carpet inlay (with pad) at all public elevator lobbies. Carpet: Custom border and insert, per design; minimum 40oz. Guestroom corridor – Shaw Hospitality 40 oz. Solutia-Dyed Nylon. Treadmor pad; double stick. Base: 1"x6" profile vinyl base. Johnsonite or equal, per designer. Walls: Custom accent vinyl wall covering and minimum two (2) paint colors for length of corridor. Wall-covering: Wolf Gordon, Maharam, or equal. Paint: eggshell or semi-gloss. Accent wall covering at guestroom entries. All painted walls to have smooth finish. Custom vinyl. Ceiling: Painted multi level drywall soffit. Paint: eggshell or semi-gloss. All painted ceilings to have smooth finish. Lighting: Combination of sconces, recessed fixtures and surface-mounted ceiling fixtures in corridor, per designer. Down-lights: Lightolier, Halo, or equal. Finish by designer. Low voltage (LED) illuminated guestroom sign with integral bell at each guestroom. Lighting – LED recessed downlights by Juno; stainless steel finish. Custom lighting fixtures. Special: Sconces and decorative ceiling fixtures in elevator lobby, per designer. Painted hold-open doors in elevator lobby and wood casings.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
• **Elevators - Should include new panels flooring and lighting**	**Elevator Cabs:** General: High-Quality elevator entry doors at all public levels: painted doors on guestroom floors and back of the house areas. Custom call button panel. Elevator doors – textured resin mental panel by Cage Corp or equal. Walls: Textured steel panels. Rimex or equal. Floor: Custom carpet, per designer. Carpet: Custom border and insert, per design; minimum 40oz. Elevator cab flooring – carpet.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
b) Hotel Interiors:	**GUESTROOMS** **Furnishings and Décor**: Upscale, decorative, well-appointed keeping with the theme of the property; high degree of comfort, featuring professionally fitted coverings. Custom furniture. **Free Floor Space**: Very good-size, well-proportioned rooms with comfortable seating area. **Wall Coverings**: Walls are painted, stuccoed or have vinyl wall coverings with carpeted or wood or simulated wood baseboard floor coving. Guestrooms – Wolf Gordon (or equal) custom wall covering at headboard wall; remainder of walls in guestrooms are painted, by Benjamin Moore or similar; painted wood baseboards or equal per designer. Custom vinyl. **Wall Hangings**: Upscale, matted and framed artwork. **Floor Coverings**: Excellent quality carpet, wood, marble, granite, or other high end stone floors with unique area rugs (area rugs if applicable). Custom carpet. **Window Coverings**: Excellent quality with sheers and valence (valence if applicable). Custom drapery. **Bedding**: Excellent quality with obvious comfort enhancements. Excellent quality bed linens including bedspreads, comforters with dust ruffles, duvets, or similar enhancements; and choice of pillow fills.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Clothes Hanging Space: Fully enclosed clothes-hanging space with matching hangers with at least eight open hook wood hangers. **Clothes Storage Space**: Sufficient space for two pieces of luggage; upgraded racks or benches. **Illumination**: Very good overall illumination provided by three or more well-positioned sources; free-standing fixtures in appropriate places. Custom lighting fixtures.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Furniture: Excellent quality furnishings; veneer finish with solid wood laminate insets. Custom furniture. **Seating** (very good quality vinyl upholstery is acceptable at beach resorts): Comfortable conversational and television viewing arrangement; arm chairs have fabric upholstery with padded seats excellent quality, comfort and variety, such as a love seat or oversized chair. **Writing Surface**: Very good sized. **Television Placement**: Flat screen television located on credenza top. **Air Conditioning and Heating**: Easily accessible controls; temperature controls in each guestroom; offer guest choice of air conditioning and heat with thermostat control. **GUESTROOM AMENITIES** 37" Phillips, Samsung, or equal LCD television with portable full function remote control. Touch tone telephone; Channel directory; Free and pay-per-view movie channels; High-speed internet access. Video games; Decorative, insulated ice bucket with lid. Message light; Enhanced guest-service directory in folder; Enhanced clock radio iPod player. Upgraded stationary. Framed or beveled full length mirror. Note pads and pencils; Voice messaging; Full-size iron and ironing board.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Additional reading materials such as magazines, books, etc. Two robes. Mini-refrigerator; In-room safe. Coffee maker and supplies, including tea bags. Complimentary daily newspaper in lobby.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Standard Guestrooms: Floor: Custom carpet and pad; and 4" stone entry threshold, per designer. Closet floor area to be carpeted. Capet installation to be stretch-in method. Carpet: Durkan Commercial, Shaw Hospitality, or equal; min. 32oz. Custom carpet. Base: 1" x 6" profile vinyl base. Johnsonite or equal. 6" tile base at entry vestibules & bathrooms to coordinate with flooring. Tile: Stone or porcelain, per designer Walls: Paint schedule to include a maximum of two (2) paint colors per guestroom; accent vinyl wall-covering per designer. Wall-covering: Wolf Gordon, Maharam, or equal. Custom vinyl. Ceiling: Painted drywall ceilings & soffits throughout. Doors: All guestroom doors to be solid core, fire rated, veneered with commercial rated hardware. Lighting: Minimum two down-lights at entry vestibules. Down-lights: Lightolier, Halo, or equal. Finish by designer. Provide infrastructure, wiring and switching for owner provided custom lamps; locations per designer. Custom lighting fixtures. Special: Wood or laminate shelf & chrome rod in closet. Provide infrastructure, wiring and connections as required for telephone, data, cable, etc. Provide wireless internet availability. Power/Data/Telephone as per Pacifica Hotels' standards. 37"min. flat screen televisions throughout. Provide blocking, mounting hardware, power and cable connections as required. Thermostat: in each room; remote. Automatic shut-off controls for HVAC system when exterior door or window is opened. Hardware per designer for connecting doors. Window sills natural stone, size per designer. Stone: Granite or equal. Wood swinging or sliding doors at closets.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Guest Suites* ** All specifications for standard guestrooms are applicable to guest suites. The following are in addition to standard specifications:* Floor: Wood: No added urea-formaldehyde in all casework and paneling cores; All casework and paneling AWI Premium Grade. Tile: Porcelain or stone, threshold to match. Tile: Color TBD by designer; Threshold to match. Custom carpet: Broadloom per designer. Custom carpet: Durkan Commercial, Shaw Hospitality, or equal; minimum 32oz. Custom carpet. Walls: High-end suites will include a considerable quantity of special veneer & solid wood at mini-bar/wet-bar areas, accent walls, bookshelves. All millwork to be coordinated with interior designer. Lighting: Minimum two down-lights, sconces or surface-mounted decorative ceiling fixtures in entry vestibule. Down-lights: Lightolier, Halo, or equal. Finish by designer. Indirect lighting feature at ceiling in soffit in bedroom for length of soffit. Recessed accent lights for millwork and artwork. Master light switch to be variable dimmer for each room at entry or each room- not to include lamps adjacent to beds. Recessed down-lights over wet bar. Down-lights: Lightolier, Halo, or equal. Finish by designer. Custom lighting fixtures. Special: Stone countertop and laminate-faced cabinets in bar or pantry, per design. Stone: marble or equal, per designer. Other finishes per designer. Soaking tub, sink vanity and separate toilet room in all suites. Make-up counter and lighted mirror in suite bathrooms.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Guestrooms – Mechanical, Electrical, & Plumbing: Mechanical: New fan/coils utilizing the existing 3 pipe hydronic system. New chiller and cooling tower. Electrical /Lighting: Minimum two down-lights, sconces or surface-mounted decorative ceiling fixtures in entry vestibule. Down-lights: Lightolier, Halo, or equal. Finish by designer. Indirect lighting feature at ceiling in soffit in bedroom for length or soffit. Recessed accent lights for millwork and artwork. Master light switch to be variable dimmer for each room at entry or each room – not to include lamps adjacent to beds. Recessed down-lights over wet bar. Down-lights: Lightolier, Halo, or equal. Replace broken receptacles/data/telephone/TV outlets as required. Leviton or equal. Plumbing: All new plumbing fixtures in Guestroom toilet rooms.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
c) Hotel Interiors: Bathrooms	**GUESTROOM BATHROOMS** General: Upscale, decorative, well-appointed and in keeping with the theme of the property; high degree of style. Free Floor Space: Good-size bathrooms affording guests increased ease of movement and comfort. Wall and Floor Coverings: Excellent quality, including ceramic tile, marble, or granite flooring and painted or vinyl walls. Wall/Floor – Porcelain tile by Porcelanosa (Spain) 12"x24" size tiles or equal. Fixtures: Excellent quality ceramic tile, marble; enhanced faucets and fixtures; decorative double shower curtain; upgraded shower heads; and shower height soap dishes. Excellent quality including marble or other high-grade surface; large framed mirror. Sink and shower faucets by Symmons and Porcelanosa or equal; toilet by Toto or equal. Amenities: Excellent quality, plush towels; oversized. Four-piece amenity package of excellent quality with an upscale presentation; upscale, decorative soap dish. Facial tissues inset in vanity. Free-standing hair dryer. Night light; Bathroom area rug.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Standard Guest Bathrooms: Floor: Porcelain tile or similar. Threshold to match. Tile: Color TBD by designer threshold to match. Floor – textured porcelain tiles 12" x 24" tiles. Threshold to be ¾" thick Ceasarstone quartz or equal; tight-grain. Base: Continuous tile to match floor, per design. Tile: White Marble. Per Designer Walls: Tile to match floor at tub surround and shower surround, floor to ceiling. Tile: Color TBD by designer threshold to match. Paint schedule to include maximum of two (2) paint colors or one paint color. Paint: eggshell or semi-gloss finish Doors: Code compliant sliding barn doors at bathroom entries, per designer. Ceiling: Painted drywall. All covers/ lighting trim/access panels and exposed mechanical grilles to be painted to coordinate with adjacent surface finishes, per designer. Lighting: Recessed down-lights; Minimum 2 vanity sconces; Recessed vapor proof down-light at shower locations. Down-lights: Lightolier, Halo, or equal. Finish by designer. Lighting – Recessed downlights by Juno. Vanity pendant to be custom polished chrome and textured acrylic diffuser by Arteluna. Special: Stone vanity countertop and backsplash. Free standing wood table with open shelves. Stone: marble, per designer. Toilet: Toto grade fixture with water-saving feature; Eco Nexus 1.28 GPF.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Specs for Guestroom Bathrooms: Toilet – Toto "Aquia" Dial Flush Toilet, 1.6 GPF CST414M/SS204 (Lid) with #01 Cotton/Chrome Plated (Trip Lever) Elongated toiled bowl & tank, 12" rough-in, less seat. Same for ADA compliant guestrooms, but with CST464MF model. Sink – Decolav #1425-CWH with White finish, semi recessed vessel sink. Lavatory Faucet System – Porcelanosa Libra/N160019601 with Polished Chrome finish, single hole. Shower System (shower head, valve, handle, and trim) – Symmons #6402NS-MDRH-RTZ-TRM-MOD with polished chrome finish, single-handle pressure-balanced valve. Tub – Kohler Tea for Two K-863 with white finish. Wet Bar Sink – Elkay "Gourmet" Undermount Single Bowl Sink EGUH15FB with Stainless Steel finish, Outside Diameter 16 15/16"; Inside Diameter 14 9/16"; Depth 7 ½" Wet Bar Faucet – Symmons S2340 with Polished Chrome finish, single hole.
• **Cabinets:** **(i) Replace or refinish existing cabinets** **(ii) Install new routed panel cabinets doors and drawer fronts** **(iii) Replace Formica counters**	N/A

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
• **Vanity mirrors -Install new mirrors as needed (show finish)**	Framed mirrors.
• **Faucets-Install new faucets**	Faucets: Porcelanosa or equal.
• **Sinks/ Replace resurface existing sinks**	Basin set to include: Lever handles faucet, tub, thermostat valve, volume control, towel bar, towel hook, toilet tissue holder. Under-counter basin.
• **Fixtures -Replace towel bars, toilet paper holder**	Accessories: Double robe hooks and double towel bar near shower. Ginger, or equal.
• **Shower/Bathtub:** **(i) Replace/ resurface existing tubs and enclosure** **(ii) Replace shower doors** **(iii) Replace tub faucet, showerhead, drain hardware**	Tempered glass shower enclosure, glass thickness 1/2", with stone tile walls. Shower walls –porcelain tiles by Porcelanosa (Spain); 4"x12" tile size or equal. Shower Fixtures by Symmons or equal. Accessories: Amenities shelf in shower/tubs.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
3) GENERAL	
a) Walls - Prepped and painted	Walls: Wood paneling and natural stone in combination with specialty wall covering and paint. Wall-covering: Wolf Gordon, Maharam or equal. Mural accent wall @ Lobby area; design merges into carpet design at staircase. Custom vinyl.
b) Windows	
• **Remove existing metal framed windows and doors and replace with [double-paned aluminum] windows**	Windows & Sliding Glass Doors: Solid vinyl units, sizes and operation as required. Low-E, dual-glazed, Style Line series w/ maximum glazing - white finish. Milgard style line 6000 series.
• **Replace all window coverings**	
c) Doors	
• **Replace all interior wood doors with raised panel doors with new hardware**	Doors: Fire-rated doors (wood or wood and glass) and door frames in public areas; metal and glass doors at all feature retail, restaurant, and lobby locations; All doors to be min. 1-3/4" thick. Metal: Aluminum, finish per designer. Doors at retail and F&B outlets to be glass doors. Doors: Herculite or equal. All wood doors & frames in public areas to be stained.
d) Ceilings - Remove or cover existing "cottage cheese" , prepare and paint to have a smooth, painted ceiling	Ceiling: Multi-level drywall with soffits. Combination of wood, painted drywall & GRG features, by designer. GRG by Formglas, or equal.
e) Moldings	
• **Install new decorative crown moldings**	N/A
• **Replace existing moldings as required**	N/A
f) Flooring	

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
• **Replace carpeting and padding**	Floor: Ground Level: 20% Custom carpet and pad, 30% Natural Stone, 10% Wool rugs, 40% solid wood; Stone to extend to outdoor areas. Stone: TBD, per designer. Wood: Bleached walnut or similar, per designer. Wood flooring by T. Morton; bleached walnut. Stone flooring – Italian marble Calcutta. Carpeting. Painted baseboards. Upper Levels: 80% Custom carpet and pad, 20% Wood. Carpet: Custom border and insert, per design; Durkan Commercial, Shaw Hospitality or equal. Base: Painted wood, Johnsonite vinyl base, or stone to match adjacent floor, per designer. Millwork & Trims: No added urea-formaldehyde in all casework and paneling cores. All wood used to be FSC certified. All casework and paneling AWI Premium Grade. All standing and running trim AWI Premium Grade.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
4) LIGHTING	
a) Lighting fixtures - Replace all lighting fixtures lens covers	Lighting: Entire lobby to use multi-level zoned dimming system: Higher illumination levels at reception desk, accent lighting at interior features and key elements. Provide wiring, infrastructure, structural support and installation for table lamps at seating areas with floor outlets as required for furniture layout and owner provided decorative lighting. Dimming System: Lutron Graphik Eye. Provide support, infrastructure & wiring for oversized chandelier. Provide blocking and power for owner-provided decorative lighting, per designer. Provide adequate lighting for artwork as necessary, per design. Custom lighting fixtures.
b) Covers – Replace all switch, phone jack and electrical outlet covers	Standard commercial.

Initials _____

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
5) SUPPLEMENTAL	
	Lobby & Related Areas: General: Public spaces to have audio system. Provide wiring and infrastructure to provide individual programming (zones) in each location as well as multiple zones within one space. Not possible to specify brand for audio system. All covers/ lighting trim/ speakers, access panels and exposed mechanical grilles to be painted to coordinate with adjacent surface finishes, per designer. All ductwork, piping locations & exposed mechanical grill locations to be to be coordinated with interior design to maximize ceiling heights and coordinate soffit locations. Code required signage design to be coordinated with operational/directional signage. Indoor/outdoor flexibility at Public spaces, including F&B spaces. New code-compliant metal railings at balconies. Metal: TBD, per designer. Balconies are existing stucco to be re-painted. Metallic power coated tubular steel decorative hand railings to cap balcony walls. Special: Stone and wood millwork elements for registration, concierge and bellmen stations; task lighting at reception desk and concierge. Millwork: AWI Premium quality construction and finishes. Walk off mats ser in stainless steel pans with frames, per design. Walk off mats: Kadee Industries, or equal.

Hotel Renovation Item	*Parcel 42 Lessee Proposal*
	Built-in AV/PA systems, TV/ DATA, Wireless internet . Phillips LED flat screen TVs. Not possible to specify brand for data or wireless internet. Decorative large scale transparent & semi-transparent features e.g. pattern, cast glass, wrought iron, or carved wood panels.
	Back of the House Areas: Back of House - General Doors: Painted hollow metal doors and frames in back-of-house areas. Misc.: 4'-high galvanized steel corner guards at all back-of-house corridors. Guestroom Level Service Elevator Lobby: Floor: Vinyl Base: Vinyl Walls: Painted drywall: smooth finish. Ceiling: Paint underside of slab Lighting: 1' x 4' ceiling mounted fluorescent Doors: Painted Back of the House – Mechanical, Electrical, & Plumbing: Mech.: New roof top package AC units. Carrier, Honeywell, or equal. Elect. Lighting: 2' x 4' or 1' x 4' ceiling mounted fluorescent. Lithonia or equal. Replace broken receptacles/data/telephone/TV outlets as required. Leviton or equal. Plumb.: All toilet rooms to be upgraded with new Toto ADA compliant plumbing fixtures. Back of house plumbing fixtures all ADA compliant by American Standard.

Initials _____

PLANS & DRAWINGS	
Preliminary plans for all work to be done	
a) Site Plan/Floor plans	
• **Reduced color site plans (8.5x11 or 11x17), showing work described above, including all structures, hardscape, promenade, landscaping and slips**	Not completed – have new revised site plan as submitted to Hawthorne FD, but black and white only, not colored.
b) Building Elevation	
• **A reduced color elevation (8.5x11 or 11x17) drawing that shows all new and/or renovated building elevations**	Not completed or colored, was in process of CAD when asked to stop work on DCB package.
c) Landscaping Plan	
• **If not already included in the above materials**	Not done/not started by Plac-E.
d) Specifications	
• **If not already included in the above materials**	N/A
e) Construction Phase Diagram	Not done – no contractor selected to provide info.

Initials _____

2) BUDGET	
a) Budget worksheet	
• **Estimated cost for all of the work agreed upon**	Minimum of $14.3 million per term sheet.

Initials _____

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 5.13 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.

EXHIBIT E

TREE TRIMMING POLICY

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.

EXHIBIT F

AAA DIAMOND RATING GUIDELINES AND EXCLUSIONS

Approval Requirements &

Diamond Rating Guidelines

LODGING

AAA Publishing
Tourism Information Development • 1000 AAA Drive • Heathrow, FL 32746-5063

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LODGING

Approval Requirements & Diamond Rating Guidelines

Introduction

Dear Hospitality Professional,

On behalf of AAA, I am pleased to introduce to you the latest edition of the *Lodging Approval Requirements & Diamond Rating Guidelines*. This year marks the 30th anniversary of the AAA Diamond Ratings, as well as the 20th anniversary of the *Diamond Rating Guidelines*.

Since its inception in 1902 as a federation of independent motor clubs, AAA has existed to provide information, safety, security, and peace of mind to its now more than 50 million members. AAA's services have evolved to encompass roadside assistance, insurance and financial services, safety education, and public affairs. AAA is also an undisputed leader in travel information and services.

In 1937, the first AAA field representatives were hired to inspect lodgings and restaurants, and in 1963, AAA began assigning lodging ratings from 'good' to 'outstanding'. In 1977 — AAA's 75th (diamond) anniversary — the Diamond Rating system was introduced for lodgings, with restaurants included in 1989.

In 1987, the first ***AAA Lodging Diamond Rating Guidelines*** booklet was introduced for industry review. Prior to this date, only minimum approval requirements were printed and distributed upon request.

The new edition of the ***AAA Approval Requirements and Diamond Rating Guidelines*** was designed with two objectives in mind:

- To ensure that our ratings program is accurate and consistent when compared to meeting the travel needs of over 50 million AAA members.
- To provide hospitality professionals a valuable reference so they may be successful in achieving their goal as it relates to AAA Approval and our proprietary ***Diamond Rating Process***.

To that end, we feel that it is important to partner with the hospitality industry by gathering input, discussing the meaning of our ratings, and openly sharing how the Diamond Rating Process is applied at the property level. We strongly urge property representatives to take full advantage of the information provided by AAA inspectors during an evaluation, since our experts are exposed to a wide range of properties throughout the United States, Canada, Mexico and the Caribbean. AAA evaluates more than 32,000 accommodations, 28,000 restaurants and nearly 11,000 campgrounds as key content for over 168 million copies of travel-related materials annually. AAA travel products are wide-ranging and include 26 regional TourBook® guides, 11 regional CampBook® guides, AAA.com— including the well-known TripTik® Travel Planner—as well as, numerous retail guidebooks, atlases and maps.

We look forward to your continued service on behalf of AAA members at large and appreciate your participation in AAA programs.

Sincerely,

Michael Petrone, CEC
Director/AAA Tourism Information Development

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Section One

The Diamond Rating Process

Defining AAA Approval Requirements and AAA Diamond Rating Guidelines

It is important to note the difference between AAA Approval Requirements and Diamond Rating Guidelines as this concept is often misunderstood. The evaluation process is made up of three parts: Approval Requirements, objective Diamond Rating Guidelines, and subjective elements based on the professional experience and training of AAA inspectors — who visit over 32,000 lodgings each year.

The essential AAA Approval Requirements are common-sense qualifications that AAA members have told us are important to them and, similarly, that most professional operators routinely employ. **All properties must first meet this set of criteria in order to be considered for AAA Approval and Diamond Rating.**

The Diamond Rating Guidelines are not rating *requirements*, but are *components* used to determine the appropriate Diamond Rating level. Diamond Rating guidelines are simply a reflection of what is typically seen throughout the various market segments of the lodging industry. Therefore, failure to meet some of the components listed for the ratings categories does not necessarily preclude the achievement of that rating. During our evaluation, inspectors will assess the strengths and weaknesses of the property and assign the most appropriate rating that will provide the best match in meeting AAA member expectations.

Furthermore, not all of the Diamond Rating Guidelines will apply to all property types. For example: meeting rooms would not be expected at a Bed & Breakfast property, but would be essential at a convention-oriented hotel. Also, the availability and type of swimming pool will be dictated by climatic influences and/or the property classification. AAA inspectors will only use the sections of the Diamond Rating Guidelines that are appropriate for the property classification in assessing the overall Diamond Rating.

Applying for a AAA Diamond Rating

AAA CONSIDERS ALL VALID APPLICATIONS FOR EVALUATION. To be considered a valid applicant for AAA evaluation, lodging properties must meet all of the **Approval Requirements** for their property category. These minimum requirements reflect members' basic expectations.

Prior to completing an *Application For Evaluation* (provided at: www.AAA.biz/Approved), please review the requirements to verify your property's eligibility to apply. **Currently listed establishments need not reapply, as our inspectors will routinely conduct an evaluation of your property on a continual basis.**

Include recent and accurate pictures of the exterior, public areas, as well as examples of a standard guest unit and bathroom, and return to AAA. Please note that if our research indicates past disqualifying issues, you may be asked to provide written documentation of the corrective action taken since then.

As of August 1, 2006, lodging properties that request evaluation by AAA are charged a nonrefundable application fee: $150 for first-time applicants and $300 for repeat applicants that previously failed an evaluation or were disassociated from AAA for any reason. The fee does not apply to currently ***Approved*** and listed establishments that remain in good standing.

Please do not send a payment with the initial application. On receipt of your *Application For Evaluation*, AAA will provide written notice regarding the status of your application and, if accepted for further consideration, an invoice for your application fee. On receipt of payment, AAA will schedule your property for an unannounced evaluation within one year.

All application fees should be made in U.S. funds and are nonrefundable and will have no bearing on the outcome of evaluations. AAA conducts property evaluations as a service to members, and does not guarantee that all applicants will be ***Approved*** and listed in member publications.

Basic listings are provided without charge to ***Approved*** properties.

AAA does not guarantee an immediate evaluation of all properties that apply, but does guarantee a fair review of all applications. Additionally, AAA reserves all rights to apply priority consideration to those properties demonstrating traits that provide the highest degree of AAA member value. Through ongoing member research, AAA has developed criteria reflecting key elements of consideration in making travel-related decisions. Some examples of AAA member value criteria are:

- LOCATION
- NEWLY BUILT / RENOVATED
- HIGH DEGREE OF CLEANLINESS AND COMFORT
- APPROPRIATELY MAINTAINED CONDITIONS
- PRICE (willingness to provide a discount or best rate available)

Once your property is approved, it will be evaluated at least once per evaluation cycle by a AAA inspector. All evaluations are unannounced to ensure that our inspectors see your property just as our members would see it. The conditions noted at the time of the annual evaluation will be the basis of the decision to list or rate a property. This decision is at the sole discretion of AAA. **By applying for an evaluation, you agree to allow AAA to publish your property information and the respective Diamond Rating in our travel publications.** AAA will make every effort to ensure that your property is fairly represented.

If, after continued review, or up to and including the end of one year, the property is determined to be of limited AAA member value, a letter will be sent advising that the property has been released from any further consideration.

AAA Approval Requirements

AAA APPROVAL REQUIREMENTS REFLECT THE MINIMUM ACCEPTABLE CONDITIONS AS ESTABLISHED THROUGH MEMBER SURVEYS AND CONTINUOUS FEEDBACK.

To be AAA Approved and Diamond Rated, an establishment must meet the following requirements:

Cleanliness and Condition

1. All facilities directly associated with a property must be clean and well-maintained throughout.
2. At a minimum, each guest unit must be thoroughly cleaned, with complete bed and bath linens changed between guest stays.
3. Fresh linens, maid services, and bathroom supplies must be available upon request.

Management Style of Operation

4. A property may not use AAA trademarks—including but not limited to the AAA logo and Diamond Rating, without AAA's prior written consent.
5. The property must be appropriately located for business or leisure travel.
6. The establishment must be a primarily transient operation with four or more units available for AAA members.
7. The establishment must provide AAA room rates for travel publications as requested.
8. The establishment must assist AAA in the resolution of member complaints.
9. The establishment must accommodate unannounced AAA property evaluations within 20 minutes of notice.
10. All property staff must conduct business in a professional and ethical manner providing attentive, conscientious service to guests.
11. A property must only place AAA members in AAA inspected and approved guest units—overflow buildings or guest units (associated with the property but not approved by AAA) are unacceptable.
12. Property management, or their representative, must be readily accessible at all times for guest needs or requests.
13. Guests must have easy access to 24-hour incoming and outgoing phone service, ensuring prompt guest unit message delivery. *Emergency messages must be delivered to the guest immediately upon receipt.*
14. Management will readily provide property information as requested by AAA on a continual basis for the purpose of maintaining the most accurate travel information for AAA publications.
15. The establishment must be in compliance with all local, state, and federal codes.

Exterior and Public Areas

16. Properties must have accurate, legible signage in appropriate areas.
17. All facilities directly associated with a property (such as a restaurant, health club, gift shops, recreation facilities, etc.) provided for guest's use must meet all appropriate AAA Approval Requirements.
18. Adequate illumination is required in all public areas. This includes sufficient lighting in all corridors, walkways, stairways, landings, parking areas, etc.

Guest Rooms

19. Each guest unit must contain a comfortable bed with a mattress pad, two sheets, two pillows with pillowcases, and an appropriate bed covering.
20. Each guest unit must have a nightstand or equivalent by each bed, a chair, a writing surface, a waste container, clothes-storage space, and clothes-hanging facilities with hangers for two guests.
21. Each guest unit must have adequate shades, drapes, or blinds to cover all windows or other transparent areas to provide the guest with privacy.
22. The level of soundproofing must be adequate to muffle outside noises and normal sounds in adjacent units and public areas.
23. Each guest unit must have an active light switch at the main entry.
24. Each guest unit must have good illumination at a writing surface, a sitting area, and at each bed.
25. Each guest unit door must be equipped with <u>both</u> a primary lock and a secondary deadbolt lock.

A primary lock is defined as a device that permits a guest to enter a unit using some form of key and allows the door to be locked while the unit is occupied and when the guest leaves the unit. Passkeys assigned to appropriate staff members will function to operate only these locks.

A secondary lock is defined as a mortised, deadbolt-locking device with a throw that extends at least one inch from the edge of the door into the door frame. This permits a guest an extra measure of security against any unwanted intrusions. Unlike the primary lock, deadbolt master keys will not be provided to guests or to staff. ***Master key systems will be acceptable when the emergency master key is only available to top management and security personnel.***

<u>Secondary Lock Variances</u>

In certain instances, the requirement for secondary locks may be modified to meet a variety of exceptions. The most common are noted below. AAA claims the right of final arbitrator in all decisions of this nature.

Sliding Glass Doors – Each sliding door must be equipped with an effective locking device. A secondary security lock is required on all ground floor doors and those which are accessible from common walkways and adjoining balconies.

French Doors – In addition to the deadbolt lock requirements, surface-mounted slide bolts must be provided at the top and bottom to secure the stationary/auxiliary door. These bolts must extend into the upper doorframe and the lower doorframe or floor and must be strong and sturdy mechanisms.

26. Each door to connecting guest units or maintenance corridors must be equipped with a deadbolt lock.
27. Each guest unit entry door must have a viewport or window convenient to the door.
28. Each window overlooking a common walkway or in a ground floor unit must be equipped with a functional lock.
29. Each guest unit must have an operational, single station smoke detector. Hard-wired smoke detectors are preferred. When battery-operated detectors are used, there must be an adequate maintenance program to routinely test and replace batteries.

Guest Bathrooms

30. Each guest unit must have its own private bathroom.
31. All bathrooms must contain a toilet, a sink with a well-lit mirror and a convenient electrical outlet, adequate shelf space, and a tub or a shower with a non-slip surface.
32. Each bathroom must be equipped with toilet tissue, a cloth bath mat, and two bars of soap or equivalent—furthermore, each guest must be provided a bath towel, hand towel, face cloth, and a drinking tumbler.
33. All toilet area surfaces (floors, walls, baseboards, etc.) must be non-porous to facilitate proper sanitation. (For example, carpeting is not acceptable in the toilet area.)

The AAA Evaluation and Diamond Rating Process

The AAA Evaluation and Diamond Rating Process primarily consists of three parts:

- **Introduction, Interview**
- **Property Tour and Practical Application of the Approval Requirements and Diamond Rating Guidelines**
- **Assessment Summary**

First, all establishments must meet **AAA Approval Requirements** and be determined to provide member value. This validation is conducted through a combined process of applications, inspections, referrals, and media research.

If a property is presumed to qualify, one of our inspectors will visit and observe the curbside appeal, exterior, and other factors pertaining to the basic foundation of the establishment. This preliminary review will verify that this property clearly exhibits characteristics that would appeal to AAA members.

If satisfied, our representative will contact the owner, general manager, or property designee for a brief interview. This interview is an extremely important part of the evaluation, as factual data is gathered for inclusion into our travel information inventory with potential use in AAA's worldwide printed and electronic publications. This session also gives the property representative a chance to advise AAA of any plans for improvement that may be forthcoming.

Following the interview, the inspector will tour the establishment with the property representative to assess the **AAA Approval Requirements & Diamond Rating Guidelines.** The tour will include an evaluation of all public areas and a cross section of rooms. The inspector will discuss both strengths and weaknesses of the property as it relates to our Guidelines. ***This dialogue is unique to the AAA Diamond Rating Process and is a valuable resource to any property.***

The overall evaluation process will include the review of six key areas:

- **Cleanliness and Condition**
- **Management and Staff**
- **Exterior, Grounds, and Public Areas**
- **Guestroom Décor, Ambiance, and Amenities**
- **Bathrooms**
- **Guest Services** (if applicable)

Cleanliness and condition

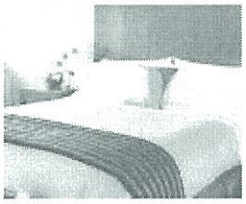
All establishments must be clean, comfortable, and well-maintained. The inspector will evaluate the overall condition of the property to determine if the property meets above average standards and should be considered for a Diamond Rating.

Management and staff

Properties will receive a mark of 'Pass' or 'Fail' based on the manner of interaction with all property representatives. The inspector will be evaluating the overall level of hospitality, professionalism, and deportment. It is critical to receive a passing mark to be considered for a Diamond Rating.

Exterior, grounds, and public areas

This area is assigned a specific rating overall based on the components listed under the applicable Diamond Rating Guidelines section. Varying weights are applied based on the classification of the property. For example, the exterior, grounds, and public areas at a resort carry more weight than at a downtown hotel.

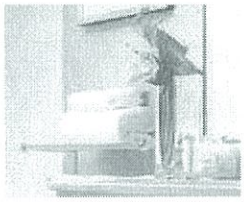


Guestroom décor, ambiance, and amenities

This area is assigned a specific rating overall based on the components listed under the applicable Diamond Rating Guidelines section. Varying weights are applied based on the classification of the property. For example, the room décor, ambiance, and amenities at a hotel carry more weight than at an outdoor vacation resort.

Bathrooms

This area is assigned a specific rating overall based on the components listed under the applicable Diamond Rating Guidelines section. Weights remain relatively the same regardless of classification.



Guest services

A high level of guest services is the hallmark of the coveted AAA Four and Five Diamond Ratings. All properties must first match the physical guidelines respective of the Four or Five Diamond levels to qualify for a series of anonymous visits by AAA inspectors. Our overnight hospitality assessment includes a review of twelve critical areas and measures approximately 300 guest interaction points. All properties must achieve at least a Four Diamond Rating in guest services to be considered for a Four Diamond Rating overall; similarly, a property must achieve a Five Diamond Rating in guest services to be considered for a Five Diamond Rating overall.

THE ACHIEVEMENT OF A AAA DIAMOND RATING MEANS THAT AN ESTABLISHMENT IS ONE OF AN EXCLUSIVE GROUP THAT HAS SUCCESSFULLY COMPLETED THIS THOROUGH EVALUATION PROCESS.

If a property is approved, the inspector will assign, or recommend, a Diamond Rating or FYI designation as appropriate based on conditions that exist at the time of the evaluation. The inspector will provide the property representative a written summary of the evaluation, including the rating decision. The frequency of subsequent AAA evaluations varies slightly, depending on the classification and the assigned rating of each establishment.

Section Two

The Diamond Rating Guidelines

AAA DIAMOND RATINGS REPRESENT A COMBINATION OF THE OVERALL QUALITY, THE RANGE OF FACILITIES, AND THE LEVEL OF HOSPITALITY OFFERED BY A PROPERTY. These widely recognized and trusted symbols help AAA members choose lodgings that will meet their needs and expectations.

AAA inspectors are responsible for determining a property's Diamond Rating based on established standards that are developed with input from our trained professionals, AAA members, and various lodging industry professionals.

AAA's Diamond Rating Guidelines indicate what is typically found at each rating level. However, the size, age, and overall appeal of an establishment are also considered, as well as regional architectural style and design. Diamonds are assigned based on the average of all property characteristics, with a focus on overall guest impression rather than on individual elements. Therefore, not meeting a guideline (in one area) may not necessarily affect the overall Diamond Rating.

The final factor in determining the Diamond Rating for a property is professional judgment, which is a very important part of the rating assessment. Our inspectors are North America's travel experts based upon ongoing training and experience in conducting more than 32,000 lodging evaluations per year.

What the Diamond Ratings Mean

One Diamond

These establishments typically appeal to the budget-minded traveler. They provide essential, no-frills accommodations. They meet the basic requirements pertaining to comfort, cleanliness, and hospitality.

Two Diamond

These establishments appeal to the traveler seeking more than the basic accommodations. There are modest enhancements to the overall physical attributes, design elements, and amenities of the facility - typically at a moderate price.

Three Diamond

These establishments appeal to the traveler with comprehensive needs. Properties are multifaceted with a distinguished style, including marked upgrades in the quality of physical attributes, amenities, and level of comfort provided.

Four Diamond

These establishments are upscale in all areas. Accommodations are progressively more refined and stylish. The physical attributes reflect an obvious enhanced level of quality throughout. The fundamental hallmarks at this level include an extensive array of amenities combined with a high degree of hospitality, service, and attention to detail.

Five Diamond

These establishments reflect the characteristics of the ultimate in luxury and sophistication. Accommodations are first class. The physical attributes are extraordinary in every manner. The fundamental hallmarks at this level are to meticulously serve and exceed all guest expectations while maintaining an impeccable standard of excellence. Many personalized services and amenities enhance an unmatched level of comfort.

GLOSSARY:

- **Climate controlled** – Heat, ventilation and/or air conditioning and cooling.
- **Dated** – Marked by features of the past; showing the effects of long use or wear; unfashionable.
- **Form** – The essence of design or configuration.
- **Function** – The action for which something is fundamentally fitted or purposed.
- **Plus** – When you see this term used (such as **2D, plus**), it means that the rating includes the **bolded** elements of the previous columns in addition to elements of the current column.
- **Residential** – Of, or relating to, or connected with, residential style; invokes a personal presence of home.

Diamond Rating Guidelines – Exterior

EXTERIOR					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
General Curb Appeal	The combination of all exterior elements imparts a basic or dated style; Limited coordination in design; Limited quantity and variety of appointments; Overall, conveys an unadorned curb appeal	The exterior elements are moderately enhanced (as compared to basic) in quantity, function, and/or variety, with an increased coordination in design; Overall, conveys a modestly enhanced curb appeal	**The exterior elements are obviously enhanced and are well-coordinated for form, function, and seasonality; Some areas have a residential feel;** Overall, conveys a very attractive curb appeal	**3D, plus:** The combination of all exterior elements is substantial, impressive, well-integrated, and imparts an excellent level of curb appeal which is upscale in style	**4D, plus:** The combination of all exterior elements imparts an extraordinary and luxurious feel; Appointments are unique and contribute to an elegant level of curb appeal
Landscaping	Limited quantity and variety of landscaping; Basic design	Enhanced quantity, function, and variety of landscaping; Coordinated design	**Various landscape features are well-coordinated for form, function, and seasonality;** An ample quantity and variety of plants **are integrated with buildings, walkways, parking lots, courtyards, gardens, etc.**	**3D, plus:** Excellent variety of **mature plants; Obviously professionally planned and manicured**	**4D, plus:** Elegant and extensive variety of landscaping, with meticulous attention to detail in placement and care

EXTERIOR					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Building Structure; Design	Basic or dated in style	Modest enhancements to form and function via roofing, windows, siding, or some other architectural feature(s)	**Significantly enhanced in form and function with some residential appointments, such as: enhanced roofs, intricate moldings, window treatments, balconies, chimneys, etc.**	**3D, plus: Obviously upscale**	**4D, plus:** Extraordinary with unique architectural features
Main Entrance	No drive-through covered entry	**Drive-through covered entry;** Limited capacity (one-car width)	**2D, plus:** Increased capacity (two-car width); Structure is decorative	**3D, plus: Oversized capacity (two-car width and depth);** Upscale design and appointments	**4D, plus:** Elegant design and appointments
Parking	Varied surfaces; **Illumination is adequate**	**1D, plus: Paved and marked areas**	**2D, plus: Lighting is well-positioned, from multiple sources, and provides a good level of overall illumination**	**3D, plus: Lighting fixtures reflect upscale characteristics with respect to the design of the property** Valet parking upon request or some other upgraded feature, such as: covered/indoor parking, shuttle service, or evidence of added security	**4D, plus:** Valet parking is automatic

GLOSSARY:

- **Climate controlled** – Heat, ventilation and/or air conditioning and cooling.
- **Dated** – Marked by features of the past; showing the effects of long use or wear; unfashionable.
- **Form** – The essence of design or configuration.
- **Function** – The action for which something is fundamentally fitted or purposed.
- **Plus** – When you see this term used (such as **2D, plus**), it means that the rating includes the **bolded** elements of the previous columns in addition to elements of the current column.
- **Residential** – Of, or relating to, or connected with, residential style; invokes a personal presence of home.

Diamond Rating Guidelines – Public Areas

PUBLIC AREAS					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
General Décor Style	Predominantly basic or dated style with limited coordination of appointments that provide an adequate level of comfort	Increased coordination of appointments combined with modest enhancements to function, design elements, room size, and/or amenities that provide an enhanced level of comfort	Predominantly **residential style** with decorative appointments that are attractive, **well-coordinated for form and function,** and provide an obvious degree of comfort	**3D, plus:** Predominantly upscale style **that provides an exceptional degree of comfort**	**4D, plus:** Predominantly elegant style with luxurious, unique, and artistic appointments
Floor Coverings	Basic material, such as: linoleum, painted concrete, or low density pile carpet with padding that provides little or no comfort underfoot (floor feels hard)	Enhanced material, such as: wood laminates and vinyl, or **medium density pile carpet with padding that provides average comfort underfoot**	**2D, plus:** Wood laminates or carpet with **enhanced design, such as: patterns, textures, or inlays;** Decorative tile (ceramic, stone, concrete, terra cotta, etc.); **Hard surfaced floors have decorative area rugs as appropriate**	**3D, plus: High grade wood, marble, granite, or other upscale stone floors, or high density pile carpet with padding that provides exceptional comfort underfoot**	**4D, plus:** Custom inlays or textured enhancements that provide an overall design that is obviously elegant and unique; Area rugs are luxurious and unique

PUBLIC AREAS					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Wall Coverings including Interior Corridors *(if applicable)*	Walls are of basic material and design, such as: cinder block with a plain paint finish, standard grade wood, prefab modular laminate paneling, or wallpaper	Wall treatments are modestly enhanced, such as: drywall with basic paint finish or plain vinyl coverings; Rubber or vinyl baseboards	**Decorative wall treatments, such as: drywall with textured and painted finish, decorative vinyl coverings, or select grade wood/stone; Chair rails** and carpeted baseboards	**3D, plus:** At least one significant upscale design enhancement, **such as: accent wall(s), furniture-finish wood paneling, soft wall coverings, ceiling trim, architectural feature, wainscot, etc.; Wood baseboards**	**4D, plus**: Wall finishes are of the highest grade materials; Accented with multiple luxurious design enhancements
Ventilation		Climate controlled	Climate controlled	Climate controlled	Climate controlled
Exterior Corridors *(if applicable)*	Building structure and design is basic or dated in style	**Weather appropriate (Provides protection and comfort with respect to climatic elements);** Building structure shows modest enhancements to design and function via roofing, windows, siding, or some other architectural feature(s)	**2D, plus:** Building structure and design is **significantly enhanced in form and function with some residential appointments, such as: enhanced roofs, moldings, window treatments, etc.**	**3D, plus: Building structure and design is obviously upscale**	**4D, plus:** Extraordinary with unique architectural features
Landscaping (Relating to Exterior Corridors)	Limited quantity and variety of landscaping; Basic design	Enhanced quantity, function, and variety of landscaping; Coordinated design	**Various landscape features are well-coordinated for form, function, and seasonality;** An ample quantity and variety of plants **are integrated with buildings, walkways, parking lots, courtyards, gardens, etc.**	**3D, plus:** Excellent variety of **mature plants; Obviously professionally planned and manicured**	**4D, plus:** Elegant and extensive variety of landscaping, with meticulous attention to detail in placement and care

PUBLIC AREAS					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Wall Hangings/ Decorative Enhancements		Poster(s) or commercial artwork with thin, un-enhanced wood, metal, or plastic frame(s)	Matted artwork (common or commercial) in enhanced frame(s) or other decorative appointments	**Variety of matted and framed or unframed canvas artwork (varied sizes and scenes) or other appointments that provide a distinctive or thematic upscale appeal**	**4D, plus:** Variety of styles and accent pieces, such as: limited edition prints, canvas art, tapestries, or lithographs with enhanced matting and preservation frames, assorted artisan pieces or sculptures, floral displays or plants
Ceilings	Basic material and design, such as: drop tile, concrete, or standard grade wood	Modest enhancements to material and design, such as: enhanced drop tile, painted drywall, popcorn finish, sand textured concrete, etc.	**Predominant use of decorative elements to painted drywall, such as: an advanced textured finish (knockdown, orange peel, comb, slap brush, etc.) or select grade wood/stone**	**3D, plus:** One architectural or design feature, **such as: treys, beams, medallions, vaulted/volume, murals/stencils, tin tiles or skylights, ceiling fans, special effect lighting, etc.**	**4D, plus:** Multiple architectural or design features
Illumination	Basic lighting fixtures that provide an adequate level of overall illumination	Lighting fixtures are modestly enhanced in style, positioning, and function **to provide a good level of overall illumination**	**2D, plus:** Lighting fixtures are decorative and **well-coordinated for form and function**	**3D, plus:** Lighting fixtures reflect upscale design and provide an excellent level of overall illumination	**4D, plus:** Custom lighting fixtures of outstanding quality provide a unique illumination effect
Signage	Basic design in limited locations throughout the property	Modestly enhanced design **in appropriately placed locations throughout the property**	**2D, plus:** Decorative enhancements in design	**3D, plus:** Upscale design **in ample locations**	**4D, plus:** Custom design creatively placed for a unique effect

PUBLIC AREAS					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Lobby/ Registration Area	Obviously restricted by size and/or placement of appointments; Basic counter registration with limited or no seating capacity	Modest restrictions due to size and/or placement of appointments; Seating arrangement for one small group, such as: a sofa and two arm chairs	No restrictions, as placement of appointments is well-proportioned to area size; Expanded seating arrangement accommodating two small groups; Placement of appointments is well-proportioned to area size and traffic flow	Area size and placement of appointments provide an obvious degree of spaciousness allowing increased ease of movement for many guests; Multiple conversational groupings, including one or more privacy areas; Identifiable guest service area and bell stand	Area size and placement of appointments provide a free flowing abundance of space that contributes to the ultimate level of comfort and relaxation for many guests; Identifiable concierge area
Furniture	If available, predominantly basic materials, such as: particle board, laminate, or vinyl finishes; Dated styles with limited coordination; Provides an adequate level of comfort	An increased level of coordination; Modest enhancements in materials, design, and function; Provides an enhanced level of comfort	Decorative and **well-coordinated for form and function; Overall construction and design reflects current industry trends**, such as: Melamine resins, solid wood trim, or upgraded laminate finishes; Provides an obvious degree of comfort	**3D, plus: Modern or antique upscale style and materials, such as: solid wood, polished metals, leather, designer fabric, veneer finishes with solid wood accents, laminate insets, etc.; Provides an exceptional degree of comfort**	**4D, plus:** Luxurious, unique, and elegant custom design and workmanship
Ice, Vending, Sundries & Shops	Ice machine(s) available Vending machine(s) available	**Multiple sealed ice machines** Basic hygiene amenities, such as: toothbrush/paste, razors, mouthwash, shower caps, combs, etc., available at the front desk or in vending machine	**2D, plus: Located in a recessed area** Dedicated sundry area offering a variety of merchandise, such as: health and beauty needs, food, beverage, and reading materials	**3D, plus:** Conveniently located and appropriately soundproofed Upscale gift shop	Specialized service, delivery or in-room honor bar Variety of first-class shops

PUBLIC AREAS					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Business Center		Personal computer, with Internet access, available in lobby for guests' use	Dedicated open area (out of traffic pattern) **with desk and chair, to include at least three business-related items, such as: PC, printer, copier, fax machine, supplies, etc.**	**3D, plus: Well-appointed, enclosed area; Multi-guest capability with comprehensive office supplies**	**4D, plus:** Luxurious surroundings include the latest business technology; Professionally staffed area
Elevator		**Elevator is available for guests' use in multi-story buildings**	**2D, plus: Primarily dedicated to guests' use; Prompt response, quick moving, and spacious**; Elevator includes decorative appointments; Landing includes a limited (four) amount of decorative furnishings, such as: tables, lamps, phone, artwork, chair, mirror, flowers, etc., **and is recessed from the lobby and guestroom corridors**	**3D, plus: Multiple elevators** include upscale appointments; Landings include a variety of upscale **furnishings (five), such as: sofa table, lamps/wall sconce, phone, artwork, chair, coffee table, mirror, flowers/plants, etc.; Additional service elevator is available for staff's use**	**4D, plus:** Elevator **cabs have dual call button panels**; landings are elegant with luxurious, unique, and artistic appointments
Miscellaneous		Artificial or live plants in limited locations	Good variety of live plants or artificial floral arrangements used as appropriate for decorative accents throughout the property	Abundant variety of live plants, silk, or dried floral arrangements used as appropriate to enhance an upscale theme throughout the property	Garden-fresh condition, outstanding variety of live plants and flowers that are uniquely arranged to provide a luxurious appeal throughout the property

PUBLIC AREAS					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Miscellaneous (cont'd)		Limited (washer and dryer only) coin-operated laundry facilities	Expanded coin-operated laundry facilities, such as: multiple machines, vending supplies, folding table, etc. –or– valet laundry	**Valet laundry and pressing available**	**4D, plus:** Personalized services available, such as: one hour pressing, shoeshine, tailoring or alterations, etc.
		Luggage carts available	**2D, plus: Design enhancements, such as: solid construction, larger, smooth tracking wheels, and bumper guards**	**3D, plus:** Upscale design enhancements, such as: brass or metal finish, carpeted base, and multiple hanging capabilities. Luggage assistance available upon request	Luggage assistance upon arrival is automatic
Meeting Rooms		Private meeting room available; Basic audiovisual equipment available, such as: projectors, microphones, television, sound system, etc.	Expanded meeting space with decorative appointments; Increased variety of audiovisual equipment available, such as: dropdown projector and screen, smart lectern, controlling lights and surround sound, multi-casting, wireless communication, etc.; Some conference services available, such as: planning assistance, catering, and most technology needs	**A variety of meeting rooms, such as: ballroom, boardroom, theatre, and/or meeting rooms of various sizes,** with upscale appointments; **All audiovisual equipment is state-of-the-art; Full conference services available including on-site professional conference planner and technical support**	**4D, plus:** Luxuriously appointed, first-class facilities; Custom conference services

PUBLIC AREAS					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Food & Beverage: **Restaurant** *(if applicable)* **OR** ↓ **Breakfast Area** **Expanded Continental** – At minimum, two items in each of the following categories: juice, coffee, fresh fruits, low sugar breads, sweet breads, and cereals with milk.		**One full-service outlet or food court** (comparable to a one diamond restaurant) onsite: **OR** ↓ Standard continental breakfast (minimum: juice, pastry, and hot beverage) is served in a dedicated area with modest restrictions due to size and/or placement of appointments; Limited seating is available	**2D, plus:** (comparable to a two diamond restaurant); Lounge or bar area **OR** ↓ Expanded continental breakfast, or more, is served in a dedicated area that is distinctly separate from the lobby traffic; Appointments are well-proportioned to area size, with appropriate seating for the size of the establishment; Television	**Upscale, full-service restaurant** (comparable to a three diamond restaurant); **Separate lounge or bar area;** Room service available for breakfast, lunch, and dinner	**4D, plus:** Multiple outlets (at least one is comparable to a four diamond restaurant); Room service available 24/7
Recreational Facilities: **Swimming Pool**		Pool area with a limited amount of furniture of basic or mixed styles; Property location determines seasonal availability	**Weather appropriate pool (usable at least nine months annually);** Area is well-appointed with a good variety of decorative, comfortable pool furniture; Hot tub or whirlpool spa	**3D, plus:** Pool area reflects the use of upscale building materials and design, with a variety of pool furniture; **Hot tub or whirlpool spa, steam room, or sauna; Food and beverage service is available poolside**	**4D, plus:** Pool area is of elegant design, with unique appointments, such as: sculptures, waterfalls/features, exotic plants and gardens, stone/tile surfaces with designer inlays, etc.; Outstanding variety of luxurious furniture; Cabanas; Full-time professional attendant is on duty

PUBLIC AREAS					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Spa				Full spa services available	Full spa onsite
Exercise Room		Two pieces of equipment **on site in a designated room**	**2D, plus:** Three or more pieces of equipment; **Room is enhanced with at least three purposeful appointments, such as: mirrored walls, television, water cooler, bathroom, towels, clock, scales, etc.**	**3D, plus:** Five or more pieces of **state-of-the-art equipment, including cardio and weight training capability**	**4D, plus:** Ten or more pieces of equipment; Luxurious health club environment; **dressing area includes: lockers, showers, and restrooms**; Full-time professional attendant is on duty; In-room exercise equipment available
Additional Facilities/ Programs (Golf, tennis, boating, horseback riding, children's activities, babysitting, etc.)			**Multiple facilities/ programs onsite; Some with off-site privileges**	**3D, plus: Arrangements are made for off-site services**	**4D, plus:** First-class facilities/ programs with custom concierge services provided
Restrooms		One unisex	**Separate gender restrooms in a convenient location (If property has expanded meeting facilities, then additional restrooms are available in proportion)**	**3D, plus:** Upscale appointments	**4D, plus:** First-class with luxurious appointments

GLOSSARY:

- **Climate controlled** – Heat, ventilation and/or air conditioning and cooling.
- **Dated** – Marked by features of the past; showing the effects of long use or wear; unfashionable.
- **Form** – The essence of design or configuration.
- **Function** – The action for which something is fundamentally fitted or purposed.
- **Plus** – When you see this term used (such as **2D, plus**), it means that the rating includes the **bolded** elements of the previous columns in addition to elements of the current column.
- **Residential** – Of, or relating to, or connected with, residential style; invokes a personal presence of home.

Diamond Rating Guidelines – Guestroom

GUESTROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
General Décor Style	Predominantly basic or dated style with limited coordination of appointments that provide an adequate level of comfort	Increased coordination of appointments combined with modest enhancements to function, design elements, room size, and/or amenities that provide an enhanced level of comfort	Predominantly **residential style with decorative appointments that are attractive, well-coordinated for form and function** that provide an obvious degree of comfort	**3D, plus:** Predominantly upscale style that **provides an exceptional degree of comfort**	**4D, plus:** Predominantly elegant style with luxurious, unique, and artistic appointments
Free Floor Space	Obviously restricted by size and/or placement of appointments; however, provides guest an adequate level of comfort	Modest restrictions due to size and/or placement of appointments	No restrictions, as placement of appointments is well-proportioned to room size	Room size and placement of appointments provide an obvious degree of spaciousness, allowing increased ease of movement for multiple guests	Room size and placement of appointments provide a free flowing abundance of space that contributes to the ultimate level of comfort and relaxation for multiple guests

GUESTROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Floor Coverings	Basic material, such as: linoleum or low density pile carpet with padding that provides little or no comfort underfoot (floor feels hard)	Enhanced material, such as: wood laminates and vinyl, or **medium density pile carpet with padding that provides average comfort underfoot**	**2D, plus:** Wood laminates or **carpet with enhanced design, such as: patterns, textures, or inlays;** Decorative tile (ceramic, stone, concrete, terra cotta, etc.); **Hard surfaced floors have decorative area rugs as appropriate**	**3D, plus: High grade wood, marble, granite, or other upscale stone floors, or high density pile carpet with padding that provides exceptional comfort underfoot**	**4D, plus:** Custom inlays or textured enhancements that provide an overall design that is obviously elegant and unique; Area rugs are luxurious and unique
Wall Coverings	Basic material and design, such as: cinder block with a plain paint finish, standard grade wood, prefab modular laminate paneling, or wallpaper	Wall treatments are modestly enhanced, such as: drywall with basic paint finish or plain vinyl coverings; Rubber or vinyl baseboards	**Decorative wall treatments, such as: drywall with textured and painted finish, decorative vinyl coverings, or select grade wood/stone;** Carpeted baseboards	**3D, plus:** At least one significant upscale design enhancement, **such as: accent wall(s), furniture-finish wood paneling, soft wall coverings, ceiling trim, architectural feature, wainscot, chair rails, etc.; Wood baseboards**	**4D, plus:** Wall finishes are of the highest grade materials; Accented with multiple luxurious design enhancements
Wall Hangings/ Decorative Enhancements		Poster(s) or commercial artwork with thin, un-enhanced wood, metal, or plastic frame(s)	Matted and framed artwork (common or commercial) in enhanced frame(s) or other decorative appointments	**Variety of matted and framed artwork (varied sizes and scenes) or other appointments that provide a distinctive or thematic upscale appeal**	**4D, plus:** Variety of styles and accent pieces, such as: limited edition prints, canvas art, tapestries, or lithographs with enhanced matting and preservation frames, assorted artisan pieces or sculptures, floral displays or plants

GUESTROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Ceilings	Basic material and design, such as: drop tile, concrete, or standard grade wood	Modest enhancements to material and design, such as: enhanced drop tile, painted drywall, popcorn finish, sand textured concrete, etc.	**Predominant use of decorative enhancements to painted drywall, such as: an advanced textured finish (knockdown, orange peel, comb, slap brush, etc.) or select grade wood/stone**	**3D, plus:** One architectural or design feature, **such as: treys, beams, medallions, vaulted/volume, murals/stencils, tin tiles or skylights, ceiling fans, special effect lighting, etc.**	**4D, plus:** Multiple architectural or design features
Window Coverings	Basic **drapes, blinds, or shades** offering limited blackout effect from the sun or outside light sources	**1D, plus: Full blackout effect**	**2D, plus:** Two design enhancements, **such as: blinds, shutters, sheers, fabric side panels, valance, glass treatment, cornice, etc., provides a professional design effect**	**3D, plus: Three or more design enhancements**	**4D, plus:** Elaborate, luxurious, and unique visual effect
Bed	No headboard -or- headboard and mattress are of basic materials and plain design (vinyl flat top); Box spring or bed base	Headboard and **mattress are of modestly enhanced material and design (quilted, soft top); Box spring or bed base**	**2D, plus: Decorative headboard**	**Upscale headboard, bed base and mattress which includes a comfort enhancement, such as: pillow top, memory foam padding, adjustable comfort level, etc.**	**4D, plus:** Elaborate, luxurious, and unique visual appeal
Bedding	Bed coverings are of basic style; Bed linens are of common blends and thread counts (sheer, coarse to touch); Pillows are of a standard grade (thin Polyester batting)	**Bed coverings are quilted or modestly enhanced in style; Bed linens are of average (180-250) thread count, closely woven and smooth to touch; Pillows are of an enhanced grade (thick Cluster Fiber)**	**2D, plus:** Two accent features, such as: comforter, duvet, dust ruffles, bed throw/scarf, multiple pillows, accent pillows/ shams or triple sheeting	**Bed coverings include three or more accent features (see 3D);** Bed linens are of increased thread count (>250), tightly woven, crisp, and very soft to the touch; Pillows are of an upscale grade, such as: down or feather	**4D, plus:** ≥ 300 thread count bed linens (Egyptian cotton, satin, silk or similar) provide a super soft, silk-like feel; Choice of pillow fills, such as: silk, wool, cashmere, premium foams, latex or goose down, etc., is provided

GUESTROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Clothes Storage Hang Space	Open wall-mounted clothes rack with simple wire or non-detachable hangers	Semi-enclosed area with detachable wood, plastic, or heavy metal hangers	**Fully-enclosed with** at least six **open-hook wood or heavy gauge, sculptured plastic matching hangers; Some with skirt or pant hanging attachments; Closet depth is 22 inches (at minimum) and can enclose full length apparel**	**3D, plus:** At least eight hangers	**4D, plus:** At least ten hangers (two of which are satin or similar); One or more designer features, such as: drawers, shelves, shoe rack, walk-in capability, etc.; Closet is illuminated
Additional Storage Space	Open clothes storage space	**Multiple enclosed drawers; Total storage space can accommodate the needs of two or more guests**	**2D, plus:** Sufficient space for one piece of luggage, such as: folding metal rack, bench, or credenza top	**3D, plus: Sufficient space for two pieces of luggage (upgraded wooden racks or designer-style benches);** Total storage space can accommodate the needs of three or more guests	**4D, plus:** Total storage space can accommodate the needs of four or more guests
Illumination	Two or more well-positioned basic lighting fixtures; Provide an adequate level of overall illumination	Three or more lighting fixtures; Modestly enhanced in style, positioning, and function; Provide a good level of overall illumination	**Four or more well-positioned lighting fixtures;** Decorative and well-coordinated for form and function; Provide a good level of overall illumination at each location	**3D, plus: Predominantly freestanding fixtures** of upscale design; Provide an excellent level of overall illumination	**4D, plus:** Custom lighting fixtures of outstanding quality; Custom function(s), such as: dimmers, point lighting, multiple switches, and/or natural light sources; Provide a unique illumination effect
Furniture	**Predominantly basic materials, such as: particle board, pressboard, laminate, or vinyl finishes;** Dated styles with limited coordination; Provides an adequate level of comfort	**1D, plus:** An increased level of coordination; Modest enhancements in materials, design, and function; Provides an enhanced level of comfort	**Predominantly freestanding;** Decorative and **well-coordinated for form and function; Overall construction and design reflects current industry trends,** such as: Melamine resins, solid wood trim, or upgraded laminate finishes; Provides an obvious degree of comfort	**3D, plus: Modern or antique upscale style and materials, such as: solid wood, polished metals, leather, designer fabric, veneer finishes with solid wood accents, laminate insets, etc.; Provides an exceptional degree of comfort**	**4D, plus:** Luxurious, unique, and elegant custom design and workmanship

GUESTROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Seating	**One chair** (typically placed as part of a duplex, triplex, or task table)	**1D, plus:** Additional seating for one guest; Vinyl or fabric upholstery	Comfortable seating for two guests – **to include desk chair with arms and partial upholstery, such as: vinyl, leather, or fabric; Plus one additional fully upholstered easy/lounge chair that is positioned for television viewing**	**3D, plus: Comfortable seating for three guests**; Upscale materials and design **in an expanded setting, such as: a loveseat, sofa, or oversized chair with ottoman**	**4D, plus:** Luxurious materials and design; Additional furniture pieces, such as: end tables, coffee or occasional tables
Work Space/ Writing Surface *Items stored on a writing surface decrease the available working space. A writing surface is judged, in part, on the basis of available space.*	Duplex, triplex, or small task table that provides adequate work space (e.g., enough space for a laptop computer and an 8x10 inch reference material item)	Desk or medium task table that provides good work space (e.g., enough space for a laptop computer and two 8x10 inch reference material items)	Desk or large task table that provides very good work space (e.g., enough space for a laptop computer and three 8x10 inch reference material items); One electrical outlet (not in use) conveniently placed at the desk	**Large desk that provides ample work space (e.g., enough space for a laptop computer, three 8x10 inch reference material items, and a portable printer); Multiple electrical outlets (not in use) conveniently placed at the desk**	**4D, plus:** Desktop enhancements, such as: desk blotter, pull-out writing surface, stationery, and other office supplies
Ventilation	**Heat and/or air conditioning available on a seasonal basis as needed**; Window style air-conditioning units	**1D, plus: Conveniently located through-wall units**	**2D, plus:** Heat and air conditioning available on demand; Modern, quiet, with easily accessible controls in each guestroom	**Heat and air conditioning available on demand; Central system** with thermostat control	**4D, plus:** Digital thermostat control
Telephone	**Touch-tone telephone**	**1D, plus: Message light on telephone**	**2D, plus: Voice messaging**	**3D, plus: Multiple telephones; Two-line telephone or separate Internet capability**	**4D, plus:** Cordless telephone; Expanded phone features, such as: pre-programmed dialing keys, speaker capability, personalized display or voicemail

GUESTROOM					
	ONE DIAMOND **Economy**	**TWO DIAMOND** **Mid-Scale**	**THREE DIAMOND** **Mid-Scale Plus**	**FOUR DIAMOND** **Upscale**	**FIVE DIAMOND** **Ultra-Luxury**
Internet	Dial-up capability	High-speed access (cable or wireless) available in some rooms	High-speed cable access available in all rooms	**High-speed wireless access available in all rooms**	**4D, plus:** Available in some public areas of the property
Television Type and Placement *CRT (Cathode Ray Tube)* *LCD (Liquid Crystal Display)* *SED (Surface-conductor Electron-emitter Display)*	Standard CRT TV (curved screen); Wall-mounted; Limited viewing angles; **Basic cable**	**1D, plus: Standard CRT TV (curved screen)** with remote control; **Located on credenza, dresser, or other furniture piece** without a swivel base; Limited viewing angles; **Channel directory**	**2D, plus:** ≥ 25 inch screens **with portable full function remote control;** With swivel/pull-out base; **Multiple viewing angles; Multiple televisions in suites; Expanded Cable channel selection (at least 35 channels); Plus one additional feature, such as: free movie channel, pay-per-view movie channels, video games, etc.**	**3D, plus: ≥ 25 inch Flat Screen CRT or Flat Panel TV (such as: LCD, Plasma, SED, etc.); Located on credenza, dresser, or on/in other furniture piece with a swivel/pull-out base or wall mounted; Cables and cords are hidden from view**	**4D, plus:** Custom, decorative enhancement (e.g., framing, mantle placement, remote enclosure, mirrored screen, etc.); High-definition channels available
Other Electronics	Clock	Standard **clock radio**	**2D, plus: Decorative design**	**3D, plus: Digital display** DVD player (in lieu of pay-per- view movies)	**4D, plus:** CD player with at least one CD selection; MP3 docking station; Surround sound audio DVD Player; DVD library available

GUESTROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Guest Information	**Local telephone directory**	**1D, plus:** Local Business flyers (food, attractions, transportation, etc.); Notepad and pencil	**2D, plus:** Guest-service directory; Complimentary daily newspaper available; **Notepad and pen**	**3D, plus:** Enhanced guest-service directory in folder, binder, or digital format; Complimentary daily newspaper delivered to room; **Additional reading materials, such as: magazines, books, etc.;** **Upgraded stationery package (envelopes, postcards, writing paper)**	**4D, plus:** Uniquely appointed guest-service directory in folder, binder or digital format; In-room comfort menu providing exercise, spa, butler, or other personalized services; Assortment of complimentary daily newspapers available for delivery to room
Comfort	Basic ice bucket (polystyrene foam, plastic, cardboard, etc.) with disposable cups	Plastic ice bucket with lid and disposable cups Iron & board available Full-length mirror	Insulated plastic ice bucket with lid and disposable cups **Full-size iron and board** Refrigerator available Microwave oven available **Extra pillows and blankets available** **In-room safe** **Coffee maker and supplies, including tea bags** **Framed or beveled full-length mirror**	Ice bucket with lid of upscale design, such as: insulated and padded vinyl, acrylic or metal; Glass tumblers **3D, plus:** **In-room snacks, mini bar, or a refrigerator that can be custom stocked upon request** **In-room safe that is large enough for a standard 12" laptop computer**	Ice bucket of luxurious design, such as: designer glass, silver, brushed or glossy metal finish, rings or handles, etc.; Selection of glassware; Ice tongs **4D, plus:** Two robes; Two pairs of slippers Umbrella In-room comfort menu providing exercise, spa, butler, or other personalized services

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- **Residential** – Of, or relating to, or connected with, residential style; invokes a personal presence of home.

Diamond Rating Guidelines – Bathroom

BATHROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
General Décor Style	Predominantly basic or dated style with limited coordination of appointments that provide an adequate level of comfort	Increased coordination of appointments, combined with modest enhancements to function, design elements, room size, and/or amenities that provide an enhanced level of comfort	Predominantly **residential style with decorative appointments that are attractive, well-coordinated for form and function** that provide an obvious degree of comfort	**3D, plus:** Predominantly upscale style **that provides an excellent degree of comfort**	**4D, plus:** Predominantly elegant style with luxurious, unique, and artistic appointments
Free Floor Space	Obviously restricted by size and/or placement of appointments; however, provides guest an adequate level of comfort	Modest restrictions due to size and/or placement of appointments	No restrictions, as placement of appointments is well-proportioned to room size	Room size and placement of appointments provide an obvious degree of spaciousness, allowing increased ease of movement for multiple guests	Room size and placement of appointments provide a free flowing abundance of space that contributes to the ultimate level of comfort and relaxation for multiple guests
Floor Coverings	Basic material, such as: linoleum, painted concrete, plain resin, or poured composite surface	Vinyl or ceramic tile	Decorative tile (ceramic, stone, concrete, terra cotta, etc.)	**Marble, granite, or other upscale stone floors; Area rug(s) as appropriate**	**4D, plus:** Custom inlays or textured enhancements provide an overall design that is obviously elegant and unique

BATHROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Wall Coverings	Basic material and design, such as: cinder block with a plain paint finish, standard grade wood, prefab modular laminate paneling, dated ceramic tile or wallpaper	Wall treatments are modestly enhanced, such as: drywall with basic paint finish or plain vinyl coverings; Rubber, vinyl, or ceramic tile baseboards	**Decorative wall treatments, such as: drywall with textured and painted finish, decorative vinyl coverings, or select grade wood/stone; Wood or decorative ceramic tile baseboards**	**3D, plus:** At least one significant upscale design enhancement, **such as: accent wall(s), furniture-finish wood paneling, soft wall coverings, ceiling trim, architectural feature, wainscot, etc.; Wood or high-end stone baseboards**	**4D, plus**: Wall finishes are of the highest grade materials; Accented with multiple luxurious design enhancements
Wall Hangings/ Decorative Enhancements				**Matted and framed artwork or other appointments that provide a distinctive or thematic upscale appeal**	**4D, plus:** Variety of styles and accent pieces, such as: limited edition prints, canvas art, tapestries, or lithographs with enhanced matting and preservation frames, assorted artisan pieces or sculptures, floral displays or plants
Ceilings	Basic material and design, such as: drop tile, concrete, or standard grade wood	Modest enhancements to material and design, such as: enhanced drop tile, painted drywall, popcorn finish, sand textured concrete, etc.	**Predominant use of decorative enhancements to painted drywall, such as: an advanced textured finish (knockdown, orange peel, comb, slap brush, etc.) or select grade wood/stone**	**3D, plus:** One architectural or design feature, **such as: treys, beams, moldings, medallions, raised/vaulted/ volume, murals/stencils, tin or skylights, ceiling fans, special effect lighting, etc.**	**4D, plus:** Multiple architectural or design features

BATHROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Tub	**Basic rectangular style, size (4½ ft. length and 14 in. depth) and materials (fiberglass, acrylic, or porcelain on steel);** Simple design (straight sided)	**1D, plus:** Modest design enhancement	**2D, plus:** Decoratively enhanced in design, or augmented for comfort or function	**Enhancements to size (>4½ ft. length and >14 in. depth), design, and/or style, such as: oval, round, or free form**	**4D, plus:** Obvious enhancements in comfort, design, function, and/or material, such as: larger, two person capability, contoured backs, built-in lumbar back support, water jets, enamel-coated cast iron, natural marble, stone, or other designer features
Shower	If separate from tub (or shower only), base is of basic material (metal or fiberglass) and of plain design **Basic square size (≤9 sq. ft.)**	**1D, plus**: If separate from tub (or shower only), base is of enhanced material (acrylic or ceramic tile) Modest enhancement to design -or- irregular shape (rectangular, rounded corner or neo angle)	If separate from tub (or shower only), base is decorative ceramic tile, cultured marble/granite, or poured acrylic Very good size (>9 sq. ft.)	If separate from tub (or shower only), base is of upscale material, such as: marble, granite, stone, or porcelain tiles. **Oversized (>12 sq. ft.)**	**4D, plus:** Separate shower stall in addition to the tub; base is of outstanding material and artistic design, such as: marble, granite, stone, or porcelain tiles with complementary inlays or treatments
Tub/Shower Surround	Fiberglass or metal	Acrylic or ceramic tile	Acrylic with enhancements for comfort, style, or function -or- decorative ceramic tile or other solid surface, such as: cultured marble/granite, poured acrylic, etc.)	Marble, granite, stone, or porcelain tiles; Enhanced solid surface; **Tub and shower height soap dishes**	**4D, plus**: Luxurious material and artistic design, such as: marble, granite, stone, or porcelain tiles with complementary inlays or treatments; Seating is integrated into design
Shower Curtain/Door	Lightweight vinyl curtain	Heavyweight vinyl curtain or plexi-glass door with aluminum frame	Decorative vinyl, polyester, or nylon curtains with curved shower rod; -or- lightweight glass door with aluminum frame; **-or- effective door-less design**	**3D, plus:** Double curtains -or- heavyweight glass door with/without metal frame	**4D, plus:** Fixed door enclosure (framed or frameless); Enhanced (etched, frosted, embossed, tinted, etc.) glass

BATHROOM					
	ONE DIAMOND Economy	**TWO DIAMOND** Mid-Scale	**THREE DIAMOND** Mid-Scale Plus	**FOUR DIAMOND** Upscale	**FIVE DIAMOND** Ultra-Luxury
Shower Fixtures	Traditional, single function shower head	Multiple setting shower head	Multiple setting shower head with metal finish	Enhanced style, of modern design, fixed shower head	Custom water features, such as: body jets, hand-held sprayers, multiple shower heads, rain showers, or gentle flow environmentally friendly features
Toilet	**Two-piece, round**; Basic style	**1D, plus:** Enhanced style	**Two-piece, elongated**; Basic style	**3D, plus: Enhanced style or function**	**4D, plus:** Distinct toilet-only area; Enclosed or semi-enclosed
Vanity Area Size and Location (includes: Sink, Counter/Shelf Space, Mirror, Cabinetry and Fixtures)	**Combined with toilet area within an enclosed space** that is restricted by size and/or placement of appointments	**1D, plus:** Modest restrictions due to size and/or placement of appointments **OR** If vanity area is separate from the toilet area, it is positioned in plain view of the guestroom	**2D, plus:** No restrictions, as placement of appointments are well-proportioned to room size **OR** If vanity area is separate from the toilet area, it is positioned in restricted view from the rest of the guestroom	**3D, plus:** Vanity is well-integrated into the overall scheme of the bathroom for convenience and comfort; Room size and placement of appointments provide an obvious degree of spaciousness, allowing increased ease of movement for multiple guests	**4D, plus:** Room size and placement of appointments provide a free flowing abundance of space that contributes to the ultimate level of comfort and relaxation for multiple guests
Sink	Wall-mounted, basic style, porcelain	Standard self-rimming porcelain or porcelain on steel	Seamless (Poured acrylic or cultured marble/granite/ quartz) -or- Under-mounted porcelain or porcelain on steel	Porcelain or porcelain on steel, **with an upscale counter enhancement, such as: wall faucets or upscale counter-mounted faucets**	**4D, plus:** Multiple sinks of ornate design, such as: above counter vessel or pedestal -or- of designer materials, such as: glass, stainless steel, vitreous china, enameled cast iron, fireclay, brass, nickel, copper, marble, or either real/synthetic stone

BATHROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Available Counter/Shelf Space	Small size (<2 sq. ft.) shelf of basic material, such as: glass, metal, or sheet laminate	Moderate size (≥ 2 sq. ft.) laminate counter	Very good size (≥4 sq. ft.) counter space of solid surface, such as: poured acrylic, cultured marble/ granite/quartz, or ceramic tile	**Oversized (≥ 6 sq. ft.) counter space** of excellent quality, such as: marble, granite, or other solid stone	**4D, plus:** Multiple counters and/or shelves; Artistic design, such as: marble, granite, solid stone, or porcelain tiles with complementary inlays or treatments
Mirror	Small (1½ ft. x 2 ft.) mirror	**Medium-sized (>3 sq. ft.) mirror**	**2D, plus:** Beveled or decoratively framed mirror	**Large (3 ft. x 5 ft.) mirror with an upscale frame**	**4D, plus:** Artistic design enhancement
Cabinetry		Skirting partially conceals plumbing	Enhanced skirting conceals plumbing	**Upscale, furniture-finished skirting**	**4D, plus:** Elaborate design features, cabinetry, multiple shelving, and/or drawers
Illumination	Basic design and function, such as: bulb and cover; Provide an adequate level of overall illumination	Modest design enhancements, such as: box/egg crate style or enhanced glass cover; Provide a good level of overall illumination	Decorative, **well-coordinated for form and function; Multiple bulbs and covers** provide a good level of overall illumination	**3D, plus:** Upscale design; **Multiple locations; Illuminated shower;** Provide an excellent level of overall illumination at each location	**4D, plus:** Designer fixtures; Custom function(s), such as: dimmers, point lighting, multiple switches, and/or natural light sources; Provide a unique illumination effect
Other Fixtures	**Standard function; Basic materials** of plain design	**1D, plus:** Modest **design enhancements**	**2D, plus:** Metal with decorative finishes, such as: chrome, pewter, brass, nickel, gold, etc.	Upscale **design enhancements, such as: satin or enamel finishes, two or more metal combinations,** embossing, etc.	**4D, plus:** Designer materials and style; Unique appointments
Towels	Basic, **lightweight; Rough to touch; Limp feel; Low absorbency;** Displayed on caddies	**1D, plus:** Modest enhancements in design; Displayed on bars and/or shelves	Medium weight; Soft to touch; Medium absorbency	**Heavyweight; Plush to touch; Firm, self-supporting feel; Premium cotton with high absorbency**	**4D, plus:** Generous sized towels or bath sheets; Luxurious appearance, with intricate and detailed enhancements to design

BATHROOM					
	ONE DIAMOND Economy	TWO DIAMOND Mid-Scale	THREE DIAMOND Mid-Scale Plus	FOUR DIAMOND Upscale	FIVE DIAMOND Ultra-Luxury
Personal Care	Two small (< ¾ oz.) bars of soap (or equivalent)	Two medium (≥ ¾ oz.) bars of soap (or equivalent); one packet or bottled item; modest presentation	Four-piece personal care package, includes: one large (≥ 1¼ oz.) and one medium (≥ ¾ oz.) bars of soap (or equivalent); two (≥ ¾ oz.) bottled items; Decorative presentation; **Additional amenities (such as: toothpaste/ brush, comb, sewing kit, mouthwash, etc.) are available onsite**	**3D, plus:** Seven-piece personal care package; Toiletries are enhanced by fragrance, natural supplement, packaging, etc.; Includes: two large (≥ 1¼ oz.) bars of soap (or equivalent), three (≥ 1 oz.) bottled items, and two additional items; Upscale presentation; **Freestanding soap dish at sink**	**4D, plus:** Ten-piece personal care package of designer/spa toiletries; Ample sized (≥ 1½ oz.) bars of soap and bottled items (≥1¼ oz.); Unique presentation
	Facial tissues	**1D, plus:** Wall-mounted with chrome covers	Facial tissues inset in vanity (no chrome)	**Facial tissues freestanding in** decorative container	**4D, plus:** Custom designed container
			Wall-mounted hair dryer	**Freestanding hair dryer;** Makeup mirror	**4D, plus:** Illuminated makeup mirror; Scale; vanity seating
Other			**Night-light**	**3D, plus: Landline or cordless telephone available**	**4D, plus:** Television

The AAA Four and Five Diamond Rating

These prestigious ratings are achieved by less than four percent of all Approved properties—typically the most luxurious and pampering properties throughout North America. Less than one third of one percent of lodgings receives the Five Diamond® Rating while approximately three and one half percent receives the Four Diamond® Rating. Establishments must consistently reflect upscale and extraordinary characteristics (respectively) in both physical attributes and level of guest services.

If the AAA inspector determines that your establishment meets our Four or Five Diamond Guidelines, the property will next be scheduled for an anonymous hospitality evaluation. Only the Four and Five Diamond evaluations incorporate a review of twelve critical service areas and measure over 300 guest interaction points into the overall rating. In addition, all Five Diamond Rating recommendations are forwarded to AAA's Five Diamond Committee for further review. Once the committee's assessment is concluded, the establishment will be advised in writing of the outcome.

Four and Five Diamond Service Expectations

IN ADDITION TO THE FOLLOWING GUEST SERVICE INTERACTION POINTS, each section is assessed a subjective point value based on the overall levels of competency, refinement, and hospitality.

1.	Reservation Services		
Reservation Services	Service Level		
	5D	4D	
	X	X	Accepted 24 hours, either at property or through a central reservation system
	X	X	Operator answers phone promptly within three rings
	X	X	Operator provides a warm and sincere greeting
	X	X	Reservationist thanks caller for contacting the property
	X	X	Reservationist provides an introduction
	X	X	Reservationist asks for caller's name
	X		Reservationist addresses caller by name prior to closing
	X		Reservationist anticipates caller's needs or offers a personalized recommendation
	X	X	Reservationist provides rate structure and room availability
	X	X	Reservationist provides an overview of facilities and services
	X		Reservationist exhibits competent knowledge of all associated facilities and hours of operation
	X	X	Reservationist collects registration information
	X	X	Reservationist explains deposit and cancellation policies
	X	X	Reservationist explains unusual payment options
	X	X	Reservationist reviews reservation request
	X		Reservationist exhibits a sincere desire and compliance to all guest requests
	X	X	Reservationist provides confirmation number or contact's name
	X		Reservationist is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Reservationist provides a warm and sincere thank you to guest for calling
	X		Operator addresses guest by name during closing
	X	X	The guest feels well served
	X		Property offers follow-up reservation confirmation to guest in advance of arrival

2. Arrival Services

Arrival Services	Service Level		
	5D	4D	
	X		Cars in queue are acknowledged and directed as appropriate upon arrival
	X	X	Uniformed attendant promptly opens the car door
	X	X	Attendant provides a warm and sincere welcome greeting
	X	X	Attendant makes a proper introduction
	X	X	Attendant inquires about the guest's name
	X		Attendant uses guest's name at least once prior to closing
	X	X	Attendant explains parking procedure
	X		Valet parking is automatic
	X	X	Attendant promptly unloads luggage
	X	X	Attendant explains luggage handling procedure
	X	X	Attendant provides direction to registration area
	X		Attendant anticipates guest's needs or offers a personalized recommendation
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X		Attendant exhibits a sincere desire and compliance to all guest requests
	X		Attendant escorts guest to appropriate area
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served
	X		Lobby greeters are available to escort guest to appropriate area

3. Check In Services

Check In Services	Service Level		
	5D	4D	
	X	X	Attendant provides a warm and sincere greeting; recognizes guest appropriately
	X	X	Attendant inquires about guest's name
	X		Attendant addresses guest by name during initial greeting without inquiry
	X		Attendant uses guest's name at least once prior to closing
	X		Staff associate acknowledges (with a warm and welcoming greeting) guests waiting in line
	X	X	Registered guests are not asked for duplicate information
	X	X	Attendant confirms rate and type of room
	X	X	Attendant provides room number discreetly
	X		Attendant places all registration materials into the guest's hand
	X		Attendant exhibits a sincere desire and compliance to all guest requests
	X		Attendant anticipates guest's needs or offers a personalized recommendation
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Attendant arranges escort of guest and belongings to room
	X		Attendant provides introduction to escort
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served

4. Bell Services (Check In)

Bell Services (Check In)	Service Level		
	5D	4D	
	X	X	Escort provides a warm and sincere greeting
	X		Escort uses guest's name at least once prior to closing
	X	X	Escort is able to provide information about facilities when asked
	X		Escort takes the initiative in providing information about all facilities
	X		Escort anticipates guest's needs or offers a personal recommendation
	X		Escort exhibits a sincere desire and compliance to all guest requests
	X	X	Escort places luggage on luggage stand or in appropriate area
	X	X	Escort explains features and functions of room
	X	X	Escort offers to fill ice bucket
	X	X	Escort is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Escort provides a warm and sincere closing
	X		Escort addresses guest by name during closing
	X	X	The guest feels well served

5. Evening Housekeeping Services

Evening Housekeeping Services	Service Level		
	5D	4D	
	X		Evening housekeeping service is automatic
	X		Attendant folds back or removes bedspread
	X		Attendant turns up pillows
	X		Attendant straightens bathroom
	X		Attendant re-points tissues
	X		Attendant cleans soiled surfaces
	X		Attendant replaces or straightens (Green Program) used towels
	X		Attendant replenishes used amenities
	X		Attendant empties wastebasket
	X		Attendant adjusts drapes
	X		Attendant adjusts room lighting
	X		Attendant delivers gift amenity, such as: goodnight wish, chocolates, etc.
	X		Attendant refreshes ice
	X		Attendant replaces used glasses
	X		Attendant displays evening services, such as: robe on bed, laundry, shoeshine, etc.
	X		Attendant leaves personalized message for guest
	X		There is additional evidence of personalized services

6. Wake-Up Call Services

Service Level		
5D	4D	Wake-Up Call Services
X	X	Some type of service is available 24/7; Alarm clock or alternative method is used if there are no phones in room
X	X	Service number is answered within three rings
X	X	Operator provides a warm and sincere greeting
X		Operator uses guest's name at least once prior to closing
X	X	Operator asks appropriate questions and replies in a professional manner
X		Operator anticipates guest's needs or offers a personalized recommendation
X		Operator is efficient yet unhurried and sensitive to the manner of the guest
X	X	Operator provides a warm and sincere closing
X		Operator addresses guest by name during closing
X	X	Call is received within five minutes of requested time
	X	Call is an automated message
X		Call is a live message
X	X	Message includes a warm and sincere greeting
X		Message includes the use of guest's name
X		Message includes time of call
X		Message includes other pertinent information, such as weather
X		Operator anticipates guest's needs or offers a personalized recommendation
X		Operator is efficient yet unhurried and sensitive to the manner of the guest
X		Operator provides a warm and sincere closing
X		Operator addresses guest by name during closing
X	X	The guest feels well served
X		There is additional evidence of personalized services

7A. Room Service (Order Services)

Service Level		
5D	4D	Room Service (Order Services)
X	X	Service is available at limited hours
X		Service is available 24/7
X	X	Service number is answered within three rings
X	X	Operator provides a warm and sincere greeting
X		Operator uses guest's name at least once prior to closing
X		Operator exhibits a sincere desire and compliance to all guest requests
X		Operator anticipates guest's needs or offers a personalized recommendation
X	X	Operator asks appropriate questions and replies in a professional manner
X	X	Operator repeats order to guest
X		Operator is efficient yet unhurried and sensitive to the manner of the guest
X	X	Operator provides time estimate for delivery(within 30 minutes)
X	X	Operator provides a warm and sincere closing
X		Operator addresses guest by name during closing
X	X	Operator calls to advise guest if order will be late or if items ordered are not available

	X	X	The guest feels well served
	X	X	Special express services are available for breakfast orders
	X		Evidence of personalized services exists

7B. Room Service (Delivery Services)

Room Service (Delivery Services)	Service Level		
	5D	4D	
	X	X	Delivered within five minutes of time promised
	X	X	Morning newspaper is presented with breakfast
	X	X	Attendant provides a warm and sincere greeting
	X		Attendant uses guest's name at least once prior to closing
	X		Attendant exhibits a sincere desire and compliance to all guest requests
	X		Attendant anticipates guest's needs or provides a personalized recommendation
	X	X	Attendant provides a suggestion as to tray/table placement
	X		Attendant is conversant during set-up and delivery
	X	X	Attendant reviews guest order
	X	X	Attendant prepares table set up and removes food covers, with guest permission
	X	X	Food presentation and quality of ingredients reflects an upscale experience
	X	X	All appropriate dishware and linens are of an upscale quality
	X	X	All food is served at the proper temperature (hot food hot and cold food cold)
	X	X	All food is prepared as ordered
	X		There is additional evidence of personalized services
	X	X	Attendant offers to pour beverage
	X	X	Attendant provides written or verbal direction for table/tray removal
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served
	X	X	Prompt (within 15 minutes) removal of trays/tables, upon request

8. Bell Services (Check Out)

Bell Services (Check Out)	Service Level		
	5D	4D	
	X	X	Service number is answered within three rings
	X	X	Operator provides a warm and sincere greeting
	X		Operator uses guest's name at least once prior to closing
	X		Operator exhibits a sincere desire and compliance to all guest requests
	X		Operator anticipates guest's needs or offers a personalized recommendation
	X	X	Operator offers to retrieve car or arrange other transportation
	X		Operator is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Operator provides a warm and sincere closing
	X		Operator addresses guest by name during closing
	X	X	The guest feels well served
	X	X	Bell staff arrives promptly; If not within five minutes, guest is notified of delay at time of request
	X	X	Bell staff provides a warm and sincere greeting

	X		Bell staff uses guest's name at least once prior to closing
	X		Bell staff exhibits a sincere desire and compliance to all guest requests
	X		Bell staff anticipates guest's needs or offers a personalized recommendation
	X	X	Bell staff inquires about guest's stay
	X		Bell staff is appropriately conversant with guest while providing assistance
	X		Bell staff is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Bell staff provides a warm and sincere closing
	X		Bell staff addresses guest by name during closing
	X	X	The guest feels well served

9. Check Out Services

Check Out Services	Service Level		
	5D	4D	
	X	X	Express check out services are available 24/7
	X	X	Attendant provides a warm and sincere greeting; recognizes guest appropriately
	X		Attendant addresses guest by name during initial greeting, and as appropriate thereafter
	X		Staff associate acknowledges guests (with a warm and welcoming greeting) guests waiting in line
	X	X	Attendant inquires about guest stay
	X		Attendant exhibits a sincere desire and compliance to all guest requests
	X		Attendant provides a copy of bill for review in guest's hand
	X	X	Attendant confirms payment method
	X		Attendant places check out folio into the guest's hand
	X		Attendant expresses a warm and sincere thank you for staying at the property
	X		Attendant sincerely encourages guest to return
	X		Attendant anticipates guest's needs or offers a personalized recommendation
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served

10. Departure Services

Departure Services	Service Level		
	5D	4D	
	X		Guest's vehicle is waiting or comfortable accommodations are provided
	X	X	Guest does not wait more than five minutes for pre-arranged transportation
	X	X	Attendant provides a warm and sincere greeting
	X		Attendant uses guest's name at least once prior to closing
	X		Attendant anticipates guest's needs or offers a personalized recommendation
	X		Attendant is conversant pertaining to the guest's stay
	X		Attendant reviews all of guest's belongings and their placement in vehicle
	X	X	Attendant opens and closes door for guest(s)
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served

11. Concierge Services

Concierge Services	Service Level		
	5D	4D	
	X	X	Concierge is on duty with limited hours of availability
	X		Concierge is on duty, or a "special services" number is available for guests, 24/7
	X	X	Attendant provides a warm and sincere greeting
	X		Attendant uses guest's name at least once prior to closing
	X		Attendant exhibits a sincere desire and compliance to all guest requests
	X		Attendant anticipates guest's needs or offers a personalized recommendation
	X	X	Attendant demonstrates a general knowledge of area attractions and services
	X		Attendant demonstrates an extensive knowledge of area attractions and services
	X		Attendant fulfills guest's special request(s)
	X		Attendant is efficient yet unhurried and sensitive to the manner of the guest
	X	X	Attendant provides a warm and sincere closing
	X		Attendant addresses guest by name during closing
	X	X	The guest feels well served

12. Miscellaneous Staff Services

Misc. Staff Services	Service Level		
	5D	4D	
	X		All associates exhibit a professional vocabulary that is devoid of common slang
	X		Guests are graciously escorted to areas when directions are requested
	X		All associates consistently maintain eye contact with guests
	X		There is evidence that all associates are empowered by management to resolve guest issues immediately
	X	X	All staff associates fulfill guest's special request(s)
	X		All phone calls are answered promptly within three rings
	X	X	All associates are appropriately attired; name tags are clearly visible
	X	X	All associates demonstrate appropriate behavior
	X	X	All associates demonstrate appropriate hygiene
	X		Short-notice pressing is available
	X		Shoe shine service is available
	X	X	Accurate pre-programmed phones
	X	X	Miscellaneous charges are billed directly to the guest room
	X		Butler services are available for all rooms
	X	X	At least one food and beverage outlet is comparable to a Three Diamond rating
	X		At least one food and beverage outlet is comparable to a Four Diamond rating
	X		At least one food and beverage outlet is comparable to a Five Diamond rating

Section Three

Additional Information

The Listing

ONCE A PROPERTY IS APPROVED, AAA PUBLISHING ESTABLISHES THE CONTENT AND FORMAT OF EACH LISTING IN ALL OF OUR PUBLICATIONS. **The listing is provided at no cost to the establishment** and does not contain advertising or promotional verbiage provided by the operator.

The listing copy describing the lodging is based in part on objective information provided by the establishment. This listing information is updated annually, and your establishment will be contacted either in person, by mail, or via the telephone.

Failure to provide this information in a timely manner may result in the deletion of your establishment from our publications.

Additionally, AAA's professionally trained inspectors enhance our inventory with descriptive prose for each establishment. This skilled degree of subjectivity enables us to capture the feel of an experience and pass along this valuable information to AAA members.

Each Diamond Rated property has the opportunity to participate in the AAA Official Appointment Program, entitling the establishment to use the renowned AAA (CAA in Canada) emblem and Diamond Rating in its advertising and promotions. This program also entitles the establishment to an enhanced listing in AAA publications. Personalized display advertising in AAA publications is also available.

FYI Designation
This designation means that a property has not been Diamond Rated by a AAA inspector, but is of notable significance and potential member value. The property is unrated due to one of the following reasons:

- The property is *too new to rate.*
- The property is *under construction*.
- The property is *undergoing extensive renovations*.
- The property *has not been evaluated*.
- The property *does not meet all Diamond Rating requirements*.

Lodging Classifications

ALL DIAMOND RATED LODGINGS ARE CLASSIFIED USING KEY DESCRIPTIVE ELEMENTS.

1. *FIRST,* ALL LODGINGS ARE CLASSIFIED BY STYLE OF OPERATION:

Bed and Breakfast: Typically smaller scale properties emphasizing a high degree of personal touches that provide guests an "at home" feeling. Guest units tend to be individually decorated. Rooms may not include some modern amenities such as televisions and telephones, and may have a shared bathroom. Usually owner-operated with a common room or parlor separate from the innkeeper's living quarters, where guests and operators can interact during evening and breakfast hours. Evening office closures are normal. A continental or full, hot breakfast is served and is included in the room rate.

Cabin: Vacation-oriented, typically smaller scale, freestanding units of simple construction—roughly finished logs or stone—and basic design or décor. Often located in wooded, rural, or waterfront locations. As a rule, basic cleaning supplies, kitchen utensils, and complete bed and bath linens are supplied. The guest registration area may be located off site.

Condominium: Vacation-oriented—commonly for extended-stay purposes—apartment-style accommodations of varying design or décor. Routinely available for rent through a management company, units often contain one or more bedrooms, a living room, full kitchen, and an eating area. Studio-type models combine the sleeping and living areas into one room. As a rule, basic cleaning supplies, kitchen utensils, and complete bed and bath linens are supplied. The guest registration area may be located off site.

Cottage: Vacation-oriented, typically smaller scale, freestanding units with home style enhancements in architectural design and interior décor. Often located in wooded, rural, or waterfront locations. Units may vary in design and décor. As a rule, basic cleaning supplies, kitchen utensils, and complete bed and bath linens are supplied. The guest registration area may be located off site.

Country Inn: Although similar in definition to a bed and breakfast, country inns are usually larger in scale with spacious public areas and offer a dining facility that serves—at a minimum—breakfast and dinner.

Hotel: Commonly, a multistory establishment with interior room entrances offering a variety of guest unit styles. The magnitude of the public areas is determined by the overall theme, location and service level, but may include a variety of facilities such as a restaurant, shops, fitness center, spa, business center, and/or meeting rooms.

Motel: Commonly, a one- or two-story establishment with exterior room entrances and drive up parking. Typically, guest units have one bedroom with a bathroom of similar décor and design. Public areas and facilities are often limited in size and/or availability.

Ranch: Typically a working ranch with an obvious rustic, Western theme featuring equestrian-related activities and a variety of guest unit styles.

Vacation Rental House: Vacation-oriented—commonly for extended-stay purposes—typically larger scale, freestanding, and of varying design or décor. Routinely available for rent through a management company, houses often contain two or more bedrooms, a living room, full kitchen, dining room, and multiple bathrooms. As a rule, basic cleaning supplies, kitchen utensils, and complete bed and bath linens are supplied. The guest registration area may be located off site.

2. *SECOND,* A DETERMINATION IS MADE PERTAINING TO OVERALL CONCEPT – AND (IF APPLICABLE), A LODGING MAY BE FURTHER DEFINED AS:

Boutique: Feeling small and intimate, offering a highly individualized experience; may have a luxurious or quirky style which is fashionable or unique.

Casino: Extensive gambling facilities are available, such as: blackjack, craps, keno, and slot machines.

Classic: Renowned and landmark properties, older than 50 years, well known for their unique style and ambiance.

Contemporary: Overall design and theme reflects characteristics of the present era's mainstream tastes and style. Trendy, modern, and typically equipped with all current technology.

Extended Stay: Offers a predominance of long-term accommodations with a designated full-service kitchen area or efficiency within each unit.

Historic: These properties are typically over 75 years of age and exhibit many features of a historic nature with respect to architecture, design, furnishings, public record, or acclaim. Properties must meet one of the following criteria:

- *Maintained the integrity of the historical nature*
- *Listed on the National Register of Historic Places*
- *National Historic* Landmark or located *in a National Register Historic District*

Resort: Recreation-oriented, geared to vacation travelers seeking a specific destination experience. Travel packages, meal plans, theme entertainment, and social and recreational programs are typically available. Recreational facilities are extensive and may include spa treatments, golf, tennis, skiing, fishing, or water sports. Larger resorts may offer a variety of guest accommodations.

Retro: Overall design and theme reflects a contemporary design reinterpreting styles from a bygone era.

Vacation Rental: Typically houses, condos, cottages or cabins; these properties are a "home away from home" offering more room and greater value for the money. In general, they provide the conveniences of home, such as full kitchens and washers/dryers. Located in resort or popular destination areas within close proximity to major points of interests, attractions, or recreation areas, these properties may require a pre-arranged reservation and check-in at an off-site location. Housekeeping services may be limited or not included during stay.

Vintage: Offers a window to the past and provides an experience reflecting a predominance of traits associated with the era of their origin.

Accessibility

Accessible Features: This property has some accessible features. It may be fully accessible, semi-accessible, or meet some of the needs of hearing-impaired individuals.

Accessibility is not a requirement for listing and will not affect your Diamond Rating. However, we strongly encourage you to make every effort to meet the needs of all your guests – including the mature traveler and those with disabilities.

Member Comment Procedures

AAA CLOSELY MONITORS THE NUMBER AND TYPE OF COMMENTS WE RECEIVE FROM MEMBERS REGARDING ALL APPROVED PROPERTIES. When members write to us expressing dissatisfaction with a particular lodging, it is tracked through the AAA National Office Member Relations department. All complaints are carefully reviewed for validity. The establishment is then notified of each complaint so they have an opportunity to respond and resolve the matter within a reasonable period of time. Even though a complaint may be satisfactorily resolved, the complaint becomes a permanent part of the establishment's record.

If a member complaint is determined to be of an extreme nature, an establishment may be disapproved immediately and without warning. This action is at AAA's sole discretion.

If a property has been disapproved for excessive member complaints, a written request for a reevaluation may be submitted, accompanied by an explanation of the actions taken to limit future complaints.
Note: Such properties may not reapply until one year has passed from the date of disapproval. All requests may be addressed to:

AAA Tourism Information Development
1000 AAA Drive
Mail Stop 51
Heathrow, FL 32746-5063

The AAA Appeals Process

THE APPEALS PROCESS WAS ESTABLISHED AS A RESOURCE FOR ALL RESTAURANTS, LODGINGS, CAMPGROUNDS, AND ATTRACTIONS EVALUATED BY AAA.

What can I appeal?

We value our relationship with all properties; therefore, properties can appeal any aspect of their status with AAA. Each situation is kept confidential and is handled on an individual basis.

How do I file an appeal?

First, contact the AAA Customer Service Center, Monday through Friday, from 8:30am to 5:15pm (Eastern Time) at 407-444-8370. In many cases, our analysts will be able to answer your concern immediately.

If resolution is not obtained, your call will be directed to the AAA Regional Manager for your area.

If an issue remains unresolved after the above steps, an establishment is asked to state its concerns in writing for review by the AAA Appeals Committee. All appeals entertained by the committee must be in writing from the **establishment only**. In order to expedite this process, appeals should outline the specific concerns in a succinct manner. Each appeal is thoroughly researched and given thoughtful consideration and a substantive reply.

All appeals should be sent to the attention of:

AAA Appeals Committee
1000 AAA Drive
Mail Stop 51
Heathrow, FL 32746-5063

Please note: The committee's decision on your appeal will be considered as **AAA's final decision.** You will be notified by mail as to the status of your appeal within 45 days of receipt of your written statement.

Green Programs

AAA SUPPORTS ENVIRONMENTAL MANAGEMENT AND SUSTAINABILITY THROUGHOUT THE HOSPITALITY INDUSTRY TO THE EXTENT THAT TRULY EFFECTIVE PROGRAMS MAINTAIN QUALITY STANDARDS OF GUEST COMFORT. We strongly encourage continued use of programs that offer guests choices without consequences for noncompliance. Effective green programs are intended to reduce waste without reducing guest comfort.

Addresses and Phone Numbers

If you have additional questions...

- Please call AAA at:

(407) 444-8370
Evaluation Applications, Operations, Rating and Listing Information

(407) 444-8280
Display Advertising & Official Appointments

- Visit us at www.AAA.biz/Approved
- Or, write to us at:

AAA
Tourism Information Development
Mail Stop 51
1000 AAA Drive
Heathrow, FL 32746-5063

Establishments located in Southern California should contact the following AAA club:

Automobile Club of Southern California
P.O. Box 25001
Santa Ana, CA 92799-5001

(714) 885-2247, option #2
Evaluations, Ratings, and Official Appointments

(714) 885-2410
TourBook Advertising

EXCLUSIONS

The following are modifications to the AAA Diamond Rating Guidelines pertaining to a four diamond hotel that shall be applicable in connection with Lessee's satisfaction of the Required Hotel Standard. Each heading below in all capital letters refers to the corresponding heading in the far left hand column of Section 2 of the AAA Diamond Rating Guidelines and all page number references refer to the corresponding page number of the AAA Diamond Rating Guidelines.

1. MAIN ENTRANCE (page 8): The main entrance shall not be required to have "oversized capacity." The capacity will be part of flowing parking lot traffic, not curbed porte-cochere.

2. WALL COVERINGS INCLUDING INTERIOR CORRIDORS (page 10): The public areas shall not be required to include wood paneling, wainscot or wood baseboards in corridors to the extent that such items are inconsistent with the approval design (including due to operational insensitivity).

3. CEILINGS (page 11): The ceilings in the public areas shall not be required to feature beams, murals, stencils, fans or special effect lighting to the extent that such items are inconsistent with the approved design.

4. LOBBY/REGISTRATION AREA (page 12): The lobby shall not be required to house multiple conversation grouping areas or provision for a guest service area if the lobby is not of sufficient size to accommodate such items. The lobby of the Hotel is expected to accommodate 1 or 2 seating areas and will not incorporate a concierge service area.

5. BUSINESS CENTER (page 13): The business center will not be required to be an enclosed area. It may function in an open area of the lobby area and incorporate other design elements.

6. MEETING ROOMS (page 14): The Hotel will not be required to contain a "theatre" space. The Hotel will be required to house only limited audiovisual equipment if these services are out-sourced to third party providers.

7. FOOD & BEVERAGE: RESTAURANT (page 15): Room service shall be available for breakfast, lunch and dinner, but the room service menu shall not be required to include all items available in the restaurant.

8. WALL COVERINGS (page 18): The wall coverings in the guestrooms shall not be required to include wood paneling, wainscot or wood baseboards to the extent that such items are inconsistent with the approved design (including due to operational insensitivity.

9. CEILINGS (page 19): The ceilings in the guestrooms shall not be required to incorporate trim molding, beams, fans or special effect lighting to the extent that such items are inconsistent with the approved design.

10. OTHER ELECTRONICS (page 22): The guest rooms shall be required to include either pay-per-view movies, a DVD player (or comparable technological evolution) or a multi-media port system (or comparable technological evolution) to permit guests to utilize their own media devices.

11. GUEST INFORMATION (page 23): The Hotel is not required to automatically deliver a daily newspaper to each guestroom, but newspapers shall be delivered upon request and will be available to guests in the lobby or other common areas (to the extent that the supply of newspapers continues to be included in the AAA Diamond Rating Guidelines). The Hotel is not required to provide additional reading materials (such as magazines, books, etc.) or upgraded stationery page (envelopes, postcards, writing paper).

12. AVAILABLE COUNTER/SHELF SPACE (page 28): The guestroom bathrooms shall not be required to incorporate "oversized" (6 square feet or greater) counter space if the particular bathroom dimensions in the approved design do not accommodate such amount of counter space.

13. PERSONAL CARE (page 29): The "seven-piece personal care package" may be reduced to a six-piece personal care package.

14. BELL SERVICES (CHECK IN) (page 32): The escort shall not be required to explain features and functions of the room or to offer to fill the ice bucket.

15. ROOM SERVICE (DELIVERY SERVICES) (page 34): A morning newspaper will be required to be delivered with breakfast only upon request by the guest.

16. CONCIERGE SERVICES (page 36): Concierge services may be provided by the front desk staff.

BOARD OF SUPERVISORS' ORIGINAL

Recording Requested by and
and When Recorded Return to:
IWF MDR Hotel L.P.
C/O Mullen & Henzell L.L.P.
P.O. Drawer 789
Santa Barbara, CA
93102-0789

RECIPROCAL EASEMENT AGREEMENT

78022

This Reciprocal Easement Agreement (this "Agreement") dated as of August 30, 2013, by and between IWF MDR HOTEL, L.P., a California limited partnership (and its successors or assigns, "Hotel Lessee"), MDR MARINA, L.P., a California limited partnership (and its successors or assigns, "Marina Lessee") and County of Los Angeles (and its successors or assigns, "County"). For purposes hereof, Hotel Lessee, Marina Lessee and County are hereafter individually referred to as a "party" and collectively as the "parties."

ARTICLE 1. RECITALS

A. County owns the fee title interest in that certain real property located in Los Angeles County, California more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Hotel Property"). Hotel Lessee owns a leasehold interest in the Hotel Property pursuant to that certain Amended and Restated Lease Agreement dated of even date herewith between County, as lessor, and Hotel Lessee, as lessee (as amended or modified from time to time, the "Hotel Lease").

B. County owns the fee title interest in that certain real property located in Los Angeles County, California more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference (the "Marina Property"; together with the Hotel Property, collectively, the "Project"). Pursuant to that certain Assignment and Assumption of Amended and Restated Lease Agreement of even date herewith between Hotel Lessee, as assignor, and Marina Lessee, as assignee, Marina Lessee owns a leasehold interest in the Marina Property pursuant to that certain Amended and Restated Lease Agreement dated of even date herewith between County, as lessor, and Hotel Lessee, as lessee (as amended or modified from time to time, the "Marina Lease"). Without limitation of other future amendments to the Marina Lease, the parties acknowledge that the Marina Lease may hereafter be amended (including a complete amendment and restatement of the Marina Lease) to include in the premises under the Marina Lease certain additional real property such that after such expansion the Marina Property under this Agreement shall thereafter constitute the real property described on Exhibit "C" and the Project shall include all of such Marina Property as so expanded.

C. Marina Lessee purchased its leasehold interest in the current Marina Property from Hotel Lessee pursuant to that certain Agreement of Purchase and Sale and Joint Escrow Instructions dated as of April 19, 2006 by and between Hotel Lessee, as seller, and Marina Lessee, as buyer (together with any amendments, the "Purchase Agreement").

D. As partial consideration for Marina Lessee's purchase of the Marina Property, County, as fee owner of the Hotel Property, and Hotel Lessee, as lessee of the Hotel Property, have agreed to grant County, as fee title owner of the Marina Property, and Marina Lessee, as lessee of the Marina Property, certain easements and rights with respect to the Hotel Property, and County, as fee title owner of the Marina Property, and Marina Lessee, as lessee of the Marina Property, have agreed to grant County, as fee title owner of the Hotel Property, and Hotel Lessee, as lessee of the Hotel Property, certain easements and rights with respect to the Marina Property, as more particularly set forth herein.

78022

ARTICLE 2. DEFINITIONS

Initially capitalized terms not otherwise defined herein shall have the following meanings:

2.1. **Access Easement Area** shall have the meaning set forth in Article 3 of this Agreement.

2.2. **County** shall have the meaning set forth in the preamble to this Agreement.

2.3. **Construction Easement** shall have the meaning set forth in Section 7.4 of this Agreement.

2.4. **Electric Feeders** shall have the meaning set forth in Section 8.3 of this Agreement.

2.5. **Hotel Easement** shall have the meaning set forth in Article 5 of this Agreement.

2.6. **Hotel Lease** shall have the meaning set forth in Article 1 of this Agreement; provided, however, that if at any time following the expiration or earlier termination of the Hotel Lease referenced in Article 1 of this Agreement, County (or its successor as fee title owner of the Hotel Property) enters into one or more successive ground leases with another Person ("Successor Hotel Lease"), as lessee of the Hotel Property, then each such Successor Hotel Lease shall constitute the Hotel Lease under this Agreement during the period during which such Successor Hotel Lease is in effect.

2.7. **Hotel Lessee** shall have the meaning set forth in the preamble to this Agreement; provided, however, that during any period during which a Successor Hotel Lease is in effect, the lessee under such Successor Hotel Lease shall be Hotel Lessee under this Agreement.

2.8. **Hotel Owner** shall mean (a) Hotel Lessee during any period during which a Hotel Lease (including any Successor Hotel Lease) is in effect; or (b) County (or its successor as fee title owner of the Hotel Property) during any period during which a Hotel Lease (including any Successor Hotel Lease) is not in effect.

2.9. **Hotel Property** shall have the meaning set forth in Article 1 of this Agreement.

2.10. **Improvements** means all buildings, structures, docks, landscaping and other improvements built or installed from time to time on the Project or any portion thereof.

2.11. **Landscaping** shall have the meaning set forth in Section 15.2 (d) of this Agreement.

2.12. **Laws** means all applicable laws, statutes, ordinances, regulations, rules, orders and requirements of all governmental and quasi-governmental authorities.

2.13. **Lease** means the Hotel Lease or the Marina Lease.

2.14. **Lessee** means the Hotel Lessee or the Marina Lessee.

2.15. **Marina Access Easement** shall have the meaning set forth in Article 3 of this Agreement.

2.16. **Marina Lease** shall have the meaning set forth in Article 1 of this Agreement; provided, however, that if at any time following the expiration or earlier termination of the Marina Lease referenced in Article 1 of this Agreement, County (or its successor as fee title owner of the Marina Property) enters into one or more successive ground leases with another Person ("Successor Marina Lease"), as lessee of the Marina Property, then each such Successor Marina Lease shall constitute the Marina Lease under this Agreement during the period during which such Successor Marina Lease is in effect.

2.17. **Marina Lessee** shall have the meaning set forth in the preamble to this Agreement; provided, however, that during any period during which a Successor Marina Lease is in effect, the lessee under such Successor Marina Lease shall be Marina Lessee under this Agreement.

2.18. **Marina Owner** shall mean (a) Marina Lessee during any period during which a Marina Lease (including any Successor Marina Lease) is in effect; or (b) County (or its successor as fee title owner of the Marina Property) during any period during which a Marina Lease (including any Successor Marina Lease) is not in effect.

2.19. **Marina Property** shall have the meaning set forth in Article 1 of this Agreement.

2.20. **Marina Utilities Facilities** shall have the meaning set forth in Section 8.3 of this Agreement.

2.21. **Mortgagee** means any holder of a mortgage or deed of trust or other security instrument or device on the Project, or any portion thereof, or any leasehold interest therein.

2.22. **Outdoor Event** means any (i) filming of a television show, movie, commercial or other film or photographic event, which filming is conducted for profit purposes; or (ii) any parade, festival, display, farmer's market, fair or carnival conducted for profit; provided, however, in no event shall an Outdoor Event include customary events and functions conducted by the Hotel Owner at the hotel located on the Hotel Property, including, without limitation, conventions, banquets, conference room events, weddings or other customary hospitality, convention or resort events.

2.23. **Owner** or **Owners** shall mean individually or collectively the Hotel Owner and/or the Marina Owner, as applicable.

2.24. **Parcel** or **Parcels** shall mean individually or collectively the Hotel Property or the Marina Property, as applicable.

2.25. **Parking Easement** shall have the meaning set forth in Article 4 of this Agreement.

2.26. **Parking Facilities** shall have the meaning set forth in Article 4 of this Agreement.

2.27. **Parking Rules and Regulations** means the reasonable rules and regulations adopted by Hotel Owner from time to time governing the use and enjoyment of the Parking Facilities, including, without limitation, any reasonable rules and regulations (i) governing the duration of use of the Parking Facilities by users of the Marina Property, and (ii) adopting a "card key" or similar access system for use of the Parking Facilities; provided, however, no such rules and regulations shall (a) prevent or materially adversely affect Marina Owner's rights under Article 4 or (b) unreasonably or materially interfere with or adversely affect the ability of the Marina Owner to operate the Marina Property as a first class recreational boat marina.

2.28. **Person** means a corporation, partnership, limited liability company or joint venture, as well as a natural person.

2.29. **Project** shall have the meaning set forth in Article 1 of this Agreement.

2.30. **Purchase Agreement** shall have the meaning set forth in Article 1 of this Agreement.

2.31. **Renovation** shall have the meaning set forth in Section 7.1 of this Agreement.

2.32. **Temporary Construction Easement** shall have the meaning set forth in Section 7.1 of this Agreement.

2.33. **Temporary Construction Easement Area** shall have the meaning set forth in Section 7.1 of this Agreement.

2.34. **Utilities Easement** shall have the meaning set forth in Section 8.3 of this Agreement.

2.35. **Utility Facilities** means the electrical power conduits, lines and wires, cable television and internet lines and wires, electric feeders, meter rooms and sewer and water pipes and systems currently used in connection with the Marina Property, if any, and any replacement thereof or additions thereto made expressly in accordance with the provisions of this Agreement.

2.36. **Water System** shall have the meaning set forth in Section 8.3 of this Agreement.

ARTICLE 3. ACCESS EASEMENT OVER HOTEL PROPERTY

Hotel Owner hereby grants to Marina Owner an easement over, across, upon, in, under and through the Hotel Property, but excluding any buildings or structures located thereon (the

"Access Easement Area"), for the purposes of pedestrian access and ingress to and egress from the Marina Property (the "Marina Access Easement"). The Access Easement Area shall be those sidewalks, walkways and driveways located on the Hotel Property designed for such purposes; provided, however, that the Access Easement Area shall include any structure which extends or provides access to or from the docks located within the Marina Property to land located within the Hotel Property for pedestrian access and ingress to and egress from the Marina Property, and any reasonable appurtenances relating thereto. The Marina Access Easement shall be (a) non-exclusive, (b) for the sole use of Marina Owner, its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors and invitees, (c) appurtenant only to the Marina Property, and shall not run with any other land and (d) subject to such reasonable restrictions as may be imposed by the Hotel Owner as reasonably necessary to prevent any material interference with the use and operation of the Hotel Property. In no event shall the use of the Marina Access Easement by Marina Owner or its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors or invitees materially and adversely interfere with the use and operation of the Hotel Property by Hotel Owner. Hotel Owner shall have the right at any time to designate a specific portion of the Hotel Property to be used for the purposes of such pedestrian access and ingress to and egress from the Marina Property, so long as such designated portion of the Hotel Property is not materially more inconvenient to Marina Owner with respect to such pedestrian access, ingress and egress. Hotel Owner shall have the right to approve any Access Easement Area requested by Marina Owner in connection with the Marina Owner's construction, repair, maintenance or replacement of the Marina Property, provided, however, that such approval shall not to be unreasonably withheld, conditioned or delayed. Upon request by Hotel Owner, Marina Owner shall execute an amendment to this Agreement replacing the Access Easement Area with the specific portion of the Hotel Property reasonably designated by Hotel Owner for such purpose. Nothing herein or elsewhere in this Agreement shall be construed to grant the Marina Owner any right to hold an Outdoor Event on the Parking Facilities (or any other portion of the Hotel Property).

ARTICLE 4. PARKING LOT EASEMENT

Hotel Owner hereby grants to Marina Owner an easement over, across, upon, in, under and through that portion of the Hotel Property as more particularly described in Exhibit "D" attached hereto and made a part hereof which is designed for use as parking areas for motor vehicles (the "Parking Facilities") for the purpose of parking of sixty hundredths (.60) of a motor vehicle per boat slip for mooring in the Marina Property (excluding recreational vehicles other than sport utility vehicles, trailers and similar vehicles which are equivalent in size to standard sized motor vehicles or sport utility vehicles) in non-designated parking spaces and for vehicular and pedestrian ingress to and egress from the Parking Facilities (the "Parking Easement"). Marina Owner hereby acknowledges and agrees that the Parking Easement is provided on a first-come, first-served basis. The Parking Easement shall be (a) non-exclusive, (b) for the sole use of Marina Owner, its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors and invitees, (c) appurtenant only to the Marina Property, and shall not run with any other land and (d) subject to such reasonable restrictions as may be imposed by the Hotel Owner as reasonably necessary to prevent any material interference with the use and operation of the Parking Facilities. Notwithstanding anything to the contrary in this Article 4, use of the Parking Facilities described in this Article 4 (i) shall be subject to the Parking Rules

and Regulations and (ii) may temporarily be restricted by Hotel Owner from time to time, on a pro rata basis based on the number of parking spaces allocated for Marina Owner in relation to the total number of parking spaces contained in the Parking Facilities as a whole, in connection with any construction, expansion or renovation of the Hotel Property.

ARTICLE 5. EASEMENT OVER MARINA PROPERTY

Marina Owner hereby grants to Hotel Owner an easement for pedestrian access, ingress and egress over, across, upon, in, under and through the Marina Property for recreational purposes or in connection with any construction, repair, maintenance or replacement of the Hotel Property (collectively, the "Hotel Easement"). The Hotel Easement shall be located on those sidewalks, walkways and driveways located on the Marina Property designed for such purposes. The Hotel Easement shall be (a) non-exclusive, (b) for the sole use of Hotel Owner and its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors and invitees, (c) appurtenant only to the Hotel Property, and shall not run with any other land and (d) subject to such reasonable restrictions as may be imposed by the Marina Owner as reasonably necessary to prevent any material interference with the use and operation of the Marina Property. Hotel Owner shall give Marina Owner reasonable advance notice in connection with the construction, repair, maintenance or replacement of the Hotel Property involving the Hotel Easement. In no event shall the use of the Hotel Easement by Hotel Owner or its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors or invitees materially interfere with the use and operation of the Marina Property by Marina Owner.

ARTICLE 6. INTENTIONALLY OMITTED

ARTICLE 7. CONSTRUCTION EASEMENTS; CONSTRUCTION MATTERS

7.1. Temporary Construction Easement

Hotel Owner hereby grants to Marina Owner a temporary easement over, across, upon, in, under and through that portion of the Hotel Property as more particularly shown on Exhibit "E" attached hereto and made a part hereof (the "Temporary Construction Easement Area") for pedestrian and vehicular ingress to and egress from the Marina Property for the purpose of renovating or replacing (collectively, the "Renovation") the marina facilities located on the Marina Property in accordance with the requirements of the Marina Lease (the "Temporary Construction Easement"); provided, however, that in no event shall any vehicles be permitted beyond the area of the Parking Facilities and the Parking Easement except as specifically designated on Exhibit "E"; and provided, further, that in no event shall Marina Owner have the right to transport any large construction equipment or heavy trucks within the Hotel Property except in connection with any deliveries during the Renovation and only so long as such trucks leave the Hotel Property immediately after completing delivery. The Temporary Construction Easement shall be (a) non-exclusive, (b) for the sole use of Marina Owner, its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors and invitees, and (c) appurtenant only to the Marina Property, and shall not run with any other land. The Temporary Construction Easement shall terminate upon written notice from either Owner to the other at any time following the completion of the Renovation.

7.2. **Expeditious Construction**

Marina Owner shall use commercially reasonable means (including, without limitation, coordinating the hours of work as reasonably requested by Hotel Owner) to see that the Renovation is constructed as expeditiously as possible with a minimum disruption of the operation of the Hotel Property and a minimum impact on Hotel Owner and its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors and invitees and Hotel Property, including, without limitation, any renovation or other construction being conducted with respect to the Hotel Property.

7.3. **Promenade Work**

In the event the County shall require improvements in the nature of a promenade in that portion of the Hotel Property abutting the Marina Property (the "Promenade"), the Marina Lessee and Hotel Lessee shall mutually agree on the design and nature of the improvements to and creation of the Promenade, as well as the maintenance, repair or renovation of the Promenade after construction including design choices, all of which shall comply with the terms and provisions of the Hotel Lease and the Marina Lease. Upon final determination of the improvements and creation of the Promenade, Hotel Lessee shall construct the improvements constituting the Promenade and the costs thereof, together with any maintenance, repair or renovation costs after the construction of the Promenade, shall be borne forty three and 7/10ths percent (43.7%) by the Marina Lessee and fifty six and 3/10ths per cent (56.3%) by the Hotel Lessee. Marina Lessee's percentage of the costs shall be reimbursed to Hotel Lessee within fifteen (15) days after Hotel Lessee's submission to Marina Lessee of reasonably detailed statements setting forth the amounts reasonably incurred by Hotel Lessee in connection with the construction of the improvements constituting the Promenade or any maintenance, repair or renovation costs after the construction of the Promenade. If Marina Lessee fails or refuses at any time to pay its allocable share of the costs of the Promenade when due, the unpaid amounts shall bear interest at ten percent (10%) per annum from the date such amounts accrued. The Hotel Lessee shall have the right to institute legal action against the Marina Lessee for payment of the delinquent amounts plus interest thereon. In no event shall County have any obligations or liabilities under this Section 7.3.

7.4. **Construction Easement**

Notwithstanding anything in this Agreement to the contrary, in connection with any construction done with respect to the Marina Property, including, without limitation, the Renovation, Marina Owner hereby covenants and agrees not to engage in nor to allow pile driving on or with respect to the Marina Property. Hotel Owner hereby grants to Marina Owner an easement over, across, upon, in, under and through the Hotel Property, but excluding any buildings or structures located thereon (the "Construction Easement Area"), for pedestrian and vehicular ingress to and egress from the Marina Property for the purpose of maintaining, renovating, repairing or replacing the marina facilities (collectively, "Construction/Maintenance") located on the Marina Property (the "Construction Easement"); provided, however, that the Construction Easement Area shall include any structure which extends or provides access to or from the docks located within the Marina Property to land

located within the Hotel Property. The Construction Easement shall, however, be subject to the following conditions: (a) in no event shall any vehicles be permitted on the Hotel Property beyond the area of the Parking Facilities and the Parking Easement; (b) in no event shall Marina Owner have the right to transport any large construction equipment or heavy trucks within the Hotel Property except in connection with any deliveries and only so long as such trucks leave the Hotel Property immediately after completing delivery; (c) the use and maintenance of the Construction Easement shall be strictly in accordance with the provisions of this Section 7.4 and the other provisions of this Agreement. The Construction Easement shall be (x) non-exclusive, (y) for the sole use of Marina Owner, its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors and invitees, and (z) appurtenant only to the Marina Property, and shall not run with any other land. Marina Owner shall use commercially reasonable means (including, without limitation, coordinating the hours of work as reasonably requested by Hotel Owner) to see that any Construction/Maintenance is constructed as expeditiously as reasonably possible minimizing disruption of the operation of the Hotel Property and minimizing impact on Hotel Owner and its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors and invitees and Hotel Property, including, without limitation, any renovation or other construction being conducted with respect to the Hotel Property. In furtherance and not in limitation of the other provisions of this Agreement, Marina Owner shall (A) give Hotel Owner at least 30 days' prior written notice of any Construction/Maintenance requiring use of the Construction Easement (or such lesser time as may be reasonable given the nature of such Construction/Maintenance) prior to performing such Construction/Maintenance, (B) consult with Hotel Owner at the request of Hotel Owner regarding such Construction/Maintenance, and (C) provide any other information regarding such Construction/Maintenance reasonably requested by Hotel Owner. In no event shall the Construction Easement be deemed to include any rights to on-site staging on the Hotel Property. Subject to the foregoing, Hotel Owner agrees to reasonably cooperate with Marina Owner to facilitate maintenance of the Marina Parcel as required of Marina Owner in Section 15.1(a) hereof.

ARTICLE 8. UTILITY FACILITIES

8.1. Utility Facilities

Subject to Sections 8.2 and 8.3 below, Marina Owner shall have the non-exclusive right to use the Utility Facilities to provide reasonable and customary amounts of electrical power and water to the Marina Property for the normal and customary operation of the Marina Property as a recreational boat moorage to the extent that the Utility Facilities contain sufficient capacity and do not require any upgrades to provide all electrical power and water required by the Hotel Property in addition to any such amounts of electrical power and water required by the Marina Property, subject to Hotel Owner's right to relocate the Utility Facilities at its sole cost and expense. The cost of any electrical power and water provided to the Marina Property via the Utility Facilities shall be reasonably allocated by Hotel Owner between Hotel Owner and Marina Owner. Marina Owner shall pay the cost of electrical power and water supplied to the Marina Property within 15 days of the presentation of a bill therefore.

8.2. Sewer Line

Marina Owner shall have the right to hook a sewer pump-out line from the Marina Property to the nearest sewer line located on the Hotel Property that is adequately sized to support such sewage flow, if any. If no sewer line located on the Hotel Property is adequately sized to support such additional sewage flow from the Marina Property, Marina Owner shall have the right at its sole cost and expense to install and utilize a separate sewer line (the "Sewer Line") from the Marina Property across the Hotel Property to the nearest public sewer facility, with the location and specifications of any such sewer line to be subject to the reasonable approval of Hotel Owner. The cost, if any, of such shared sewage line(s) shall be allocated by Hotel Owner between Hotel Owner and Marina Owner in Hotel Owner's reasonable discretion.

8.3. Marina Utilities

On or before the completion of the Renovation of the Marina Property, Marina Owner shall have all electrical service and water/sewer service provided to Marina Property separately metered. Marina Owner shall have the right to locate new electric feeders, meter rooms and transformers on the Hotel Property (collectively, the "Electric Feeders"), subject to Hotel Owner's reasonable approval and Hotel's Owner's right to relocate the Electric Feeders at its sole cost and expense. On or before the completion of the Renovation of the Marina Property, Marina Owner shall have installed and utilized separate water lines and separate electrical service, including, without limitation, fire water lines, to the docks located at the Marina Property and/or a separate metering system for all water provided to the Marina Property (the "Water System"; together with the Electric Feeders and the Sewer Line, collectively, the "Marina Utility Facilities"), subject to Hotel Owner's reasonable approval and Hotel Owner's right to relocate the Water System at its sole cost and expense. Hotel Owner hereby grants Marina Owner an easement over, across, upon, in, under and through the Hotel Property for vehicular and pedestrian ingress to, egress from, and the construction, installation, operation, maintenance, repair, removal and replacement of, the Marina Utility Facilities (the "Utilities Easement"). The Utilities Easement shall be (a) non-exclusive, (b) for the sole use of Marina Owner, its employees, lessees, sublessees, customers, contractors, agents, tenants, licensees, successors and invitees, and (c) appurtenant only to the Marina Property, and shall not run with any other land. Upon request of Marina Owner, Hotel Owner shall execute an amendment to this Agreement replacing the general Utilities Easement provided herein with the specific portion of the Hotel Property reasonably designated by Hotel Owner for such purpose.

ARTICLE 9. SIGNAGE

Marina Owner shall have the right to maintain a sign (the "signage") identifying the Marina Property on a portion of the Hotel Property; provided, however, that Hotel Owner shall have reasonable approval rights over the location, the size and content of such signage and prior written approval of the County must also be obtained in accordance with the provisions of the Hotel Lease.

ARTICLE 10. INTENTIONALLY OMITTED

ARTICLE 11. GENERAL PROVISIONS REGARDING EASEMENTS

11.1. General Provisions Regarding Easements

The easements described in Sections 3 through 8 above shall be subject to the following:

11.2. Indemnification and Insurance

(a) Hotel Owner and Marina Owner shall each indemnify and hold harmless the other and the other's ground lessor, shareholders, contractors, employees, members, officers, directors, agents, guests, invitees, partners, tenants, licensees, successors and customers from and against any claim, damage, liability, cost or expense (including attorneys' fees and costs of suit) arising out of any activities conducted on or use of such easement on the indemnified party's property by the indemnifying party and its employees, members, officers, directors, agents, guests, invitees, partners, tenants, licensees, contractors, successors or customers or out of any failure of the indemnifying party to perform its obligations hereunder. In this connection, each of Marina Owner and Hotel Owner covenant to maintain in full force and effect, throughout the term of this Agreement, at its own cost and expense, one or more policies of commercial general liability and contractual liability insurance with respect to the easements granted hereunder insuring against liability for injury to persons or property (and death) of any person or persons in or about such easements. Such insurance shall be in the amount of not less than $5,000,000 combined single limit. Each party shall name the other and County as an additional insured under such policies.

(b) Each Owner shall keep, or cause to be kept, all improvements located within its portion of the Project insured against loss or damage by fire, lightening, windstorm, hail, explosion, damage from aircraft and vehicles and smoke damage and such other risks as are from time to time included in "extended coverage" policies or endorsements in the county where the Project is located, in an amount not less than the actual replacement cost of such improvements (exclusive of foundations and excavations); subject to commercially reasonable deductibles. Such amount, subject to commercially reasonable deductibles, shall be sufficient to restore the same to, or replace it with improvements of at least the size and quality as immediately preceding such loss or damage and each such policy shall contain a waiver of subrogation, to the extent available at commercially reasonable rates. Any such policy of insurance may be maintained under a "blanket" policy insuring other locations belonging to such Owner.

(c) All insurance policies required to be maintained pursuant to this Agreement shall be written by companies admitted as carriers in California and having a "General Policyholders Rating" of at least A-VIII (or, with respect to any insurance required to be maintained by any Owner, such higher rating as may be required by a Mortgagee) as set forth in the most current issue of "Best's Insurance Guide" or an equivalent rating from another industry-accepted rating agency.

(d) Each Owner shall deliver to the other Owner and County certificates or other reasonable evidence of insurance required to be maintained by it with original endorsements for all coverages required to be carried by such Owner pursuant to this Agreement. The certificates and endorsements of each insurance policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificates and endorsements shall be on Acord forms or such other forms acceptable the other Owner in its sole discretion. Each Owner shall furnish the other Owner and County with certificates of renewal or "binders" thereof at least ten (10) days prior to expiration of the policy, but in all events prior to expiration. Each certificate shall expressly provide that such policies shall not be cancelable or otherwise subject to modification except after thirty (30) days' prior written notice to the other Owner and County, and name the other Owner and County as additional insureds.

(e) Nothing set forth in this Agreement is intended to replace, modify or affect the insurance required to be carried by the Hotel Lessee under the Hotel Lease or the Marina Lessee under the Marina Lease.

11.3. Repair and Maintenance

The easements granted herein shall include incidental rights of maintenance and repair including without limitation, the maintenance and repair of the Parking Facilities, Landscaping and Promenade. Marina Owner and Hotel Owner shall maintain the portion of each easement on its Parcel at its sole cost and expense (subject to any right of reimbursement set forth herein) in a first class condition, which repair and maintenance shall include, without limitation, regular sweeping, washing down, litter pickup and repaving, hole patching and repainting, and light fixture maintenance, as required; provided, however, that Marina Owner shall have the obligation to maintain the Marina Utility Facilities at its sole cost and expense. Each Owner agrees to use due care in exercising the rights granted under this Agreement and to comply with all applicable Laws and any governmental approval, permit or license. Each Owner's use of the easements shall not unreasonably interfere with or interrupt the operations of the servient tenement, and shall not damage, injure or otherwise adversely affect the improvements located thereon (including the structural integrity thereof). Prior to any material renovation of the Parking Facilities, the Hotel Owner agrees to meet and confer with Marina Owner about such renovation and to consider the Marina Owner's input and suggestions; provided, however, to the extent the Hotel Owner and Marina Owner are unable to agree upon any matter in connection with such renovation, the Hotel Owner shall have the right to decide such matter in its sole and absolute discretion, subject to the terms of this Agreement including, without limitation the approval of the budget provided herein. Except as otherwise expressly set forth herein, the foregoing maintenance, repair or renovation costs shall be shared forty three and 7/10ths percent (43.7%) by the Marina Owner and fifty six and 3/10ths per cent (56.3%) by the Hotel Owner. Prior to the commencement of the Marina Lease and prior to the commencement of each calendar year thereafter, the Owners shall establish and agree upon a budget of estimated maintenance costs for the Parking Facilities, Landscaping and Promenade for the next calendar year. The budget shall be subject to the reasonable approval of the Owners and if the Owners are unable to agree, then the budget last approved by the mutual agreement of the Owners shall govern such maintenance costs until the Owners otherwise mutually agree as to a different budget; provided, however if more than one year passes in which the Owners do not

mutually agree upon a budget, then the budget shall be resolved upon the petition of either party by binding arbitration before the American Arbitration Association (AAA) pursuant to its Commercial Arbitration Rules by binding "baseball-style" arbitration. Each party shall submit to the arbitrator and exchange with each other in advance of the hearing their last, best proposed budgets and the arbitrator shall be limited to awarding only one of the two competing budgets. Such arbitration shall otherwise be conducted, pursuant to the AAA's Commercial Arbitration Rules. The site of any arbitration will be at the Hotel, unless otherwise agreed by the parties. The award of the arbitrator may be enforced by any court of competent jurisdiction upon the petition of either party. Each Owner shall pay its allocable share on a monthly basis in accordance with the approved budget and the percentages set forth herein. Each Owner shall have the right to modify the budget and the amount of the periodic payments from time to time during the calendar year by written notice to the other and such other Owner's reasonable approval thereof, if actual expenditures are reasonably anticipated to exceed the estimated amounts set forth in the budget. Within ninety (90) days after the close of each calendar year, each Owner shall deliver to the other an accounting indicating: (a) the actual maintenance costs incurred during the immediately preceding calendar year; (b) each Owner's allocable share of such actual costs based on the percentages set forth herein; and (c) the amount of any overpayment or underpayment by each Owner during such calendar year; provided, however, no Owner shall be obligated to pay any amount which exceeds its allocable share of the amounts shown on the approved budget (or as otherwise modified by the mutual agreement of the Owners). Any amounts due from an Owner based upon such accounting shall be paid within thirty (30) days after receipt of the accounting. Any overpayment by an Owner shall be credited against installments subsequently payable by such Owner. Each Owner shall maintain, at their principal place of business, books and records of account indicating maintenance costs and shall retain such records for a period of two (2) years after the applicable calendar year. Each Owner shall have the right to inspect and audit such books and records to verify the propriety of any charge passed through in the immediately preceding calendar year during regular business hours but only once per year and only after five (5) days prior written notice.

11.4. Failure to Pay

If any Owner fails or refuses at any time to pay its allocable share of maintenance costs when due, the unpaid amounts shall bear interest at ten percent (10%) per annum from the date such amounts accrued. The Owner shall have the right to institute legal action against the defaulting Owner for payment of the delinquent amounts plus interest thereon.

11.5 County Provisions

Notwithstanding any contrary term or provision of this Agreement, during any period during which County is an Owner under this Agreement, County shall have no obligation to make, or have liability for, any payment or reimbursement required to be paid or made by such Owner under this Agreement; provided, however, that if County does not pay or make any such payment or reimbursement that County would otherwise be obligated to make under this Agreement attributable to the period in which County is an Owner under this Agreement, then the Owner that would otherwise have been entitled to receive such payment from County shall have the right to offset the amount of the payment or reimbursement that is not made by County

against the rent payable by such Owner under such Owner's Lease with County. No term or provision of this Agreement shall permit an Owner to any abatement, credit or offset of or against rent under such Owner's Lease with County for any breach, default or liability (including without limitation, nonpayment) by the other Lessee under this Agreement.

ARTICLE 12. RIGHT TO RELOCATION; EXPANSION; REPLACEMENT

Each Owner hereby agrees as follows:

12.1. Right to Relocation

Notwithstanding anything in this Agreement to the contrary, Hotel Owner shall have the right, from time to time, upon written notice to Marina Owner, to relocate the Access Easement Area, the Marina Access Easement, the Parking Facilities, the Parking Easement, the Temporary Construction Easement Area, the Temporary Construction Easement, the Utility Facilities, the Marina Utility Facilities and/or the Utilities Easement to another area within the Hotel Property, including, without limitation, in connection with any expansion or renovation of the hotel facilities located on the Hotel Property, at its sole cost and expense so long as Marina Owner continues to have access to benefits substantially the same in convenience, quality and cost as those available to Marina Owner prior to such relocation.

12.2. Expansion; Replacement

In addition to and not in limitation of the rights granted in Section 12.1 above, Hotel Owner shall have the right to expand, demolish, alter, remodel or replace the improvements now or hereafter existing on the Hotel Property (each, an "Alteration") at any time and from time to time. Hotel Owner shall have the right to demolish the Parking Facilities in connection with any Alteration of the Hotel Property; provided, however, that Hotel Owner shall, at its sole cost and expense, replace the Parking Facilities and relocate the Parking Easement, if necessary, with Improvements at least equivalent in scope and quality to the Parking Facilities and which provide substantially the same access to the Marina Property as is presently provided by the Parking Facilities. Notwithstanding the foregoing, Marina Owner acknowledges that Hotel Owner intends to expand, demolish, alter, remodel and replace improvements within and adjacent to the Parking Easement substantially in the manners depicted on Exhibit F hereto, which will reduce and change the configuration of the existing Parking Facilities, and hereby consents to the proposed work or work equivalent in scope and quality thereto.

ARTICLE 13. DAMAGE OR DESTRUCTION TO PROPERTY

Each Owner shall be obligated to restore its portion of the Project in accordance with the terms and provisions of the Hotel Lease or the Marina Lease, as applicable. In the case of improvements constructed by an Owner pursuant to an easement under this Agreement, the Owner of the dominant estate shall be responsible for restoration of improvements to the servient estate.

ARTICLE 14. EMINENT DOMAIN

If any public authority takes the whole or a substantial part of the Project under the power of eminent domain, then the term of this Agreement shall cease as to the part so taken from the day the possession of that part is taken. Any award not accruing to the interest of the County pursuant to either the Hotel Lease or the Marina Lease and made for either Owner's installations or improvements shall be paid to such Owner, except that if the taking includes improvements belonging to more than one party, such as utility lines or signs, the portion of the award allocable thereto shall be used to relocate, replace or restore such jointly owned improvements to a useful condition. In addition to the foregoing, if a separate claim can be filed for the taking of any such property interest existing pursuant to this Agreement which does not reduce or diminish the amount paid to the party owning the land or the improvement taken, then the owner of such other property interest shall have the right to seek an award for the taking thereof.

ARTICLE 15. ADDITIONAL COVENANTS

15.1. By Marina Owner

Marina Owner hereby agrees as follows:

(a) Marina Owner hereby covenants and agrees to cause the facilities located within the Marina Property to be operated in a first-class manner consistent with the quality of operation of other first-class marinas located within Southern California.

(b) Hotel Owner shall have reasonable approval rights over any management company or operator selected by Marina Owner to operate or manage the operation of the Marina Property. Marina Owner shall provide Hotel Owner with not less than ten (10) business days prior written notice of any proposed change in the management of the Marina Property.

(c) Hotel Owner shall have reasonable approval rights over the design of any major renovation of any improvements constructed on the Marina Property or any replacement thereof, including, without limitation, approval over appearance and aesthetics, but excluding approval as to configuration, layout or size; provided, however, that Hotel Owner shall not have the right to disapprove any matter that County has approved under the Marina Lease. Any plans submitted to Hotel Owner by Marina Owner for approval shall be deemed approved if Hotel Owner fails to respond within fifteen (15) days of submittal of such plans.

(d) Hotel Owner shall have the continuing right of first offer with respect to three hundred (300) linear feet of slips at the Marina, to the extent available, for use by guests, tenants, licensees and employees of Hotel Owner (collectively, the "Hotel Users"). Hotel Owner shall notify Marina Owner from time to time when any Hotel User desires the use of any portion of such slips, and Marina Owner shall provide such Hotel User with the right to use the next available slip(s). The fees charged to the Hotel Users for use of the Marina slips shall in no event be greater than the fees charged by Marina Owner to its tenants, licensees or other users, and Marina Owner shall retain the right to relocate any Hotel User's use of such slips to the same extent Marina Owner retains such rights with respect to its other tenants, licensees or other users.

Notwithstanding any contrary term or provision of this paragraph, no Hotel User shall have any rights under this paragraph or any right to enforce this paragraph, and the rights under this paragraph shall be in favor of, and enforceable by, only Hotel Owner.

(e) No part of the Project shall be used or operated for: (i) any use which violates applicable zoning ordinance, or (ii) any unlawful, immoral or disreputable purposes or (iii) any noise, litter, odor or other activity which may constitute a public or private nuisance or (iv) during any period that a Marina Lease is in effect, any use that is in conflict with or exceeds the scope of the use or uses permitted in the Marina Lease. Marina Owner shall not permit the sale of food or beverages on any portion of the Marina Property; provided, however, Marina Owner may sell limited amounts of food and beverage through not more than two (2) vending machines on the Marina Property.

(f) Marina Lessee hereby covenants and agrees to comply with the terms and provisions of the Marina Lease.

(g) Marina Owner hereby agrees to maintain the stand alone restrooms and harbor master building included as part of the Marina Property but located within the Parking Facilities in good condition and repair, clean and sanitary condition and otherwise in compliance with the terms and provisions of the Marina Lease. Marina Owner further agrees that the exterior architectural appearance of the stand alone restrooms and harbor master building shall be consistent with the exterior architecture appearance of the Improvements on the Hotel Property.

Notwithstanding any contrary term or provision of this Section 15.1, the terms and provisions of Section 15.1(a), (b) and (c) and the first sentence of Section 15.1(g) shall not be binding against County during any period during which County is Marina Owner.

15.2. **By Hotel Owner**

Hotel Owner hereby agrees as follows:

(a) Hotel Owner hereby covenants and agrees to cause the facilities located within the Hotel Property to be operated in a first-class manner consistent with the quality of operation of other first-class hotels located within Southern California; provided, however, that this Section 15.2(a) shall not be binding upon County during any period during which County is the Hotel Owner.

(b) No part of the Project shall be used or operated for: (i) any use which violates applicable zoning ordinance, or (ii) any unlawful, immoral or disreputable purposes or (iii) any noise, litter, odor or other activity which may constitute a public or private nuisance, or (iv) during any period that a Hotel Lease is in effect, any use that is in conflict with or exceeds the scope of the use or uses permitted in the Hotel Lease.

(c) Hotel Lessee hereby covenants and agrees to comply with the terms and provisions of the Hotel Lease.

(d) Hotel Owner hereby agrees to maintain the landscaping for the Hotel Property and the areas around the stand alone restrooms and harbor master building included as part of the Marina Property but located within the Parking Facilities (collectively the "Landscaping") in good condition and repair. The cost of maintaining the Landscaping shall be allocated as follows: (i) the cost to maintain the area shown on Exhibit "F" as "Hotel Landscaping" shall be allocated solely to the Hotel Owner; (ii) the cost to maintain the area shown on Exhibit "F" as "Marina Landscaping" shall be allocated solely to the Marina Owner; and (ii) the cost to maintain the area shown on Exhibit "F" as "Shared Landscaping" shall be shared forty three and 7/10ths percent (43.7%) by the Marina Owner and fifty six and 3/10ths per cent (56.3%) by the Hotel Owner. Notwithstanding any contrary term or provision of this Agreement, during any period during which County is Owner of the Marina Property, County shall have no obligation to make, or have liability for, any payment or reimbursement required to be paid or made by Marina Owner under this Section 15.2(d); provided, however, that if County does not pay or make any such payment or reimbursement owed by Marina Owner that County would otherwise be obligated to make under this Section 15.2(d) attributable to the period in which County is an Owner under this Agreement, then the Hotel Owner shall have the right to offset the amount of the payment or reimbursement that is not made by County against the rent payable by such Owner under the Hotel Lease. During any period during which County is the Hotel Owner County shall not have the obligation to perform the maintenance obligations required to be performed by Hotel Owner under this Section 15.2(d), provided that if during such period County elects not to perform such maintenance obligations, then Marina Owner shall have the right to perform such maintenance obligations with respect to the Marina Landscaping and the Shared Landscaping and to offset against the rent payable under the Marina Lease the Hotel Owner's share of the cost of the Shared Landscaping maintenance performed by Marina Owner.

ARTICLE 16. OUTDOOR EVENTS

(a) Except as provided in Section 16(b) below, should either Owner hold an Outdoor Event on their respective Property, such Owner shall be obligated to obtain a reasonable security deposit from the third party conducting such Outdoor Event, taking into account the scope of such Outdoor Event and the potential for damage to the Promenade and the improvements located on the easements granted herein, including without limitation the Parking Facilities and Landscaping, and such security deposit shall be used to repair any such damage. In addition to the foregoing, each Owner shall cause ten percent (10%) of all proceeds paid to such Owner in each calendar year in connection with such Outdoor Event to be reserved and used solely by such Owner in such calendar year for the repair of any damage caused by such Outdoor Event to the Promenade and the improvements located on the easements granted herein; provided however, at the end of each calendar year, such Owner shall use such reserved amount to repair any then unrepaired damage and the balance reserved in such calendar year shall be released to such Owner.

(b) Notwithstanding Section 16(a) to the contrary, (i) in the event the Hotel Owner allows a third party to hold an Outdoor Event solely on the Parking Facilities (and the Outdoor Event is not otherwise part of an Outdoor Event held in part on the Parking Facilities and part on the Hotel Property) or (ii) in the event the Hotel Owner, in its sole and absolute discretion allows the Marina Owner to allow a third party to hold an Outdoor Event solely on the Parking

Facilities (it being agreed that the Marina Owner has no right to hold an Outdoor Event on the Parking Facilities without the consent of the Hotel Owner, which consent may be withheld, conditioned or delayed in the Hotel Owner's sole and absolute discretion), then the Owner holding such Outdoor Event shall be obligated to obtain a reasonable security deposit from the third party conducting such Outdoor Event solely on the Parking Facilities, taking into account the same factors used in Section 16(a) to determine the amount of such security deposit and such security deposit shall be used to repair any damage to the Parking Facilities. In addition to the foregoing, (x) if the Hotel Owner is allowing such Outdoor Event solely on the Parking Facilities, then it shall cause forty three and 7/10ths percent (43.7%) of the proceeds to be allocated and credited to the Marina Owner's share under Section 11.3 to be used for the maintenance, repair or renovation costs contemplated by Section 11.3 above, and (y) if the Marina Owner is allowing such Outdoor Event solely on the Parking Facilities, then it shall cause fifty six and 3/10ths per cent (56.3%) of the proceeds to be allocated and credited to the Hotel Owner's share under Section 11.3 to be used for the maintenance, repair or renovation costs contemplated by Section 11.3 above. Notwithstanding the preceding sentence, in no event shall either Owner be required to allocate and credit from the proceeds of such Outdoor Event for the benefit of the other Owner an amount in excess of the other Owner's total allocable share of the amount budgeted for the repair, maintenance or renovation of the Parking Facilities for the then current year.

ARTICLE 17. DEFAULTS

(a) If any Owner defaults (a "Defaulting Owner") in the performance or observance of any of the terms, covenants or conditions of this Agreement, then, in such event the Owner affected by such default (the "Non-defaulting Owner") may give notice to the Defaulting Owner of such default. If within twenty (20) days after such notice is given the Defaulting Owner fails to cure such default, then, in such event, in addition to any and all rights and remedies of the Non-defaulting Owner at law, in equity or otherwise (including, without limitation, the right of injunction or specific performance), the Non-defaulting Owner shall have the option, in its sole and absolute discretion, to cure such default at the cost and expense of the Defaulting Owner. All amounts expended by the Non-defaulting Owner in connection with the foregoing, including, without limitation, attorneys' fees and expenses in instituting, prosecuting or defending any action or proceeding in connection therewith, together with interest thereon (at a rate (the "Default Rate") equal to the lesser of (i) two (2) percentage points above the annual rate of interest publicly announced from time to time by Citibank, N.A., in New York, New York or its successor, as its "base rate" or (ii) the maximum rate of interest permitted under applicable law, shall be paid by the Defaulting Owner to the Non-defaulting Owner upon demand by the Non-defaulting Owner.

(b) If any Owner fails to pay any amounts due and payable to any Non-defaulting Owner pursuant to the terms of this Agreement within twenty (20) days following notice of such failure, then, in such event, in addition to any and all rights and remedies of the Non-defaulting Owner at law, the Non-defaulting Owner shall be entitled to interest on such amounts until such amounts are paid in full, at the Default Rate.

ARTICLE 18. LIENS

Marina Owner shall provide and deliver to Hotel Owner releases and partial waivers of lien (and as to final payment, final releases of lien) of the contractor and all subcontractors, sub-subcontractors and suppliers performing any portion of any work on the Hotel Property performed by Marina Owner pursuant to the terms of this Agreement. Marina Owner shall use all reasonable efforts to protect the Hotel Property from mechanic's liens arising from any construction performed by Marina Owner pursuant to the terms of this Agreement and if any mechanic's liens are filed for work which Marina Owner or its agent has contracted, Marina Owner shall within five days from receipt of notice of the claim of lien, remove such lien from the Hotel Property. If Marina Owner fails to timely remove any such mechanic's lien from the Hotel Property, Hotel Owner may do so and charge the cost thereof to Marina Owner. Marina Owner shall provide Hotel Owner with sufficient advance notice of any construction or work performed by Marina Owner on the Hotel Property pursuant to the terms of this Agreement so that Hotel Owner is reasonably able to file the proper notices of non-responsibility. Hotel Owner shall provide Marina Owner with sufficient advance notice of any construction or work performed by Hotel Owner on the Marina Property pursuant to the terms of this Agreement so that Marina Owner is reasonably able to file the proper notices of non-responsibility.

ARTICLE 19. INTENTIONALLY OMITTED

ARTICLE 20. MORTGAGEE PROTECTION

A breach of any of the terms, conditions, covenants, or restrictions of this Agreement shall not defeat or render invalid the lien of any mortgage, deed of trust, or other security interest made in good faith and for value, but such term, condition, covenant, or restriction shall be binding and effective against any person or entity who becomes an owner of the Project or any portion thereof. Further, Marina Owner and Hotel Owner agree to enter into commercially reasonable amendments to this Agreement to the extent necessary to provide reasonable protections to any mortgagee or beneficiary under a deed of trust secured by either the Hotel Owner or Marina Owner's leasehold estate; provided, however, no such amendment materially increases the liabilities, duties or obligations of the Marina Owner or Hotel Owner hereunder or materially reduces the rights and benefits of the Marina Owner or Hotel Owner hereunder.

ARTICLE 21. LIMITED USE

(a) The easements granted hereunder are for use in the connection with Marina Owner's and Hotel Owner's respective businesses and are not for general use by the public. Each of Marina Owner and Hotel Owner agree that it shall not encourage or allow general use of easements granted hereunder by the general public except in the connection with the operation of its business.

(b) Except as otherwise set forth in this Agreement, Marina Owner and its employees, lessees, sublessees, customers, contractors, licensees, invitees and successors shall have no right to use the pools, health club, restaurant and other amenities located on the Hotel

Property in excess of the right to use such amenities otherwise made available to the general public by the Hotel Owner.

ARTICLE 22. SUBJECT TO EXISTING CONDITIONS

Subject to Section 25.19 below, the easements granted hereunder are subject to all existing easements, covenants, conditions, encumbrances, liens, dedications, offers of dedication, restrictions, reservations, rights and rights of way of which either party hereto has actual or record notice.

ARTICLE 23. EASEMENTS AND COVENANTS RUN WITH LAND

Subject to the terms and provisions of this Agreement, the easements granted to Marina Owner are easements appurtenant and the covenants and agreements contained herein shall run with the land, will inure to the benefit of the Marina Property, as the dominant estate, and will be a burden on the Hotel Property, the servient estate. Subject to the terms and provisions of this Agreement, the easements granted to Hotel Owner hereunder are easements appurtenant and the covenants and agreements contained herein shall run with the land, will inure to the benefit of the Hotel Property, as the dominant estate, and will be a burden on the Marina Property, the servient estate.

ARTICLE 24. AMENDMENT

This Agreement may be amended or released only pursuant to an instrument in writing duly executed and acknowledged by all of the parties hereto.

ARTICLE 25. MISCELLANEOUS PROVISIONS

25.1. Assignment

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, estates, personal representatives, successors and assigns; provided, however, that in no event shall the rights, powers and obligations conferred upon an Owner pursuant to this Agreement be at any time transferred or assigned by any such Owner except through a transfer of all or any portion of its interest in its Parcel. If only a portion of a Parcel is so transferred in such manner as to respectively vest ownership of a Parcel or interest therein in more than one Person, then all such Persons shall be jointly considered a single Owner and such Persons shall designate one of their number by a written agreement executed by each such Person and delivered to the other Owner to act on behalf of all such Persons in the performance of the provisions of this Agreement.

25.2. Construction

This Agreement is made in, and shall be governed, enforced and construed under the laws of the State of California.

25.3. **Interpretation**

This Agreement constitutes the entire understanding and agreement of the parties with respect to the subject matter thereof, and shall supersede and replace the prior understandings and agreements, whether verbal or in writing. The parties confirm and acknowledge that there are no other promises, covenants, understandings, agreements, representations, or warranties with respect to the subject matter of this Agreement except as expressly set forth herein.

25.4. **Attorneys' Fees**

In the event that any party hereto shall bring any legal action or other proceeding with respect to the breach, interpretation, or enforcement of this Agreement, or with respect to any dispute relating to any transaction covered by this Agreement, the losing party or parties in such action or proceeding shall reimburse the prevailing party or parties therein for all reasonable costs of litigation, including reasonable attorneys' fees, in such amount as may be determined by the court or other tribunal having jurisdiction, including matters on appeal, it being understood and agreed that the "prevailing party" shall be determined as part of such action or proceeding.

25.5. **No Third Party Benefit**

This Agreement is made and entered into for the sole benefit and protection of the parties hereto, and the parties do not intend to create any rights or benefits under this Agreement for any person who is not a party to this Agreement.

25.6. **Further Acts**

Each party agrees, at no cost to such party, to perform any further acts and execute and deliver any documents requested by the other party that may be reasonably necessary to carry out the provisions of this Agreement; provided, however, neither party shall be obligated to provide any further act or document that would materially increase the liabilities or obligations of such party hereunder or materially reduce the rights and benefits of such party hereunder.

25.7. **Notices**

All notices, requests, demands and other communications required to or permitted to be given under this Agreement shall be in writing and shall be conclusively deemed to have been duly given (a) when hand delivered to the other party; or (b) when received when sent by facsimile at the address and number set forth below (provided, however, that notices given by facsimile shall not be effective unless either (i) a duplicate copy of such facsimile notice is promptly given by depositing same in a United States post office with first-class postage prepaid and addressed to the parties as set forth below, or (ii) the receiving party delivers a written confirmation of receipt for such notice either by facsimile or any other method permitted under this Section 25.7; additionally, any notice given by telex or facsimile shall be deemed received on the next business day if such notice is received after 5:00 p.m. (recipient's time) or on a non-

business day; or (c) three (3) business days after the same have been deposited in a United States post office with first-class or certified mail return receipt requested postage prepaid and addressed to the parties as set forth below; or (d) the next business day after same have been deposited with a national overnight delivery service reasonably approved by the parties (Federal Express, United Parcel Service and DHL WorldWide Express being deemed approved by the parties), postage prepaid, addressed to the parties as set forth below with next-business-day delivery guaranteed, provided that the sending party receives a confirmation of delivery from the delivery service provider:

To Marina Lessee:	MDR Marina, L.P. c/o MDR Marina, LLC Pacific Marina Development, Inc. 3416 Via Lido, Suite G Newport Beach, CA 92663 Phone: (949) 673-6310 Facsimile: (949) 673-6331
To Hotel Lessee:	IWF MDR Hotel, L.P. 1933 Cliff Drive Santa Barbara, CA 93109 Attention: President Phone: (805) 957-0095 Facsimile: (805) 957-0082
To 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

Each party shall make an ordinary, good faith effort to ensure that it will accept or receive notices that are given in accordance with this Section 25.7, and that any person to be given notice actually receives such notice. A party may change or supplement the addresses given above, or designate additional addresses, for purposes of this Section 25.7 by giving the other party written notice of the new address in the manner set forth herein.

25.8. Time of the Essence

Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

25.9. Estoppel Certificate

Each Owner hereby covenants that within ten (10) business days after a written request of the other Owner, it will issue to such other Owner, or to any mortgagee, or to any prospective purchaser or prospective mortgagee specified by such requesting Owner, an estoppel certificate stating: (i) whether the Owner to whom the request has been directed knows of any default under this Agreement, and if there are known defaults specifying the nature thereof; (ii) whether this Agreement has been modified or amended in any way (or if it has, then stating the nature thereof); (iii) that to the Owner's knowledge this Agreement as of that date is in-full force and effect; and (iv) any other matters reasonably requested by such party. Such statement shall act as a waiver of any claim by the Owner furnishing it to the extent such claim is based upon facts contrary to those asserted in the statement and to the extent the claim is asserted against a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary of those contained in the statement, and who has acted in reasonable reliance upon the statement.

25.10. Counterparts

This Agreement may be signed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument.

25.11. Remedies

(a) The remedies permitted or available pursuant to the provisions of this Agreement, at law or in equity, shall be cumulative.

(b) In the event of any breach or threatened breach of any provision of this Agreement, any Owner may prosecute any proceedings at law or in equity to enjoin such breach or threatened breach and to recover damages for any such breach. Any such action or proceeding authorized pursuant to this Section 25.11 may be maintained, and a judgment thereunder obtained, without foreclosing or waiving any lien provided for in this Agreement.

25.12. Negation of Partnership and of Public Benefits

None of the terms or provisions of this Agreement shall be deemed to create a partnership between the Owners in their respective businesses or otherwise, or to affect in any way any partnership which may exist between the Owners, if any, nor shall it cause them to be considered joint venturers or members of any joint enterprise. This Agreement is not intended nor shall it be construed to create any third-party beneficiary rights in any party which or who is not an Owner (including, without limitation, any rights to the general public) unless expressly otherwise provided. Without limiting the generality of the foregoing, nothing contained herein

shall be deemed to be a dedication of any portion of the Project (or interest therein) to the general public, or for any public use whatsoever.

25.13. No Merger

The easements herein created and the covenants herein described shall not be extinguished by merger of any or all of the ownership of more than one Parcel.

25.14. Severability

If any portion of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement (or the application of such provision to Persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby.

25.15. Non-waiver

No delay or failure by any Owner to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

25.16. Heading

Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

25.17. "As Is"

Each Owner shall be deemed to have accepted the rights granted hereunder (collectively, the "Property Rights") "AS IS", "WHERE IS' and "WITH ALL FAULTS" (whether detectable or not) and subject to all matters of record affecting the Project. Except as otherwise expressly provided in this Agreement, no Owner shall be deemed to have made any representation, warranty or covenant, expressly or implied, with respect to any Property Rights, the fitness, merchantability, suitability, continued use or adequacy of the Property Rights for any particular purpose, any environmental condition at or with respect to the Property Rights, the zoning regulations or other governmental requirements applicable to or with respect to the Property Rights, any other matters affecting the use, operation or condition of or with respect to the Property Rights, or the continuing use or benefit of the real property leased under the Hotel Lease or the Marina Lease, as applicable.

25.18. Term

The term of this Agreement shall commence on the date that it is recorded in Official Records of Los Angeles County, California and shall continue until the terms of both the Hotel Lease and the Marina Lease have expired or otherwise terminated in accordance with their terms.

25.19. Runs with the Land

The parties agree that this Agreement shall run with the land for the term hereof and that any party acquiring fee or leasehold title to a Parcel shall be automatically bound by and obligated under this Agreement from and after the date of such acquisition for the period of its ownership of such title. The Hotel Lease and Marina Lease shall be subject and subordinate to this Agreement and any amendments or modifications hereof; provided, however, that in the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of a Lease, as between County and each Lessee, the terms and provisions of each Lease shall control. Notwithstanding any contrary term or provision of this Agreement, no term or provision of this Agreement is intended to modify or amend the Leases. If this Agreement is not of record as of the date either the Hotel Lease or the Marina Lease is recorded, then such lease shall automatically become subordinate to this Agreement upon recordation of this Agreement, and within ten (10) days after the receipt of a request from either party hereto, or the County, the lessee under such lease shall confirm such subordination by executing a recordable subordination agreement in form and content satisfactory to the requesting party.

25.20 Limitation of Liability

Each party shall have liability under this Agreement during such period as it is an Owner under this Agreement. Upon the conveyance by a party of the fee title or leasehold interest in the Parcel that is the basis for such party's status as an Owner under this Agreement, such party shall be relieved from any obligation or liability under this Agreement arising or accruing after the date of such conveyance. Notwithstanding any contrary term or provision of this Agreement, County shall have no obligations or liabilities under this Agreement except to the extent and during any period in which County is an Owner under this Agreement. County shall have no responsibility or liability to any other party for any breach or default of this Agreement by a Lessee, and no Lessee under a Lease shall have any right of offset, credit or abatement of rent under such Lease for any breach or default of this Agreement by the Lessee under the other Lease.

LIST OF EXHIBITS

Exhibit A	Hotel Property (Legal Description)
Exhibit B	Marina Property (Legal Description) [Before Marina Property Expansion]
Exhibit C	Marina Property (Legal Description) [After Marina Property Expansion]
Exhibit D	Parking Easement
Exhibit E	Temporary Construction Easement
Exhibit F	Landscaping

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURES FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of August 30, 2013.

Marina Lessee:

MDR MARINA, L.P., a California limited partnership

By: MDR Marinas, LLC, a California limited liability company, General Partner

By: Pacific Marina Development, Inc., a California corporation, Manager

By: _____
Thomas J. Hogan, President

Hotel Lessee:

IWF MDR Hotel, L.P., a California limited partnership

By: IWF MDR Hotel, LLC, a California limited liability company, General Partner

By: Invest West Financial, LLC, a California limited liability company, Manager

By: _____

Its: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of August 30, 2013.

Marina Lessee:

MDR MARINA, L.P., a California limited partnership

By: MDR Marinas, LLC, a California limited liability company, General Partner

By: Pacific Marina Development, Inc., a California corporation, Manager

By:_____
Thomas J. Hogan, President

Hotel Lessee:

IWF MDR Hotel, L.P., a California limited partnership

By: IWF MDR Hotel, LLC, a California limited liability company, General Partner

By: Invest West Financial, LLC, a California limited liability company, Manager

By:_____

Its: President

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

ATTEST:

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

By: _____
Deputy

AUG 28 2013

APPROVED AS TO FORM:

JOHN F. KRATTLI,
COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

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

AUG 28 2013

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

30 MAY 17 2011

SACHI A. HAMAI
EXECUTIVE OFFICER

78022

STATE OF CALIFORNIA)
) ss.
COUNTY OF Los Angeles)

On August 27, 2013, before me, Debra M. Hoover, a Notary Public, personally appeared Thomas J. Hogan, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Debra M. Hoover
Notary Public

DEBRA M. HOOVER
Commission # 1868416
Notary Public - California
Los Angeles County
My Comm. Expires Oct 17, 2013

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2013, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

STATE OF CALIFORNIA)
) ss.
COUNTY OF Santa Barbara)

On August 27, 2013, before me, Robin P. Lyons, a Notary Public, personally appeared Matthew Marquis, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Robin P. Lyons
Notary Public

ROBIN P. LYONS
Commission # 1928885
Notary Public - California
Santa Barbara County
My Comm. Expires Apr 14, 2015

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

On _____, 2013, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles }

On August 29, 2013 (Date) before me, Ivonne Evelyn Umana, Notary Public (Here Insert Name and Title of the Officer)

personally appeared LaChelle Maureen Smitherman (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

IVONNE EVELYN UMANA
Commission # 1885778
Notary Public - California
Los Angeles County
My Comm. Expires Apr 23, 2014

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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EXHIBIT A

HOTEL PROPERTY (LEGAL DESCRIPTION)

EXHIBIT A

LEGAL DESCRIPTION

Modified Parcel 42 Premises

Parcels 718 and 720, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 through 70, inclusive, of Assessor's Maps, in the office of the Registrar-Recorder/County Clerk of the County of Los Angeles, State of California.

EXCEPTING therefrom that portion within the following described boundaries:

COMMENCING at the northwesterly corner of said Parcel 718; thence North 60°00'00" East, along the northwesterly line of said Parcel 718, a distance of 578.76 feet to the most northerly corner of said Parcel 718; thence South 54°19'21" West 167.99 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 41.00 feet; thence South 30°00'00" East 34.00 feet; thence North 60°00'00" East 41.00 feet; thence North 30°00'00" West 34.00 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPTING therefrom that portion within the following described boundaries:

COMMENCING at the most northerly corner of said Parcel 720; thence South 30°00'00" East, along the northeasterly line of said Parcel 720, a distance of 150 feet to the most easterly corner of said Parcel 720; thence South 73°23'09" West 137.91 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 104.00 feet; thence North 30°00'00" West 45.00 feet; thence North 60°00'00" East 104.00 feet; thence South 30°00'00" East 45.00 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPTING therefrom an undivided one-half interest in all oil, gas, and other hydrocarbons lying at or below a depth of 500 feet from the surface, but without any right of entry upon the surface or the first 500 feet below the surface, as reserved to the defendants in a Final Order of Condemnation, had in Superior Court Case No. S.M.C. 5262, certified copies of which were recorded on December 5, 1958, in Book D297, page 221, of Official Records, in the office of said Registrar-Recorder/County Clerk, and on August 21, 1959, in Book D580, page 230, of said Official Records.

RESERVING therefrom to the County of Los Angeles easements for sanitary sewer, fire access, harbor utility, and storm drain purposes within those portions thereof designated on said map to be reserved by said county for such purposes.

APPROVED AS TO DESCRIPTION

By _____
LICENSED LAND SURVEYOR

Dated 8/21/2013

SCG

EXHIBIT B

MARINA PROPERTY (LEGAL DESCRIPTION)
[BEFORE MARINA PROPERTY EXPANSION]

LEGAL DESCRIPTION

Modified Parcel 43 Premises

(Pre-Expansion)

Parcels 717 and 719, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 through 70, inclusive, of Assessor's Maps, in the office of the Registrar-Recorder/County Clerk of the County of Los Angeles, State of California.

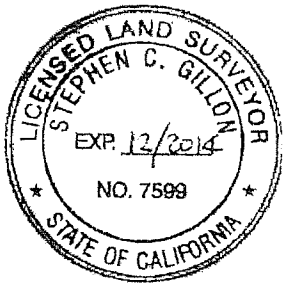
TOGETHER WITH that portion of Parcel 718, as shown on said map, within the following described boundaries:

COMMENCING at the northwesterly corner of said Parcel 718; thence North 60°00'00" East, along the northwesterly line of said Parcel 718, a distance of 578.76 feet to the most northerly corner of said Parcel 718; thence South 54°19'21" West 167.99 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 41.00 feet; thence South 30°00'00" East 34.00 feet; thence North 60°00'00" East 41.00 feet; thence North 30°00'00" West 34.00 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH that portion of Parcel 720, as shown on said map, within the following described boundaries:

COMMENCING at the most northerly corner of said Parcel 720; thence South 30°00'00" East, along the northeasterly line of said Parcel 720, a distance of 150 feet to the most easterly corner of said Parcel 720; thence South 73°23'09" West 137.91 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 104.00 feet; thence North 30°00'00" West 45.00 feet; thence North 60°00'00" East 104.00 feet; thence South 30°00'00" East 45.00 feet to the TRUE POINT OF BEGINNING.

EXCEPTING therefrom an undivided one-half interest in all oil, gas, and other hydrocarbons lying at or below a depth of 500 feet from the surface, but without any right of entry upon the surface or the first 500 feet below the surface, as reserved to the defendants in a Final Order of Condemnation, had in Superior Court Case No. S.M.C. 5262, a certified copy of which was recorded on August 21, 1959, in Book D580, page 230, of said Official Records.



APPROVED AS TO DESCRIPTION

By _____
LICENSED LAND SURVEYOR

Dated 8/21/2013

SCG

EXHIBIT C

MARINA PROPERTY (LEGAL DESCRIPTION)
[AFTER MARINA PROPERTY EXPANSION]

Modified Parcel 43 Premises

(Post-Expansion)

Parcels 717 and 719, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 through 70, inclusive, of Assessor's Maps, in the office of the Registrar-Recorder/County Clerk of the County of Los Angeles, State of California.

TOGETHER WITH that portion of Parcel 905, as shown on said map, within the following described boundaries:

Beginning at the northwesterly corner of said Parcel 717; thence SOUTH, along the westerly line of said Parcel 717, a distance of 870.64 feet to the southwesterly corner of said Parcel 717; thence South 60°00'00" West 110 feet; thence North 10°00'27" West 802.35 feet to a point in the southwesterly prolongation of the northwesterly line of Parcel 715, as shown on said map, said point lying 271 feet southwesterly, measured along said prolongation, from said northwesterly corner of Parcel 717; thence North 60°00'00" East 271 feet to the point of beginning.

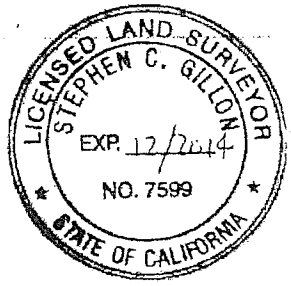
ALSO TOGETHER WITH that portion of Parcel 718, as shown on said map, within the following described boundaries:

COMMENCING at the northwesterly corner of said Parcel 718; thence North 60°00'00" East, along the northwesterly line of said Parcel 718, a distance of 578.76 feet to the most northerly corner of said Parcel 718; thence South 54°19'21" West 167.99 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 41.00 feet; thence South 30°00'00" East 34.00 feet; thence North 60° 00'00" East 41.00 feet; thence North 30°00'00" West 34.00 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH that portion of Parcel 720, as shown on said map, within the following described boundaries:

COMMENCING at the most northerly corner of said Parcel 720; thence South 30°00'00" East, along the northeasterly line of said Parcel 720, a distance of 150 feet to the most easterly corner of said Parcel 720; thence South 73°23'09" West 137.91 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 104.00 feet; thence North 30°00'00" West 45.00 feet; thence North 60°00'00" East 104.00 feet; thence South 30°00'00" East 45.00 feet to the TRUE POINT OF BEGINNING.

EXCEPTING therefrom an undivided one-half interest in all oil, gas, and other hydrocarbons lying at or below a depth of 500 feet from the surface, but without any right of entry upon the surface or the first 500 feet below the surface, as reserved to the defendants in a Final Order of Condemnation, had in Superior Court Case No. S.M.C. 5262, a certified copy of which was recorded on August 21, 1959, in Book D580, page 230, of said Official Records.



APPROVED AS TO DESCRIPTION

By _____
LICENSED LAND SURVEYOR

Dated 8/21/2013

SCG

EXHIBIT D

PARKING EASEMENT

EXHIBIT "D"
PARKING EASEMENT

A PARCEL OF LAND SITUATE IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING A PORTION OF PARCELS 718 AND 720, 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 COUNTY REGISTRAR–RECORDER/COUNTY CLERK OF THE COUNTY OF LOS ANGELES AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PARCEL 720; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 720, SOUTH 30°00'00" EAST 150.00 FEET TO THE MOST EASTERLY CORNER OF SAID PARCEL 720; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 720, SOUTH 60°00'00" WEST 420.66 FEET; THENCE NORTH 30°00'00" WEST 41.28 FEET; THENCE NORTH 60°00'00" EAST 64.00 FEET; THENCE NORTH 30°00'00" WEST 115.00 FEET; THENCE SOUTH 60°00'00" WEST 14.72 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 70 FEET, THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°48'32" AN ARC DISTANCE OF 43.75 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 10 FEET, THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 87°12'15" AN ARC DISTANCE OF 15.22 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 50.50 FEET, THENCE SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 40°17'19" AN ARC DISTANCE OF 35.51 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 2.50 FEET, THENCE WESTERLY AND SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 91°40'24" AN ARC DISTANCE OF 4.00 FEET; THENCE SOUTH 42°49'43" EAST 12.99 FEET; THENCE SOUTH 48°00'00" WEST 99.26 FEET THENCE NORTH 42°12'02" WEST 15.37 FEET TO THE BEGINNING OF A NON–TANGENT CURVE (A RADIAL LINE TO SAID POINT BEARS. SOUTH 37°35'38" EAST), CONCAVE TO THE NORTH AND HAVING A RADIUS OF 193 FEET, THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 16°42'05" AN ARC DISTANCE OF 56.26 FEET TO THE BEGINNING OF A REVERSE CURVE (A RADIAL LINE TO SAID POINT BEARS NORTH 20°53'33" WEST), CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 3 FEET, THENCE WESTERLY AND SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°08'43" AN ARC DISTANCE OF 4.72 FEET; THENCE SOUTH 21°05'52" EAST 20.97 FEET TO THE BEGINNING OF A NON–TANGENT CURVE (A RADIAL LINE TO SAID POINT BEARS SOUTH 20°07'13" EAST), CONCAVE TO THE NORTH AND HAVING A RADIUS OF 217 FEET, THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 23°45'02" AN ARC DISTANCE OF 89.95 FEET; THENCE NORTH 03°37'49" EAST 18.27 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 5 FEET, THENCE NORTHERLY AND WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 113°04'09" AN ARC DISTANCE OF 9.87 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 36 FEET (A RADIAL LINE TO SAID POINT BEARS SOUTH 19°26'20" EAST), THENCE WESTERLY AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 96°04'55" AN ARC DISTANCE OF 60.37 FEET TO THE BEGINNING OF A REVERSE CURVE (A RADIAL LINE TO SAID POINT BEARS NORTH 76°38'13" EAST), CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 5 FEET, THENCE NORTHERLY AND WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 106°27'20" AN ARC DISTANCE OF 9.29 FEET; THENCE SOUTH 60°08'04" WEST 16.20 FEET; THENCE NORTH 29°51'56" WEST 110.03 FEET; THENCE NORTH 60°08'04" EAST 14.84 FEET; THENCE NORTH 29°51'56" WEST 29.99 FEET TO THE NORTHWESTERLY LINE OF SAID PARCEL 718; THENCE ALONG SAID NORTHWESTERLY LINE OF SAID PARCEL 718 NORTH 60°00'00" EAST 477.66 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL 718; THENCE ALONG THE NORTHEAST LINE OF SAID PARCEL 718, SOUTH 30°00'00" EAST 117.00 FEET TO THE BEGINNING OF A NON–TANGENT CURVE (A RADIAL LINE TO SAID POINT BEARS NORTH 30°00'00" WEST), CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 60 FEET, THENCE WESTERLY, SOUTHERLY AND EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 223°31'52" AN ARC DISTANCE OF 234.08 FEET TO THE BEGINNING OF A REVERSE CURVE (A RADIAL LINE TO SAID POINT BEARS NORTH 73°31'52" WEST), CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 60 FEET, THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 43°31'52" AN ARC DISTANCE OF 45.59 FEET; THENCE NORTH 60°00'00" EAST 167.35 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM A RECTANGLE IN SAID PARCEL 718 DESCRIBED AS FOLLOWS:

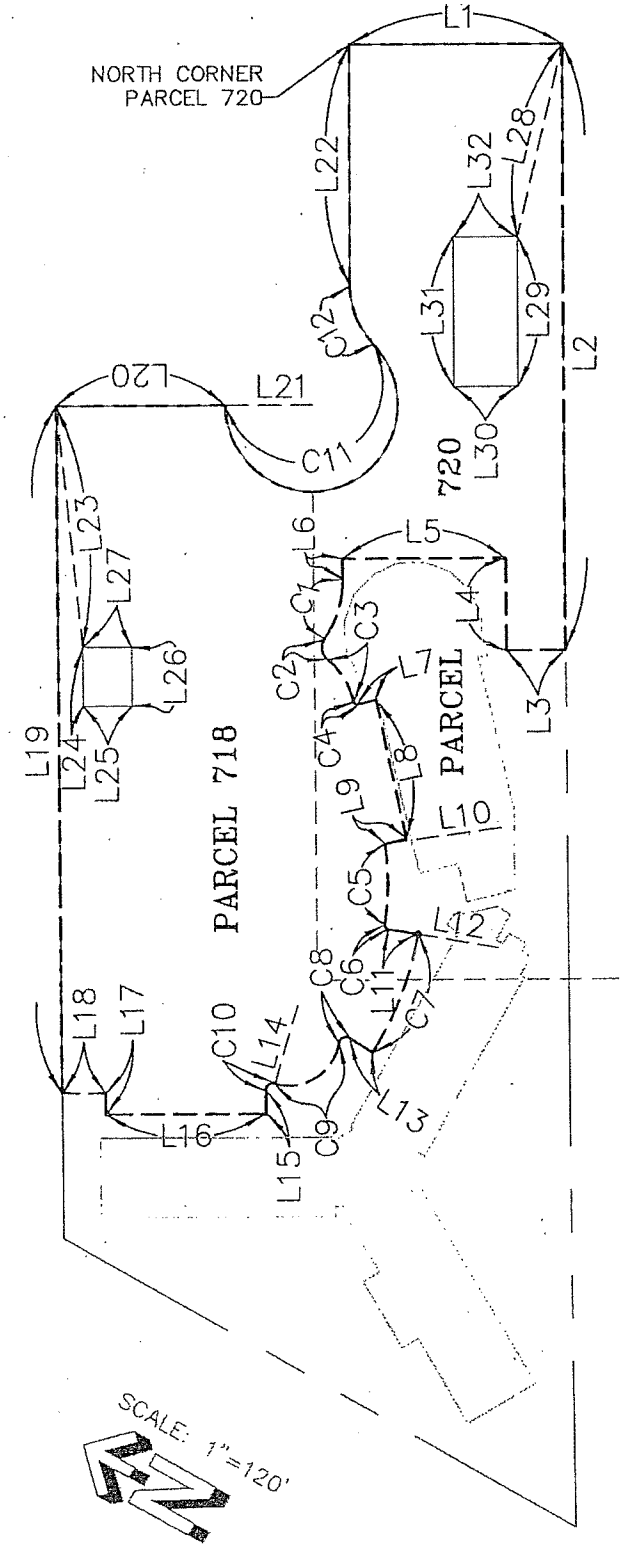
BEGINNING AT A POINT SOUTH 54°19'21" WEST 167.99 FEET FROM THE MOST NORTHERLY CORNER OF SAID PARCEL 718; THENCE PARALLEL WITH THE NORTHWESTERLY LINE OF SAID PARCEL 718 SOUTH 60°00'00" WEST 41.00 FEET; THENCE SOUTH 30°00'00" EAST 34.00 FEET; THENCE NORTH 60°00'00" EAST 41.00 FEET; THENCE NORTH 30°00'00" WEST 34.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM A RECTANGLE IN SAID PARCEL 720 DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 73°23'09" WEST 137.91 FEET FROM THE MOST EASTERLY CORNER OF SAID PARCEL 720; THENCE PARALLEL WITH THE SOUTHERLY LINE OF SAID PARCEL SOUTH 60°00'00" WEST 104.00 FEET; THENCE NORTH 30°00'00" WEST 45.00 FEET; THENCE NORTH 60°00'00" EAST 104.00 FEET; THENCE SOUTH 30°00'00" EAST 45.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM THE LANDSCAPED PORTIONS OF THE ABOVE DESCRIBED PROPERTY.

EXHIBIT "D"
PARKING EASEMENT



LINE TABLE		
LINE	BEARING	LENGTH
L1	S30°00'00"E	150.00'
L2	S60°00'00"W	420.66'
L3	N30°00'00"W	41.28'
L4	N60°00'00"E	64.00'
L5	N30°00'00"W	115.00'
L6	S60°00'00"W	14.72'
L7	S42°49'43"E	12.99'
L8	S48°00'00"W	99.26'
L9	N42°12'02"W	15.37'
L10	S37°35'38"E	RADIAL
L11	S21°05'52"E	20.97'
L12	S20°07'13"E	RADIAL
L13	N03°37'49"E	18.27'
L14	N76°38'13"E	RADIAL
L15	S60°08'04"W	16.20'
L16	N29°51'56"W	110.03'
L17	N60°08'04"E	14.84'
L18	N29°51'56"W	29.99'
L19	N60°00'00"E	477.66'
L20	S30°00'00"E	117.00'
L21	S30°00'00"E	RADIAL
L22	N60°00'00"E	167.35'
L23	S54°19'21"W	167.89'
L24	S60°00'00"W	41.00'
L25	S30°00'00"E	34.00'
L26	N60°00'00"E	41.00'
L27	N30°00'00"W	34.00'
L28	S73°23'09"W	137.91'
L29	N60°00'00"E	104.00'
L30	S30°00'00"E	45.00'
L31	S60°00'00"W	104.00'
L32	N30°00'00"W	45.00'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	35°48'32"	70.00'	43.75'
C2	87°12'15"	10.00'	15.22'
C3	40°17'19"	50.50'	35.51'
C4	91°40'24"	2.50'	4.00'
C5	16°42'05"	193.00'	56.26'
C6	90°08'43"	3.00'	4.72'
C7	23°45'02"	217.00'	89.95'
C8	113°04'09"	5.00'	9.87'
C9	96°04'55"	36.00'	60.37'
C10	106°27'20"	5.00'	9.29'
C11	223°31'52"	60.00'	234.08'
C12	43°31'52"	60.00'	45.59'

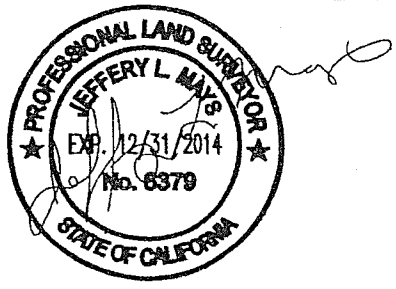


EXHIBIT E

TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT "E"
TEMPORARY CONSTRUCTION EASEMENT

A PARCEL OF LAND SITUATE IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING A PORTION OF PARCELS 718 AND 720, 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 COUNTY REGISTRAR--RECORDER/COUNTY CLERK OF THE COUNTY OF LOS ANGELES AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A STRIP OF LAND 21 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS. FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PARCEL 720; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 720, SOUTH 30°00'00" EAST 150.00 FEET TO THE MOST EASTERLY CORNER OF SAID PARCEL 720; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 720, SOUTH 60°00'00" WEST 356.40 FEET; THENCE NORTH 30°00'00" WEST 10.50 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 60°00'00" WEST 596.64 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 34 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 120°00'03" AN ARC DISTANCE OF 71.21 FEET; THENCE NORTH 00°00'00" EAST 308.24 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 24.25 FEET; THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 59°59'21" AN ARC DISTANCE OF 25.39 FEET; THENCE NORTH 60°00'00" EAST 80.32 FEET.

TOGETHER WITH THE FOLLOWING DESCRIBED LAND:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PARCEL 720; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 720, SOUTH 30°00'00" EAST 150.00 FEET TO THE MOST EASTERLY CORNER OF SAID PARCEL 720; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 720, SOUTH 60°00'00" WEST 420.66 FEET; THENCE NORTH 30°00'00" WEST 41.28 FEET; THENCE NORTH 60°00'00" EAST 64.00 FEET; THENCE NORTH 30°00'00" WEST 115.00 FEET; THENCE SOUTH 60°00'00" WEST 14.72 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 70 FEET, THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°48'32" AN ARC DISTANCE OF 43.75 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 10 FEET, THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 87°12'15" AN ARC DISTANCE OF 15.22 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 50.50 FEET, THENCE SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 40°17'19" AN ARC DISTANCE OF 35.51 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 2.50 FEET, THENCE WESTERLY AND SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 91°40'24" AN ARC DISTANCE OF 4.00 FEET; THENCE SOUTH 42°49'43" EAST 12.99 FEET; THENCE SOUTH 48°00'00" WEST 99.26 FEET THENCE NORTH 42°12'02" WEST 15.37 FEET TO THE BEGINNING OF A NON--TANGENT CURVE (A RADIAL LINE TO SAID POINT BEARS. SOUTH 37°35'38" EAST), CONCAVE TO THE NORTH AND HAVING A RADIUS OF 193 FEET, THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 16°42'05" AN ARC DISTANCE OF 56.26 FEET TO THE BEGINNING OF A REVERSE CURVE (A RADIAL LINE TO SAID POINT BEARS NORTH 20°53'33" WEST), CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 3 FEET, THENCE WESTERLY AND SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°08'43" AN ARC DISTANCE OF 4.72 FEET; THENCE SOUTH 21°05'52" EAST 20.97 FEET TO THE BEGINNING OF A NON--TANGENT CURVE (A RADIAL LINE TO SAID POINT BEARS SOUTH 20°07'13" EAST), CONCAVE TO THE NORTH AND HAVING A RADIUS OF 217 FEET, THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 23°45'02" AN ARC DISTANCE OF 89.95 FEET; THENCE NORTH 03°37'49" EAST 18.27 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 5 FEET, THENCE NORTHERLY AND WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 113°04'09" AN ARC DISTANCE OF 9.87 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 36 FEET (A RADIAL LINE TO SAID POINT BEARS SOUTH 19°26'20" EAST), THENCE WESTERLY AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 96°04'55" AN ARC DISTANCE OF 60.37 FEET TO THE BEGINNING OF A REVERSE CURVE (A RADIAL LINE TO SAID POINT BEARS NORTH 76°38'13" EAST), CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 5 FEET, THENCE NORTHERLY AND WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 106°27'20" AN ARC DISTANCE OF 9.29 FEET; THENCE SOUTH 60°08'04" WEST 16.20 FEET; THENCE NORTH 29°51'56" WEST 110.03 FEET; THENCE NORTH 60°08'04" EAST 14.84 FEET; THENCE NORTH 29°51'56" WEST 29.99 FEET TO THE NORTHWESTERLY LINE OF SAID PARCEL 718; THENCE ALONG SAID NORTHWESTERLY LINE OF SAID PARCEL 718 NORTH 60°00'00" EAST 477.66 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL 718; THENCE ALONG THE NORTHEAST LINE OF SAID PARCEL 718, SOUTH 30°00'00" EAST 117.00 FEET TO THE BEGINNING OF A NON--TANGENT CURVE (A RADIAL LINE TO SAID POINT BEARS NORTH 30°00'00" WEST), CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 60 FEET, THENCE WESTERLY, SOUTHERLY AND EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 223°31'52" AN ARC DISTANCE OF 234.08 FEET TO THE BEGINNING OF A REVERSE CURVE (A RADIAL LINE TO SAID POINT BEARS NORTH 73°31'52" WEST), CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 60 FEET, THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 43°31'52" AN ARC DISTANCE OF 45.59 FEET; THENCE NORTH 60°00'00" EAST 167.35 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM A RECTANGLE IN SAID PARCEL 718 DESCRIBED AS FOLLOWS:

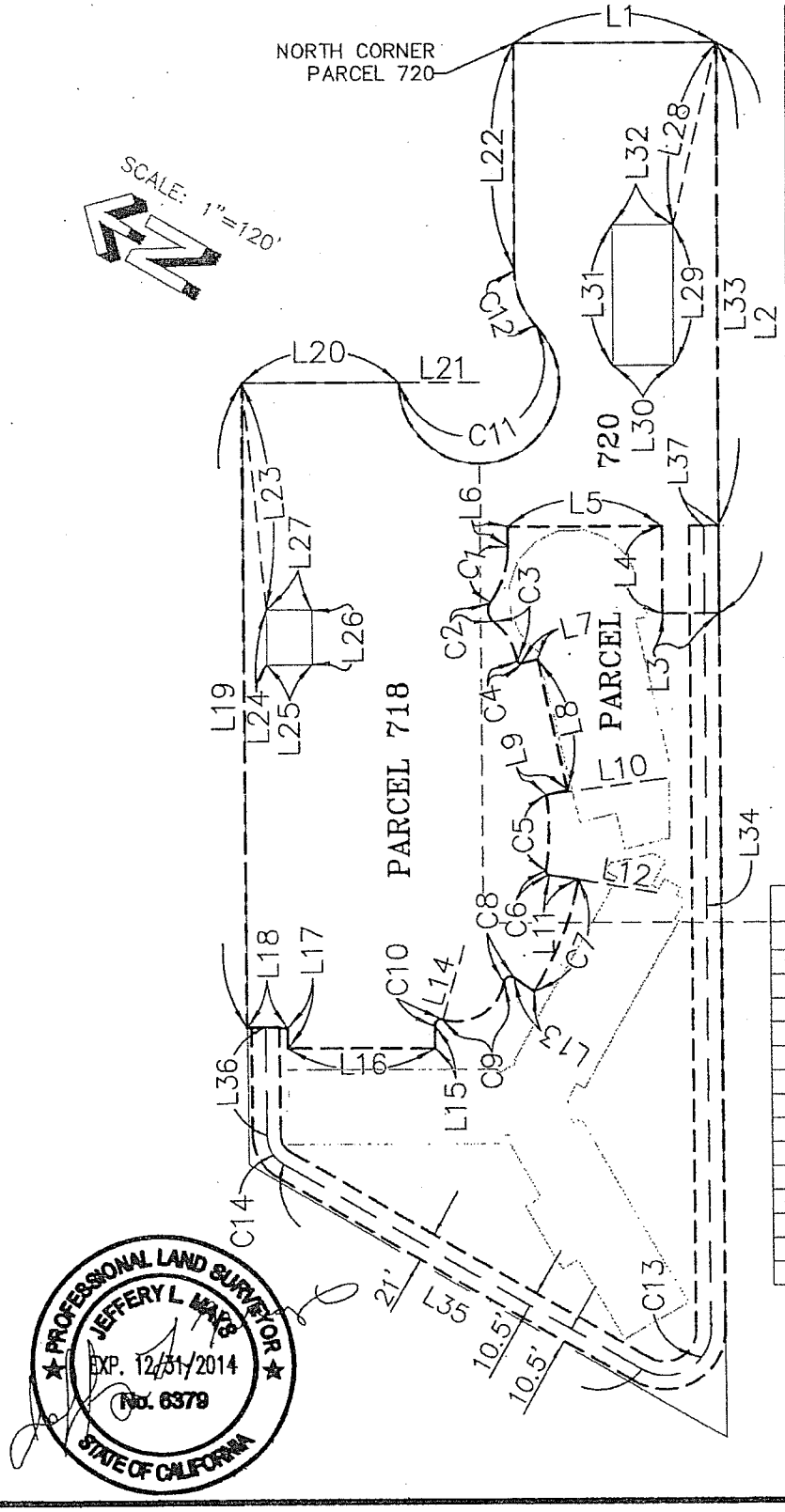
BEGINNING AT A POINT SOUTH 54°19'21" WEST 167.99 FEET FROM THE MOST NORTHERLY CORNER OF SAID PARCEL 718; THENCE PARALLEL WITH THE NORTHWESTERLY LINE OF SAID PARCEL 718 SOUTH 60°00'00" WEST 41.00 FEET; THENCE SOUTH 30°00'00" EAST 34.00 FEET; THENCE NORTH 60°00'00" EAST 41.00 FEET; THENCE NORTH 30°00'00" WEST 34.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM A RECTANGLE IN SAID PARCEL 720 DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 73°23'09" WEST 137.91 FEET FROM THE MOST EASTERLY CORNER OF SAID PARCEL 720; THENCE PARALLEL WITH THE SOUTHERLY LINE OF SAID PARCEL SOUTH 60°00'00" WEST 104.00 FEET; THENCE NORTH 30°00'00" WEST 45.00 FEET; THENCE NORTH 60°00'00" EAST 104.00 FEET; THENCE SOUTH 30°00'00" EAST 45.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM THE LANDSCAPED PORTIONS OF THE ABOVE DESCRIBED PROPERTY.

EXHIBIT "E"
TEMPORARY CONSTRUCTION EASEMENT



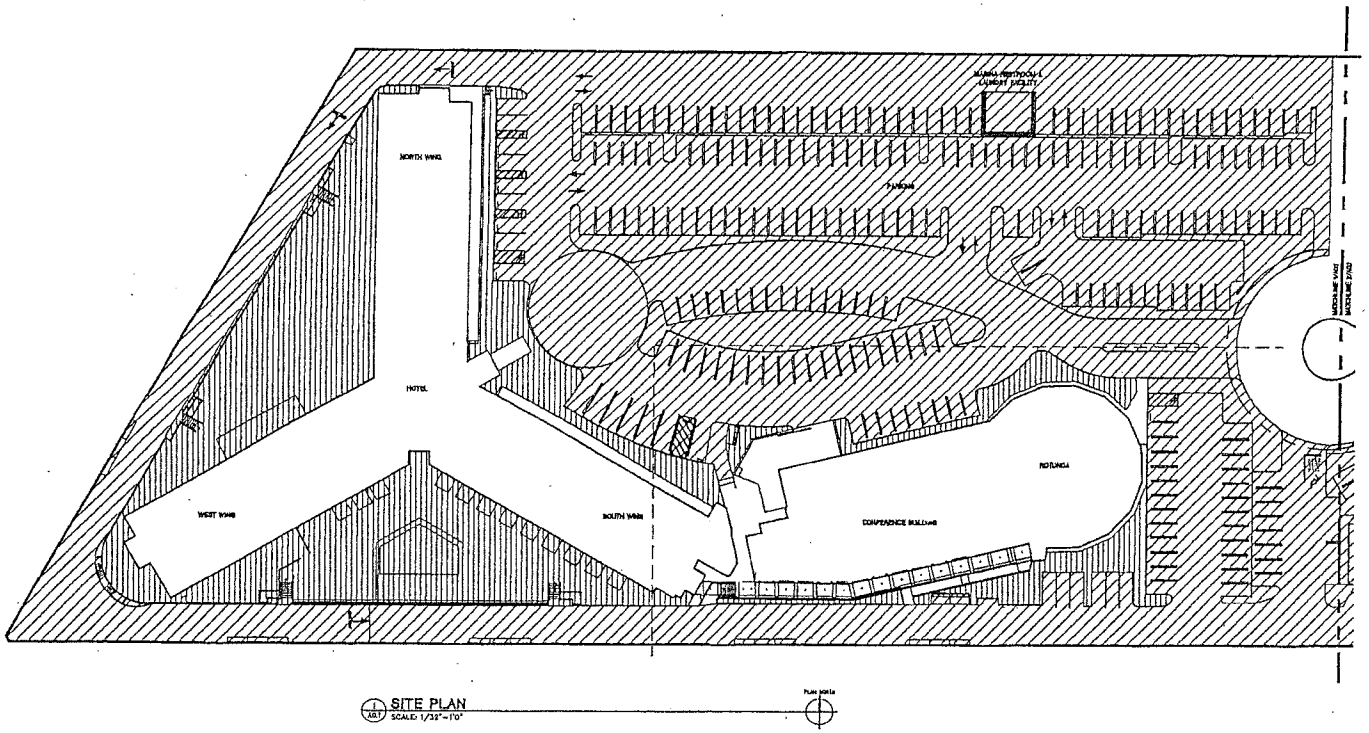
LINE TABLE		
LINE	BEARING	LENGTH
L1	S30°00'00"E	150.00'
L2	S60°00'00"W	420.66'
L3	N30°00'00"W	41.28'
L4	N60°00'00"E	64.00'
L5	N30°00'00"W	115.00'
L6	S60°00'00"W	14.72'
L7	S42°49'43"E	12.99'
L8	S48°00'00"W	99.26'
L9	N42°12'02"W	15.37'
L10	S37°35'38"E	RADIAL
L11	S21°05'52"E	20.97'
L12	S20°07'13"E	RADIAL
L13	N03°37'49"E	18.27'
L14	N76°38'13"E	RADIAL
L15	S60°08'04"W	16.20'
L16	N29°51'56"W	110.03'
L17	N60°08'04"E	14.84'
L18	N29°51'56"W	29.99'
L19	N60°00'00"E	477.66'
L20	S30°00'00"E	117.00'
L21	S30°00'00"E	RADIAL
L22	N60°00'00"E	167.35'
L23	S54°19'21"W	167.99'
L24	S60°00'00"W	41.00'
L25	S30°00'00"E	34.00'
L26	N60°00'00"E	41.00'
L27	N30°00'00"W	34.00'
L28	S75°23'09"W	137.91'
L29	N60°00'00"E	104.00'
L30	S30°00'00"E	45.00'
L31	S60°00'00"W	104.00'
L32	N30°00'00"W	45.00'
L33	S60°00'00"W	356.40'
L34	S60°00'00"W	596.64'
L35	N00°00'00"E	308.24'
L36	N60°00'00"E	80.32'
L37	N30°00'00"W	10.50'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	35°48'32"	70.00'	43.75'
C2	87°12'15"	10.00'	15.22'
C3	40°17'19"	50.50'	35.51'
C4	91°40'24"	2.50'	4.00'
C5	16°42'05"	193.00'	56.26'
C6	90°08'43"	3.00'	4.72'
C7	23°45'02"	217.00'	89.95'
C8	113°04'09"	5.00'	9.87'
C9	96°04'55"	36.00'	60.37'
C10	106°27'20"	5.00'	9.29'
C11	223°31'52"	60.00'	234.08'
C12	43°31'52"	60.00'	45.59'
C13	120°00'03"	34.00'	71.21'
C14	59°59'21"	24.25'	25.39'

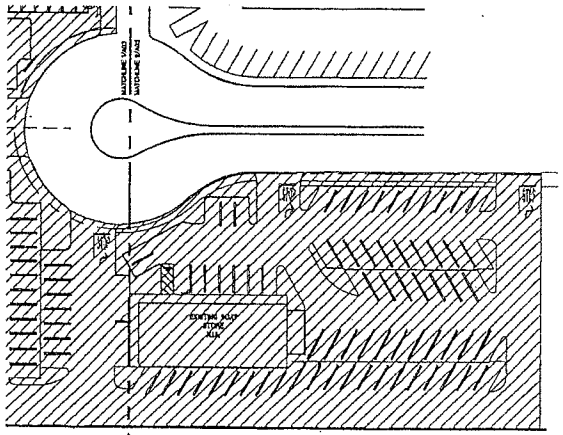
PROFESSIONAL LAND SURVEYOR
JEFFERY L. MAYS
EXP. 12/31/2014
No. 6379
STATE OF CALIFORNIA

EXHIBIT F

LANDSCAPING



SITE PLAN
SCALED 1/32"=1'0"



SITE PLAN
SCALED 1/32"=1'0"

PARKING INFORMATION

332 PARKING SPACES PROVIDED. TWO (2) VAN AND EIGHT (8) ACCESSIBLE PARKING SPACES PER 2010 CBC, TABLE 11B-6.

LANDSCAPING KEY

ALL LANDSCAPING FEATURES IN THIS AREA, AS SUCH MAY EXIST FROM TIME TO TIME, ARE HOTEL LANDSCAPING.

ALL LANDSCAPING FEATURES IN THIS AREA, AS SUCH MAY EXIST FROM TIME TO TIME, ARE MARINA LANDSCAPING.

ALL LANDSCAPING FEATURES IN THIS AREA, AS SUCH MAY EXIST FROM TIME TO TIME, ARE SHARED LANDSCAPING.

AGI
ARCHITECTURAL GROUP INTERNATIONAL

This drawing is the property of ARCHITECTURAL GROUP INTL, and is not to be reproduced or copied in whole or in part. It is only to be used for the project and specific locations shown and may not be used on any other projects without the written permission of ARCHITECTURAL GROUP INTL. This restriction includes all graphic representations and electronic media. Contractors shall verify and be responsible for all dimensions. Do not scale drawings. Any discrepancies shall be reported immediately. Contractor shall keep all construction work completely and accurately dimensioned on the jobsite at all times and shall make it available to the Architect and his consultants upon request.

Revisions:

Mark	Date	By	Description
△			
△			
△			

Pacifica HOTEL COMPANY

MARINA DEL REY HOTEL
13534 BALI WAY
MARINA DEL REY, CA

Architects Project No. 13003
Date 5/7/13

No.

LANDSCAPING EXHIBIT TO REA

Sheet

A0.1-LE

BOARD OF SUPERVISORS' ORIGINAL

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

UNION BANK, N.A.
Attn: Manager
Commercial Real Estate Loan Administration
145 S. State College Blvd., Suite 600
Brea, California 92821

GROUND LEASE ESTOPPEL CERTIFICATE AND CONSENT

[Marina Hotel]

This GROUND LEASE ESTOPPEL CERTIFICATE AND CONSENT (this "**Estoppel and Consent**") is made as of August 30, 2013, by the COUNTY OF LOS ANGELES ("**County**") and UNION BANK, N.A., successor-in-interest to Santa Barbara Bank & Trust, its successors and/or assigns ("**Lender**"), and acknowledged by IWF MDR HOTEL, L.P., a California limited partnership ("**IWF**").

RECITALS:

A. County, as lessor, and a predecessor-in-interest to IWF, as lessee, entered into that certain Lease Agreement No. 5577, dated May 7, 1962 (as amended prior to the Restated Lease described below, the "**Pre-Existing Lease**") which Pre-Existing Lease related to certain real property in the Marina del Rey Small Craft Harbor commonly referred to collectively as Parcel Nos. 42 and 43.

B. Concurrent or substantially concurrent herewith County and IWF have entered into an Amended and Restated Lease Agreement that fully amends and restates the Pre-Existing Lease (the "**Restated Lease**"), including a modification of the premises under the Restated Lease to include only the modified Parcel No. 42 parcel legally described on Exhibit "A" attached hereto (the "**Parcel**"). The Pre-Existing Lease, as fully amended and restated by the Restated Lease, is referred to herein as the "**Lease.**" Capitalized terms used herein shall have the meanings given in the Lease unless otherwise defined.

C. Lender extended a loan to Borrower (the "**Loan**") in the original principal amount of $21,507,000, as evidenced by certain Loan Documents (as defined in Paragraph 1 of the Consent below). Pursuant to a Holdback Disbursement Agreement and Amendment ("**Holdback Disbursement Agreement**") Lender is making certain loan proceeds from the Loan (the "**Holdback Amount**") available to IWF to partially finance Renovation Work to be constructed on the Premises by IWF. Lessee's obligations under the Loan Documents, as modified by the Holdback Disbursement Agreement, are and will continue to be secured by all of IWF's right, title and interest in the Parcel, the Improvements located thereon, and the Lease (collectively, the "**Leasehold Estate**") pursuant to that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated May 15, 2006 and recorded May 22, 2006 in the Official

Records of Los Angeles County ("**Official Records**") as Instrument No. 06 1115108, as amended by that certain Modification of Deed of Trust dated April 19, 2011 and recorded in the Official Records on April 26, 2011, as Instrument No. 20110599425, as further amended by a Second Modification to Deed of Trust dated substantially as of the date hereof (as modified, the "**Deed of Trust**"), and such other security as is described in more detail in the documents relating to the Loan, which documents are described in more detail below.

D. The proceeds of the Holdback Amount will be utilized by IWF to finance, in part, the Renovation Work under the Lease.

E. As a condition to the modification of the Loan in accordance with the Holdback Disbursement Agreement and with knowledge that IWF and Lender are relying hereon, County has been requested to deliver this Estoppel and Consent.

ESTOPPEL

In consideration of the foregoing recitals, County hereby represents and warrants as follows:

1. A true and complete list of the documents comprising the Restated Lease and all amendments, supplements, and other modifications thereto of every nature is attached to this Estoppel and Consent as Exhibit "B". Upon and after the execution and delivery of the Restated Lease, the Restated Lease shall constitute the entire agreement between the parties to the Restated Lease with respect to periods from and after the date of the Restated Lease. Except as set forth on Exhibit "B", the Restated Lease has not otherwise been modified, supplemented or amended in any way.

2. Immediately prior to the execution and delivery of the Restated Lease the Pre-Existing Lease was in full force and effect. Upon the full execution and delivery of this Estoppel and Consent and the Restated Lease, which execution and delivery is intended to occur on a concurrent basis, the Pre-Existing Lease shall be fully amended and restated in accordance with the Restated Lease with respect to the Parcel, and the Restated Lease shall be in full force and effect. County has not assigned its interests in the Lease, either in whole or in part.

3. The Term of the Lease commenced on March 1, 1962 and will terminate on February 28, 2061.

4. Rents and other charges have been fully paid under the Pre-Existing Lease through March 31, 2013, as verified by formal audit for the period ending such date (the "**Effective Audit Date**"). That audit revealed that rents due under terms of the Pre-Existing Lease have been fully paid through the Effective Audit Date. Monthly payments of annual square foot rental in the amount of $52,842.25, as required under Section 12 of the Pre-Existing Lease, have been timely and fully made since the Effective Audit Date for all months up through and including August, 2013 (subject to adjustment for the remaining portion of the month of August, 2013 from and after the Effective Date of the Restated Lease (if any) to account for the difference in the amount of the monthly installment of such annual square foot rental and the Monthly Minimum Rent to be paid under the Restated Lease from and after the Effective Date of the Restated Lease). Monthly payments of percentage rent, to the extent required under Section

13 of the Pre-Existing Lease, have been made since the Effective Audit Date for all months through and including August, 2013 (for the gross receipts for July, 2013), but are subject to audit. In the event any such audit reveals rental deficiencies, the County is entitled to receive and will expect payment by IWF or the then-current lessee under the Restated Lease for all unpaid deficiencies accruing on and after the Effective Audit Date under the Pre-Existing Lease. No representation is made herein by County as to the current status of the lessee's payments of possessory interest taxes or any other taxes, assessments or similar service charges which may be due by the lessee to the County or other governmental or regulatory body in connection with the Parcel or the premises under the Pre-Existing Lease.

5. To the best knowledge of County, and except as otherwise set forth in this Paragraph, there are no existing defaults under the Lease with respect to any monetary (subject to County's audit right described in Paragraph 4, above, with respect to percentage rents payable for periods after the Effective Audit Date) or non-monetary provision of the Lease and no event has occurred which, with the passage of time or giving of notice, or both, would constitute a default with respect to any non-monetary provision of the Lease.

6. Prior to the execution of the Restated Lease a security deposit in the amount of $13,210.56 was held by County under the Pre-Existing Lease. Concurrent with the execution and delivery of the Restated Lease, Lessee is delivering to County an additional $55,193.73 to increase the security deposit held by County under the Restated Lease to an aggregate of $68,404.29.

7. No voluntary surrender or mutual termination of the Lease by IWF will be effective without the prior written consent of Lender. Notwithstanding the foregoing, subject to Section 12.6 of the Restated Lease, the County reserves its right under the Lease to terminate the Lease based upon: (i) an Event of Default following County's provision of the notices and opportunities to cure to IWF and Lender or any other encumbrance holder consented to by County under the Lease; (ii) the expiration of the term of the Lease; or (iii) as otherwise expressly provided in the Lease. The address for Lender as an Encumbrance Holder (as defined in the Lease) for written notice under the terms of the Lease is:

Union Bank, N.A.
Attn: Manager
Commercial Real Estate Loan Administration
145 S. State College Blvd., Suite 600
Brea, CA 92821

8. County has approved the Renovation Plan and Final Plans and Specifications for the Renovation Work on the Parcel as provided in Section 5.1 of the Restated Lease.

9. The 180-day period set forth in Section 13.1.4 of the Restated Lease by which a restaurant on the Premises that fails to be open to the public must be re-opened shall not commence until the earlier of (a) the substantial completion of the Renovation Work with regard to the restaurant or (b) the Required Construction Completion Date.

10. County agrees that Lender (i) is an "**Encumbrance Holder**" as defined in Section 12.1.1 of the Restated Lease with respect to IWF's entire leasehold interest under the Lease, and is an "**Institutional Lender**" as defined in Section 12.3.1 of the Restated Lease, and (ii) is entitled to all of the rights and privileges provided to Encumbrance Holders and Institutional Lenders in Article 12 and any other applicable provisions of the Restated Lease, including, without limitation the rights provided in Section 5.8 thereof.

11. Neither Lender nor any Foreclosure Transferee (as defined in the Lease) shall be liable for any obligations of the lessee under the Lease, unless and until Lender or such Foreclosure Transferee acquires the leasehold, whether by Foreclosure Transfer (as defined in the Lease) or otherwise. Lender or such Foreclosure Transferee shall be responsible for the continued performance of said obligations only to the extent and for the applicable time period provided for in the Lease.

12. Lender may contact Don Geisinger (at 310-305-9506) of the Los Angeles County Department of Beaches and Harbors, or a substitute employee of that Department as designated by the Director thereof, at reasonable intervals to inquire about, and receive information regarding the status of the Lease, including, but not limited to, information about the existence of any proposed assignment of the Lease, any proposed additional or further encumbrance of the leasehold estate in the Lease, any proposed amendment to the Lease or the existence of any event involving the distribution of either insurance or condemnation proceeds as provided for in the Lease. The County acknowledges that the Loan Documents, as defined below, require that IWF obtain Lender's consent before IWF executes any amendment to, or modification of, the Lease. Section 12.5 of the Restated Lease requires that the Lease not be modified, amended, surrendered or terminated (other than in accordance with the provisions of Article 12 of the Restated Lease) without the prior written consent of Lender.

13. The provisions of this Estoppel and Consent shall be binding upon County's successors and assigns, and may be relied upon, and shall inure to the benefit of Lender and its successors and assigns, and to IWF.

CONSENT

The County hereby consents to the Loan by Lender to IWF and to the Encumbrance of the Leasehold Estate pursuant to the Loan Documents (as defined below), and the execution of those related documents in connection therewith, subject to the following conditions:

1. The documents listed on Exhibit C attached hereto (hereinafter collectively referred to as the "**Loan Documents**"), along with this Estoppel and Consent, are the only documents that IWF and Lender intend to execute, or have executed by the appropriate parties, in connection with the Loan.

2. Any additional loan documents required to be executed by IWF, Lender or any other required parties, as provided by the Loan Documents, or any revisions to the Loan Documents (marked to show how they differ from the Loan Documents), shall be submitted to the County before their execution for review, further comment, if any, and County consent if the County finds such action necessary in view of the changes that have been made to the Loan

Documents. In any such review, the County's consent shall not be unreasonably withheld, conditioned or delayed. County shall notify Lender within ten (10) business days after its receipt of such documents if it has determined that further comment or consent is required in accordance with this Paragraph.

3. Copies of any subsequent documents executed by IWF, Lender or any other party, in connection with the loan evidenced by the Loan Documents, bearing any information relating to a document's recording, shall be delivered to the County at the address set forth in Section 15.10 of the Restated Lease no later than seven (7) days after the effective date thereof, pursuant to Section 12.1.2 of the Restated Lease.

4. Lender acknowledges to the County by execution and return of the enclosed copy of this Estoppel and Consent its agreement to the matters set forth in the Consent portion of the Estoppel and Consent.

5. While the Loan Documents executed by IWF and Lender in connection with the Loan shall be determinative of the rights and obligations between IWF and Lender and any sublessee of IWF under the Lease with respect to the Loan, they do not, and shall not enlarge upon any rights of IWF, Lender or any sublessee, as against the County, under the Lease, except as expressly provided in the Lease and this Estoppel and Consent. In consenting to this Loan the County does not intend to subordinate any of its rights under the Lease to the rights of Lender under the Loan and, to the extent the respective rights are inconsistent, the rights of the County shall prevail, except as expressly provided in this Estoppel and Consent.

6. The Lease alone, and this Estoppel and Consent, shall be determinative of any rights and obligations of the parties, as between the County, IWF and any sublessee under the Lease and as between the County and Lender (except for any written estoppels and consents given by the County to Lender) with respect to the subject matter of the Lease, inclusive of such provisions of the Lease by way of example and not limitation, as the provisions dealing with (i) entitlement to, and distribution of, insurance and condemnation proceeds, (ii) the conduct of IWF under the Lease regarding which an approved encumbrance holder is entitled to notice from the County (except as expressly provided in this Estoppel and Consent), (iii) the boundaries of the Leasehold Estate under the Lease, and (iv) the rights of way reserved by the County within the properties subject to the Leasehold Estate under the Lease.

7. The encumbrance in favor of Lender of the Leasehold Estate created in connection with the Loan and any interest that Lender may acquire in the Leasehold Estate and the buildings, improvements, fixtures, tenements, attachments, appliances, equipment, building systems, machinery, easements, rights-of-way, appurtenances, water, water rights and ditch rights, and all other rights, royalties, profits, rents and collateral relating to the Leasehold Estate under the Loan Documents in connection with the Loan shall automatically cease upon: (i) the expiration of the term of the Lease; or (ii) the early termination of the Lease, provided that County has given: (a) all notices of default and opportunities to cure which are required by the Lease to be provided to IWF and Lender, as an approved Encumbrance Holder (as defined in the Lease), and the default(s) referenced in such notices remain uncured after expiration of any applicable grace or cure periods; and, (b) the right to enter into a new lease as set forth in Section 12.7 of the Restated Lease.

8. Upon full payment and performance by IWF under the Loan, Lender's rights under any assignment of the Leasehold Estate it has obtained in connection with the Loan shall terminate without the necessity of any further action by the County. Lender shall promptly provide the County at the address set forth in Section 15.10 of the Restated Lease with a copy of any release or termination which is utilized to reflect the termination of Lender's interests as acquired in connection with the encumbrances of the Leasehold Estate created in connection with the Loan.

9. The County's consent to any future increase in the principal amount of the Loan (other than advances specifically contemplated to be made by Lender pursuant to the Loan Documents or advances made to protect Lender's interest in the security for the Loan, or the capitalization of accrued interest or late fees or penalties set forth in the Loan Documents), the replacement of the Loan and/or the renewal of the Loan (other than the extensions of the maturity date of the Loan) is required to the extent that such increased, replaced, or renewed Loan is to be secured by the Loan Documents or new security instruments that encumber the Leasehold Estate, provided that County's consent shall not be unreasonably withheld, conditioned, or delayed.

10. The County's consent to any new loan (other than the Loan as described herein) is required to the extent the new loan is to be secured by the Loan Documents or new security instruments that encumber the Leasehold Estate. In the event that a lender (which may be, but need not be Lender) agrees to (a) provide IWF with a loan to repay the Loan, or (b) finance all or part of the purchase of IWF's interest in the Lease (whether such leasehold interest is being sold by IWF or is sold by a Lender or its nominee following a foreclosure under its Encumbrance), and further provided that all necessary approvals and consents to such loan have been obtained (including the approval of County under 12.1.2 of the Restated Lease and the approval of the Lender as required under the Loan Documents), then, if requested by such subsequent lender, the parties hereto agree to cooperate with each other in a commercially reasonable manner to enter into an estoppel and consent with such subsequent lender substantially similar to this Estoppel and Consent, taking into account differences in deal structure or other changed facts or circumstances.

11. Lender shall promptly notify the County if the Loan is transferred to any other party (except for the grant of participation interests that do not change the entity authorized to act on behalf of Lender under the Loan) prior to its full repayment and retirement. The County recognizes that Lender may assign its interest in the Loan and may sell and assign participation interests in and to the Loan, or pledge, hypothecate or encumber all or any portion of the Loan and the County explicitly consents to such actions subject to the terms and conditions of this Estoppel and Consent.

12. The legal description for the Parcel that is set forth in the Lease describes the boundaries of the Leasehold Estate and, with Section 3.9 of the Lease, the easements that have been reserved by the County in the leasehold, and to the extent any such easements have been reserved, the Loan is subject to them.

13. This Estoppel and Consent may be executed in counterparts, and when all counterpart documents are executed, the counterparts shall constitute a single integrated document.

14. This Estoppel and Consent shall be deemed effective on the date of its recording in the Official Records.

[Signatures begin on following page]

IN WITNESS WHEREOF, this Ground Lease Estoppel Certificate and Consent has been executed and given by County, through its duly authorized representative, as of the date first set forth above.

COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

ATTEST:

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

By: _____
Deputy

AUG 28 2013

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

AUG 28 2013

APPROVED AS TO FORM

JOHN F. KRATTLI
County Counsel

By: _____
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

30 MAY 17 2011

SACHI A. HAMAI
EXECUTIVE OFFICER

APPROVED AS TO FORM

MUNGER, TOLLES & OLSON LLP

By: _____

UNION BANK, N.A.

By: _____
Matthew Doerr, Vice President

IN WITNESS WHEREOF, this Ground Lease Estoppel Certificate and Consent has been executed and given by County, through its duly authorized representative, as of the date first set forth above.

COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

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:_____

UNION BANK, N.A.

By:_____
Matthew Doerr, Vice President

Acknowledgment As To Receipt of Estoppel and Agreement as to the Consent:

IWF MDR HOTEL, L.P., a
California limited partnership

Date: August 30, 2013

By: IWF MDR HOTEL, LLC, a
California limited liability company
Its General Partner

By: Invest West Financial, LLC, a
California limited liability company
Its Sole Member

By: _____
Name: Matthew D. Marquis
Title: President

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of LOS ANGELES }

On AUGUST 29, 2013 (Date) before me, IVONNE EVELYN UMANA, NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared LA CHELLE MAUREEN SMITHERMAN (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

IVONNE EVELYN UMANA
Commission # 1885778
Notary Public - California
Los Angeles County
My Comm. Expires Apr 23, 2014

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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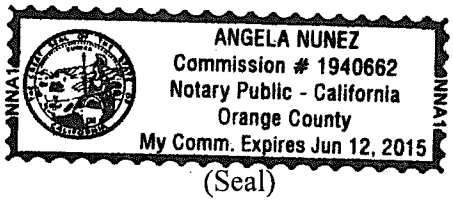
State of California)
County of Orange)

On 8/26/2013, before me, Angela Nunez, (insert name and title of the officer)
Notary Public, personally appeared Matthew A Doerr,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature _____ (Seal)

State of California)
County of Santa Barbara)

On August 27, 2013, before me, Robin P. Lyons,
(insert name and title of the officer)
Notary Public, personally appeared Matthew Marquis,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

ROBIN P. LYONS
Commission # 1928885
Notary Public - California
Santa Barbara County
My Comm. Expires Apr 14, 2015

Signature Robin P. Lyons (Seal)

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

EXHIBIT A

DESCRIPTION OF PROPERTY

That certain real property in the City of Marina del Rey, County of Los Angeles, State of California described as follows:

Parcels 718 and 720, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 through 70, inclusive, of Assessor's Maps, in the office of the Registrar-Recorder/County Clerk of the County of Los Angeles, State of California.

EXCEPTING therefrom that portion within the following described boundaries:

COMMENCING at the northwesterly corner of said Parcel 718; thence North 60°00'00" East, along the northwesterly line of said Parcel 718, a distance of 578.76 feet to the most northerly corner of said Parcel 718; thence South 54°19'21" West 167.99 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 41.00 feet; thence South 30°00'00" East 34.00 feet; thence North 60°00'00" East 41.00 feet; thence North 30°00'00" West 34.00 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPTING therefrom that portion within the following described boundaries:

COMMENCING at the most northerly corner of said Parcel 720; thence South 30°00'00" East, along the northeasterly line of said Parcel 720, a distance of 150 feet to the most easterly corner of said Parcel 720; thence South 73°23'09" West 137.91 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 104.00 feet; thence North 30°00'00" West 45.00 feet; thence North 60°00'00" East 104.00 feet; thence South 30°00'00" East 45.00 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPTING therefrom an undivided one-half interest in all oil, gas, and other hydrocarbons lying at or below a depth of 500 feet from the surface, but without any right of entry upon the surface or the first 500 feet below the surface, as reserved to the defendants in a Final Order of Condemnation, had in Superior Court Case No. S.M.C. 5262, certified copies of which were recorded on December 5, 1958, in Book D297, page 221, of Official Records, in the office of said Registrar-Recorder/County Clerk, and on August 21, 1959, in Book D580, page 230, of said Official Records.

RESERVING therefrom to the County of Los Angeles easements for sanitary sewer, fire access, harbor utility, and storm drain purposes within those portions thereof designated on said map to be reserved by said county for such purposes.

EXHIBIT B

LIST OF DOCUMENTS COMPRISING THE LEASE

The following documents constitute the Restated Lease:

1. Amended and Restated Lease Agreement dated of even date herewith.

EXHIBIT C

LOAN DOCUMENTS

1. Note Secured by Deed of Trust (Straight Note) in the original principal amount of $21,507,000.00 dated May 15, 2006.

2. Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Short Form) dated May 15, 2006 as modified by that certain Modification of such Deed of Trust dated January 20, 2011, and Second Modification of Deed of Trust dated of even date herewith.

3. Indemnity Agreement dated May 15, 2006.

4. Agreement to Provide Insurance dated May 15, 2006.

5. Compliance Agreement dated May 15, 2006.

6. Financial Information Requirement dated May 15, 2006.

7. Holdback Disbursement Agreement and Amendment dated April 11, 2013.

8. Assignment of Construction Contract dated of even date herewith.

9. Assignment of Plans and Specifications dated of even date herewith.

BOARD OF SUPERVISORS' ORIGINAL

OPTION AGREEMENT REGARDING LEASEHOLD INTEREST
(Parcel 43)

THIS OPTION AGREEMENT REGARDING LEASEHOLD INTEREST (Parcel 43) ("**Agreement**") is made and entered into as of the 30th day of August, 2013, by and between the COUNTY OF LOS ANGELES ("**County**") and MDR MARINA, L.P., a California limited partnership ("**Lessee**").

RECITALS

A. County and IWF MDR Hotel, L.P., a California limited partnership ("**Base Optionee**") entered into that certain Option Agreement Regarding Leasehold Interest (Parcels 42 and 43) dated May 17, 2011 (the "**Original Base Option Agreement**"), pursuant to which County granted to Base Optionee two options referenced in the Base Option Agreement respectively as the "**Parcel 42 Option**" and the "**Parcel 43 Option**."

B. County and Base Optionee entered into that certain Amendment to Option Agreement Regarding Leasehold Interest (Parcels 42 and 43) dated November 13, 2012 (the "**Base Option Agreement Amendment**") pursuant to which the Original Base Option Agreement was amended in certain respects, including the extension of the required dates for the exercise of Parcel 42 Option and the Parcel 43 Option; the Original Base Option Agreement, as amended by the Base Option Agreement Amendment is referred to herein as the "**Base Option Agreement**;"

C. Base Optionee exercised the Parcel 42 Option in accordance with the Base Option Agreement, but has not exercised the Parcel 43 Option.

78023

D. In connection with the exercise of the Parcel 42 Option, pursuant to the terms of the Base Option Agreement, concurrent herewith (a) County, as lessor, and Base Optionee, as lessee (in such capacity, the "**Parcel 42 Lessee**") have entered into that certain Amended and Restated Lease Agreement (Parcel 42) dated of even date herewith (the "**Amended and Restated Parcel 42 Lease**") concerning the lease by County to Parcel 42 Lessee of certain real property in the Marina del Rey Small Craft Harbor more particularly described in Exhibit A attached to the Amended and Restated Parcel 42 Lease (the "**Modified Parcel 42 Premises**"); and (b) County, as lessor, and Base Optionee, as lessee, have entered into that certain Amended and Restated Lease Agreement (Pre-Parcel 43 Option Exercise) dated of even date herewith (the "**Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise)**") concerning the lease of certain real property in the Marina del Rey Small Craft Harbor more particularly described in Exhibit A attached to the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise), and Base Optionee's rights, title and interests as lessee under the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) have been assigned by Base Optionee to Lessee.

E. The term of the Amended and Restated Parcel 43 Lease Agreement (Pre-Parcel 43 Option Exercise) is currently scheduled to expire on February 28, 2022 (the "**Existing Expiration Date**").

F. Under the circumstance in which the Parcel 42 Option is exercised but the Parcel 43 Option is not exercised under the Base Option Agreement, the Base Option Agreement provides that concurrent with the execution and delivery of the Amended and Restated Parcel 42 Lease and the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise), the Base Option Agreement is terminated with respect to the Parcel 43 Option and the County and Lessee are to execute and deliver this Agreement to replace the Parcel 43 Option set forth in the Base Option Agreement.

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

1. Definitions. In addition to any other capitalized terms defined elsewhere in this Agreement, the following initial-capitalized terms used in this Agreement shall be defined as follows:

1.1 "**Agreement**" means this Option Agreement Regarding Leasehold Interest (Parcel 43).

1.2 "**Amended and Restated Parcel 42 Lease**" has the meaning given such term in Recital D of this Agreement.

1.3 "**Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise)**" means an Amended and Restated Lease Agreement for the Modified Parcel 43 Premises (Post-Expansion) in substantially the form attached to this Agreement as Exhibit A.

1.4 "**Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise)**" has the meaning given such term in Recital D of this Agreement.

1.5 "**Base Option Agreement**" has the meaning give such term in Recital B of this Agreement.

1.6 "**Base Optionee**" has the meaning give such term in Recital A of this Agreement.

1.7 "**County**" means the County of Los Angeles.

1.8 "**Department**" means the Department of Beaches and Harbors of Los Angeles County.

1.9 "**Director**" means the Director of the Department of Beaches and Harbors of Los Angeles County.

1.10 "**Entitlements**" has the meaning given such term in Section 4.1 of this Agreement.

1.11 "**Entitlements Condition**" has the meaning given such term in Section 4.1 of this Agreement.

1.12 "**Existing Expiration Date**" has the meaning given such term in Recital E of this Agreement.

1.13 "**Extension Fee**" has the meaning given such term in Section 6.2 of this Agreement.

1.14 "**Lessee**" has the meaning set forth in the first paragraph of this Agreement.

1.15 "**Lessee Breach**" has the meaning given such term in Section 9.12 of this Agreement.

1.16 "**Lessee Default**" has the meaning given such term in Section 9.12 of this Agreement.

1.17 "**Master CDP Application**" has the meaning given such term in Section 7.1 of this Agreement.

1.18 "**Memorandum of Lease**" has the meaning given such term in Section 5.2 of this Agreement.

1.19 "**Modified Parcel 42 Premises**" has the meaning set forth in Recital D to this Agreement.

1.20 "**Modified Parcel 43 Premises**" means whichever of the Modified Parcel 43 Premises (Pre-Expansion) or Modified Parcel 43 Premises (Post-Expansion) is in effect at a particular time.

1.21 "**Modified Parcel 43 Premises (Post-Expansion)**" means the real property described on Exhibit A attached to the form of Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) attached to this Agreement as Exhibit A.

1.22 "**Modified Parcel 43 Premises (Pre-Expansion)**" means the real property described on Exhibit A attached to the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise).

1.23 "**Option**" means an option in favor of Lessee for all, but not less than all, of the following: (a) the expansion of the Modified Parcel 43 Premises from the Modified Parcel 43 Premises (Pre-Expansion) to the Modified Parcel 43 Premises (Post-Expansion); (b) the extension of the term of the lease for the Modified Parcel 43 Premises from the Existing Expiration Date to February 28, 2061; and (c) the redevelopment of the Modified Parcel 43 Premises (Post-Expansion) in accordance with the Redevelopment Plan (the "**Redevelopment Work**"). The matters described above shall be effectuated pursuant to, and in accordance with the terms and provisions of, the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise).

1.24 "**Option Closing**" means the execution and delivery by Lessee and County of the Option Closing Documents and the recordation in the Official Records of Los Angeles County, California of each recordable Option Closing Document.

1.25 "**Option Closing Documents**" has the meaning given such term in Section 5.2 of this Agreement.

1.26 "**Option Conditions**" has the meaning given such term in Section 4 of this Agreement.

1.27 "**Option Conditions Satisfaction Date**" has the meaning given such term in Section 3 of this Agreement.

1.28 "**Option Exercise Notice**" has the meaning given such term in Section 5.1 of this Agreement.

1.29 "**Option Expiration Date**" has the meaning given such term in Section 3 of this Agreement.

1.30 "**Option Extension**" has the meaning given such term in Section 3 of this Agreement.

1.31 "**Option Extension Fee**" has the meaning given such term in Section 3 of this Agreement.

1.32 "**Option Fee**" has the meaning given such term in Section 6.1 of this Agreement.

1.33 "**Option Term**" has the meaning given such term in Section 3 of this Agreement.

1.34 "**Option Outside Expiration Date**" has the meaning given such term in Section 3 of this Agreement.

1.35 "**Parcel 42 Lessee**" has the meaning given such term in Recital D of this Agreement.

1.36 "**Parcel 42 Option**" has the meaning given such term in the Base Option Agreement.

1.37 "**Parcel 43 Option**" has the meaning given such term in the Base Option Agreement.

1.38 "**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 the equity of Lessee is reasonably expected to provide sufficient funds to complete the initial phase of the Redevelopment Work, as approved by Director in accordance with the terms and provisions of Section

12.1 of the form of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise), together with evidence reasonably satisfactory to Director of the availability of loan and/or equity funds sufficient to complete the remaining phases of the Parcel 43 Redevelopment Work in a timely manner.

1.39 "**Project Financing Condition**" has the meaning given such term in Section 4.2 of this Agreement.

1.40 "**Redevelopment Plan**" means the redevelopment plan for the Modified Parcel 43 Premises (Post-Expansion) attached as Exhibit B to the form of Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) attached to this Agreement as Exhibit A.

1.41 "**Redevelopment Work**" has the meaning given such term in the definition of the Option.

1.42 "**Unreasonable County Activity**" has the meaning given such term in Section 7.2 of this Agreement.

2. Grant of Options. County hereby grants to Lessee the Option, upon and subject to the terms, conditions and other provisions of this Agreement.

3. Term of Option. The term of the Option under this Agreement (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 (a) sixty (60) days following the Option Conditions Satisfaction Date, or (b) the Option Outside Expiration Date (as defined below). For purposes hereof, the "**Option Conditions Satisfaction Date**" shall mean the first date upon which all of the Option Conditions set forth in Section 4 of this Agreement have been satisfied.

The "**Option Outside Expiration Date**" shall initially be November 17, 2013. Lessee shall have the right to extend the Option Outside Expiration Date set forth in the immediately preceding sentence for up to the following two (2) periods (each, an "**Option Extension**") upon delivery by Lessee to County, not later than one (1) month prior to the Option Outside Expiration Date that is then in effect prior to such Option Extension, of both written notice by Lessee to County of the exercise of such Option Extension and the payment by Lessee to County of the applicable "**Option Extension Fee**" set forth below for such Option Extension:

(a) a six (6) month extension upon payment of an Option Extension Fee of Twenty-Five Thousand Dollars ($25,000); and

(b) one additional six (6) month extension upon payment of an additional Option Extension Fee of Thirty Thousand Dollars ($30,000).

The Option Extension Fees shall be non-refundable, and are in addition to the Option Fee paid by Base Optionee to County pursuant to Section 6.2.1 of the Base Option Agreement and the "Option Extension Fees" paid by Base Optionee to County pursuant to Section 3.1 of the Base Option Agreement (as amended by the Base Option Agreement Amendment). The Option

Extension Fees shall not be applicable against such Option Fee or the Extension Fee referenced in Section 6.2 of this Agreement.

Notwithstanding the foregoing, Lessee shall have no right to extend the Option Outside Expiration Date pursuant to this Section 3 at any time during which there is an uncured Lessee Default under this Agreement or an uncured material breach or default by Lessee under the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) after notice and the expiration of any cure period applicable under the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise). Time is of the essence with respect to the exercise by Lessee of any right to extend the Option Outside Expiration Date pursuant to this Section 3.

In the case of the non-satisfaction of the Entitlements Condition, 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 Redevelopment Work and all other similar marina replacement projects in Marina del Rey on water area 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 or the Parcel 42 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 Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) (after notice and the expiration of any applicable cure period under the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise)), the Option 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 Option Outside Expiration Date shall in no event be extended pursuant to this paragraph beyond May 17, 2015.

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

4.1 Lessee shall have received all discretionary planning and zoning land use entitlements and approvals required to be obtained from governmental authorities (including the County and the California Coastal Commission), and satisfied all requirements for the issuance of a building permit (other than payment of the building permit fee), for the construction of the Redevelopment Work (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 Redevelopment Work (not including any proceeding or litigation brought by or on behalf of the 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, the 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

4.2 Lessee shall have obtained Project Financing for the Redevelopment Work (the "**Project Financing Condition**").

5. Exercise of Option. The Option shall be exercisable only by the strict satisfaction on or before the Option Expiration Date of the following conditions:

5.1 Lessee shall notify County in writing of its exercise of the Option ("**Option Exercise Notice**");

5.2 Lessee shall accompany the Option Exercise Notice with the following:

(a) Lessee's execution and delivery to County of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise), with any additional terms required to be included therein as provided in this Agreement, and any blank or bracketed terms in Exhibit A hereto, completed in accordance with the terms and provisions of this Agreement; and

(b) Lessee's execution and delivery to County in recordable form of a memorandum of lease with respect to the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) in form reasonably acceptable to County (the "**Memorandum of Lease**"); the documents in items (a) and (b) of this Section 5.2 are collectively referred to as the "**Option Closing Documents**;"

5.3 as of the date of Lessee's delivery of the Option Exercise Notice, there shall not be a Lessee Default under this Agreement nor shall Lessee be in material breach or default under the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) after notice from County and the expiration of any applicable cure period set forth in the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise);

5.4 the Option Conditions Satisfaction Date shall have occurred and there shall be no change in circumstances after the Option Conditions Satisfaction Date that causes the Option Conditions to no longer continue to be satisfied; and

5.5 Director shall have approved all plans, specifications and other materials for the Redevelopment Work required to be submitted to Director pursuant to Section 7.3 of this Agreement, and Director shall have reasonably approved the phased construction schedule for the Redevelopment Work within the parameters for such phased construction schedule set forth in Section 5.4.4 of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise).

Upon the satisfaction of the Option Conditions and Lessee's proper and timely exercise of the Option (including the satisfaction of all of the conditions set forth above in this Section 5), County shall execute, date (with the same "Effective Date" for all Option Closing Documents) and deliver the Option Closing Documents, and the Option Closing shall be consummated 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. 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 Lessee's Project Financing with the Option Closing such that the "Effective Date" (as such term is defined in each of the Option Closing Documents)

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 Option Closing beyond such forty-five (45) day period; and provided, further, that County shall not be required to execute and deliver the Option Closing Documents unless Lessee continues to satisfy the Option Conditions and Lessee's Project Financing is in a position to close. Notwithstanding the foregoing, Director shall have the authority in the exercise of Director's good faith judgment, but not the obligation, to extend for up to an additional thirty (30) days the forty-five (45) day period in which Lessee is required to close Lessee's Project Financing.

The failure of Lessee's Project Financing to close or the failure of the continuing satisfaction of the conditions to County's required execution and delivery of the Option Closing Documents during the above forty-five (45) day period (as such period may be extended 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 Lessee's Project Financing and the continued satisfaction of the conditions to County's execution and delivery of the Option Closing Documents during the forty-five (45) day period following such subsequent re-exercise of the Option (as such period may be extended by Director pursuant to the last sentence of the immediately preceding paragraph), in accordance with the terms and provisions of this Section 5.

6. Option Fee/Extension Fee.

6.1 Option Fee. In consideration of County's grant of the Parcel 43 Option under the Base Option Agreement, Base Optionee paid to County concurrent with the execution of the Base Option Agreement the Parcel 43 Option Fee in the amount of One Hundred Thousand Dollars ($100,000.00). Such payment shall be credited to Lessee and considered to be the "**Option Fee**" under this Agreement. The Option Fee shall be non-refundable, but shall be applied against the Extension Fee described in Section 6.2 below if the Option is exercised.

6.2 Extension Fee. If the Option is exercised, Lessee shall pay County an extension fee in the amount of Three Hundred Thousand Dollars ($300,000.00) (the "**Extension Fee**") to compensate County for the value of the lease extension set forth in the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise). The Option Fee shall be applied against the Extension Fee. The remaining balance of the Extension Fee in the amount of Two Hundred Thousand Dollars ($200,000.00) shall be paid by Lessee concurrent with the consummation of the Option Closing.

7. Entitlements and Plan Preparation During Option Term.

7.1 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 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.

7.2 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 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 Amended and Restated Parcel 43 Leases (Post-Parcel 43 Option Exercise)) 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 Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) 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 Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) in no way release Lessee from obtaining, at Lessee's expense, all permits, licenses and other approvals required by law for the construction of the Redevelopment Work, and operation and other use of the Modified Parcel 43 Premises and the improvements located thereon; and that the Department's duty to cooperate and County's approvals under this Agreement and/or the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) 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 Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise).

For the purposes of this Agreement, "**Unreasonable County Activity**" means any of the following actions (or inactions) that occur during the period from the date of this Agreement and continuing until the expiration of the Option Term: (i) the Department's failure to provide required County joinder, if any, as fee title owner of the Modified Parcel 43 Premises, in Lessee's submittal to the applicable governmental agency of the Final Plans and Specifications (as defined in Section 5.3 of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise)) for the Redevelopment 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 7.3 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 7.2 or the other provisions of this Agreement shall be construed as obligating 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 Director is not notified in writing by Lessee 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 7.2, in no event shall Lessee be entitled to any extension of the Option Term for any period of the delay under this Section 7.2 that occurred prior to the date of the notice to Director referenced 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 7.2 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.

7.3 Plans and Specifications. The Redevelopment Work shall be constructed by Lessee in accordance with and subject to the terms and provisions of Article 5 of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise). The requirements of Article 5 of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) include, without limitation, the obligation of the Lessee to prepare and submit to Director for Director's approval, certain plans, specifications, construction cost estimates and other materials pertaining to the Redevelopment Work, as set forth in more detail in Section 5.3 of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise). 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 Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise), except that during the period commencing on the date of this Agreement and expiring on the earlier of the Lessee's exercise of the Option or the expiration of the Option Term, 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 Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) that are required to be submitted to governmental authorities (including the County, the Design Control Board and the California Coastal Commission) in connection with the applications for or receipt of the Entitlements for the Redevelopment Work. Lessee shall accompany such plans, specifications and other materials with the construction cost estimates

described in Section 5.3 of the form of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise). The standards and time periods for Director's review and approval of the materials submitted by Lessee pursuant to this Section 7.3 shall be in accordance with the terms and provisions of Section 5.3 of the form of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise), 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 expiration of the Option Term. In addition to the plans, specifications and materials required to be submitted by Lessee to Director pursuant to this Section 7.3, 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 Redevelopment Work. Director shall notify the 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 the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise). Notwithstanding the foregoing, County acknowledges that prior to the date of this Agreement Lessee has satisfied the requirement for Director's approval of the schematic plans and narrative description of the Redevelopment Work required under Subsection 5.3.1 of the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise). The Redevelopment Plan attached as Exhibit B to the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) shall be deemed to satisfy such requirement.

8. County Costs. Regardless of whether the Option is exercised, Lessee shall promptly reimburse County for the Actual Costs (as defined in the form of Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) incurred by County in the review, negotiation, preparation, documentation and administration of this Agreement, the Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise) and the term sheets and memoranda that precede or preceded any of the foregoing, including an equitable share (as determined pursuant to Section 7.1 of this Agreement) of the Actual Costs incurred by County in connection with the Master CDP Application process if and to the extent that the Modified Parcel 43 Premises (Post-Expansion) is included in such process. 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.

9. Miscellaneous.

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

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

covenants, conditions, terms or provisions of this Agreement be construed to in any manner change the terms hereof or estop that party from enforcing the full provisions hereof.

9.3 Notices. All notices required or permitted to be given under this Agreement shall be given in accordance with the terms and provisions of Section 15.10 of the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise).

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

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

9.6 No Assignment. Lessee shall have no right to assign or transfer its rights or obligations under this Agreement to any other person or entity, without the express written consent of County, which consent may be withheld by County in its sole and absolute discretion; provided, however, Lessee shall have the right to assign its rights and obligations under this Agreement to the same entity to whom Lessee assigns its leasehold interest under the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) in an assignment of the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise) that is approved by County.

9.7 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.

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

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

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

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

9.12 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.

9.13 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 under the Amended and Restated Parcel 43 Lease (Pre-Parcel 43 Option Exercise).

9.14 No Third Party Beneficiary. Notwithstanding any term or provision of this Agreement to the contrary, no term or provision of this Agreement shall be interpreted, construed or considered to grant or afford any rights or remedies to any person or entity other than to County or Lessee as the parties to this Agreement, and no other person or entity shall have any rights or remedies as a third party beneficiary under this Agreement.

9.15 Exhibit. Exhibit A is hereby expressly incorporated herein by reference.

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: _____
Chair, Board of Supervisors

MDR MARINA, L.P., a California limited partnership

By: MDR Marinas, LLC, a California limited liability company, General Partner

By: Pacific Marina Development, Inc., a California corporation, Manager

By: _____
Thomas J. Hogan, President

ATTEST:

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

By: _____
Deputy AUG 28 2013

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

78023

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

By _____
Deputy AUG 28 2013

APPROVED AS TO FORM:

JOHN F. KRATTLI,
County Counsel

By: _____
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

30 MAY 17 2011

SACHI A. HAMAI
EXECUTIVE OFFICER

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

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: _____
Chair, Board of Supervisors

MDR MARINA, L.P., a California limited partnership

By: MDR Marinas, LLC, a California limited liability company, General Partner

By: Pacific Marina Development, Inc., a California corporation, Manager

By: _____
Thomas J. Hogan, President

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

FORM OF AMENDED AND RESTATED PARCEL 43 LEASE
(POST-PARCEL 43 OPTION EXERCISE)

AMENDED AND RESTATED LEASE AGREEMENT
(Post-Parcel 43 Option Exercise)

by and between

COUNTY OF LOS ANGELES

and

MDR MARINA, L.P.

(Parcel 43 -- Lease No. _____)

Dated as of _____, _____

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AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 43 — MARINA DEL REY
(Post-Parcel 43 Option Exercise)

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

RECITALS

WHEREAS, County, as lessor, and Milton Weber, Elias Alan Fellman, Gerald Fellman and Edward Z. Fellman, a partnership, as lessee, entered into Lease No. 5577 dated May 7, 1962, as amended prior to the date of the Base Option Agreement described below (the "**Original Lease**"), concerning the lease of certain real property in the Marina del Rey Small Craft Harbor commonly known collectively as Parcels 42 and 43 and more particularly described in the Original Lease (the "**Original Premises**");

WHEREAS, County and IWF MDR Hotel, L.P., a California limited partnership ("**IWF MDR**"), entered into that certain Option Agreement Regarding Leasehold Interest (Parcels 42 and 43) (the "**Original Base Option Agreement**"), pursuant to which County granted IWF MDR two options concerning the Original Lease, one referenced in the Original Base Option Agreement as the "**Parcel 42 Option**" and one referenced in the Original Base Option Agreement as the "**Parcel 43 Option;**"

WHEREAS, County and IWF MDR entered into that certain Amendment to Option Agreement Regarding Leasehold Interest (Parcels 42 and 43) dated November 13, 2012 (the "**Base Option Agreement Amendment**") pursuant to which the Original Base Option Agreement was amended in certain respects, including the extension of the required dates for the exercise of Parcel 42 Option and the Parcel 43 Option; the Original Base Option Agreement, as amended by the Base Option Agreement Amendment is referred to herein as the "**Base Option Agreement**;"

WHEREAS, IWF MDR exercised the Parcel 42 Option under the Base Option Agreement but did not, at the time of its exercise of the Parcel 42 Option, exercise the Parcel 43 Option under the Base Option Agreement;

WHEREAS, in accordance with the terms of the Base Option Agreement, upon the exercise of the Parcel 42 Option without concurrent exercise of the Parcel 43 Option, (a) the Original Premises was bifurcated and re-divided into two separate leaseholds; (b) County, as lessor, and IWF MDR, as lessee, entered into that certain Amended and Restated Lease Agreement (Parcel 42) dated _____ (the "**Parcel 42 Lease**") concerning the lease by County to IWF MDR of that portion of the Original Premises described in Exhibit A attached to the Parcel 42 Lease (the "**Parcel 42 Premises**"), which lease extended the term of the leasehold for the Parcel 42 Premises to February 28, 2061 and provided for the renovation of the

improvements located on the Parcel 42 Premises; (c) County, as lessor, and IWF MDR, as lessee, entered into that certain Amended and Restated Lease Agreement (Pre-Parcel 43 Exercise) dated _____ (the "**Interim Parcel 43 Lease**") concerning the lease of that portion of the Original Premises described on Exhibit A attached to the Interim Parcel 43 Lease for the then-existing remaining term of the Original Lease expiring on February 28, 2022 (the "**Existing Expiration Date**"); (d) the rights, title and interests of IWF MDR, as lessee, under the Interim Parcel 43 Lease were assigned to Lessee; (e) County and Lessee entered into that certain Option Agreement Regarding Leasehold Interest (Parcel 43) dated _____ (the "**Parcel 43 Option Agreement**") pursuant to which County granted Lessee an option with respect to the Premises under this Lease that replaced the Parcel 43 Option under the Base Option Agreement (the "**Replacement Parcel 43 Option**"), and the Base Option Agreement terminated; and (f) County, IWF MDR and Lessee entered into that certain Reciprocal Easement Agreement dated _____ and recorded in the official records of Los Angeles County, California on _____ as Instrument No. _____ (as amended from time to time, the "**Reciprocal Easement Agreement**") with respect to the Parcel 42 Premises and the premises under the Interim Parcel 43 Lease, which REA provides that upon the execution of this Lease, such REA shall pertain to the Parcel 42 Premises and the Premises under this Lease;

WHEREAS, upon exercise, the Replacement Parcel 43 Option provides for the execution by County and Lessee of this Lease to fully amend and restate the Interim Parcel 43 Lease, including without limitation, (a) the expansion of the premises set forth in the Interim Parcel 43 Lease to include additional water area in accordance with the legal description set forth on Exhibit A attached to this Lease, (b) the complete redevelopment of the anchorage improvements located on the Premises and the renovation of the landside improvements located on the Premises; and (c) the extension of the term of the leasehold for the Premises from the Existing Expiration Date to February 28, 2061; and

WHEREAS, Lessee has exercised the Replacement Parcel 43 Option in accordance with the terms and provisions of the Parcel 43 Option Agreement;

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 Interim Parcel 43 Lease is hereby amended and restated in its entirety with respect to the Premises, 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 "ALTERATIONS" shall have the meaning set forth in Section 5.2.

1.1.9 "ANCHORAGE IMPROVEMENTS" shall have the meaning set forth in Section 10.2.

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

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

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

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

1.1.14 "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.

1.1.15 "APPLICABLE REDEVELOPMENT COSTS" shall have the meaning set forth in Section 5.1.

1.1.16 "APPROVED GOVERNMENTAL CHANGES" shall mean any changes to the Redevelopment 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 Redevelopment Work (or other Alterations, as applicable), except for any change that is a Material Modification.

1.1.17 "APPROVED SLIP LEASE" shall have the meaning set forth in Subsection 11.1.2.

1.1.18 "APPROVED STORAGE LOCKER LICENSE" shall have the meaning set forth in Subsection 11.1.2.

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

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

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

1.1.22 "BASE OPTION AGREEMENT" shall have the meaning set forth in the Recitals to this Lease.

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

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

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

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

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

1.1.28 "CAPITAL IMPROVEMENT FUND" shall have the meaning set forth in Section 5.12.

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

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

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

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

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

1.1.34 "CO DATE" means the date of the issuance of a certificate of occupancy (whether temporary or permanent) or other applicable governmental certificate or approval, for legal use and occupancy of the Anchorage Improvements following replacement pursuant to the Redevelopment Work.

1.1.35 "CONSTRUCTION COMPLETION DATE" means the date of the substantial completion of the Redevelopment Work, including the receipt of a certificate of occupancy (whether temporary or permanent) or other applicable governmental certificate or approval, for legal use and occupancy of all of the Improvements, following replacement or renovation (as applicable) by the Redevelopment Work.

1.1.36 "CONSTRUCTION PERIOD" shall have the meaning set forth in Subsection 4.2.1.

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

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

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

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

1.1.64 "EXISTING EXPIRATION DATE" shall have the meaning set forth in the Recitals to this Lease.

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

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

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

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

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

1.1.70 "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 Redevelopment Work or the Future Anchorage Replacement, 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 Redevelopment Work or Future Anchorage Replacement, 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 Redevelopment Work or Future Anchorage Replacement issued pursuant to a court action commenced by a plaintiff other than County or the California Coastal Commission acting in their governmental capacity, Lessee, the Parcel 43 Lessee, or any person or entity affiliated with Lessee or the Parcel 43 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.

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

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

1.1.73 "FUTURE ANCHORAGE REPLACEMENT" shall have the meaning set forth in Section 5.11.

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

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

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

1.1.77 "HARBOR MASTER BUILDING" shall mean the free-standing building located on the Premises that as of the Effective Date is occupied by the harbor master.

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 "INTERIM PARCEL 43 LEASE" shall have the meaning set forth in the Recitals to this Lease.

1.1.87 "IWF MDR" shall have the meaning set forth in the Recitals to this Lease.

1.1.88 "LANDSIDE ANCHORAGE IMPROVEMENTS" means the Harbor Master Building, restrooms, showers, laundry facilities or other Improvements located on the land portion of the Premises.

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

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

1.1.91 "LEASE YEAR" shall have the meaning set forth in Subsection 2.1.1.

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

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

1.1.94 "MAINTENANCE STANDARD" shall have the meaning set forth in Section 10.1.

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

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

1.1.97 "MATERIAL MODIFICATION" shall mean a modification to the Redevelopment 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 Redevelopment 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 changes the size, configuration or number of anchorage slips or end-ties.

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 commercial projects 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 "OPERATING COVENANT EXCEPTIONS" shall have the meaning set forth in Section 3.3.

1.1.106 "ORIGINAL LEASE" shall have the meaning set forth in the Recitals to this Lease.

1.1.107 "ORIGINAL PREMISES" shall have the meaning set forth in the Recitals to this Lease.

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

1.1.109 "PARCEL 42 LEASE" shall have the meaning set forth in the Recitals to this Lease.

1.1.110 "PARCEL 42 LESSEE" shall mean the lessee from time to time under the Parcel 42 Lease. As of the Effective Date, the Parcel 42 Lessee is [IWF MDR].

1.1.111 "PARCEL 42 OPTION" shall have the meaning set forth in the Recitals to this Lease.

1.1.112 "PARCEL 43 OPTION" shall have the meaning set forth in the Recitals to this Lease.

1.1.113 "PARCEL 42 PREMISES" shall have the meaning set forth in the Recitals to this Lease, except that during any period during which no Parcel 42 Lease is in effect, the Parcel 42 Premises shall mean the "Parcel 42 Property" under the Reciprocal Easement Agreement.

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

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

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

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

1.1.118 "PERMITTED CAPITAL EXPENDITURES" shall have the meaning set forth in Section 5.12.

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

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

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

1.1.122 "PREMISES" shall mean the real property described on Exhibit A attached to this Lease.

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

1.1.124 "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.

1.1.125 "PROMENADE" shall have the meaning set forth in Section 15.20.

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

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

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

1.1.129 "RECIPROCAL EASEMENT AGREEMENT" shall have the meaning set forth in the Recitals to this Lease.

1.1.130 "REDEVELOPMENT PLAN" shall have the meaning set forth in Section 5.1.

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

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

1.1.133 "REPLACEMENT PARCEL 43 OPTION" shall have the meaning set forth in the Recitals to this Lease.

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

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

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

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

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

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

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

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

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

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

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

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

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

1.1.147 "STATE" shall mean the State of California.

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

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

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

1.1.151 "substantial completion" means the completion of the Redevelopment Work, Future Anchorage Replacement 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 subject Improvements (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 Subsection 2.1.1.

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

1.1.154 "TRANSIENT SLIP" shall have the meaning set forth in Section 17.10.

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

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

1.1.157 "WATER TAXI SLIP" shall have the meaning set forth in Section 17.10.

1.1.158 "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 Interim Parcel 43 Lease with respect to the Premises.

1.2.1 As-Is. Lessee acknowledges that (1) it is currently in possession of the Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Premises since 1962, and (3) the Improvements now existing on the Premises were constructed by Lessee or its predecessors with contractors selected by them. Except as provided in 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 Interim Parcel 43 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 March 1, 1962 and, unless terminated sooner in accordance with the provisions of this Lease, shall expire at 11:59 p.m. on February 28, 2061. For purposes of this Lease, "**Lease Year**" shall mean each calendar year (or partial calendar) during the Term of this Lease.

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 eleven (11) years, and no later than ten (10) years prior to the expiration of the Term, Lessee shall deliver to County a report prepared by a construction and demolition expert 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, in the case of land, 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**") by the later of (a) one (1) year following delivery by Lessee to County of the Demolition and Removal Report, or (b) nine (9) 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 County ("**Demolition Security**"), and (ii) a schedule satisfactory to County for the delivery by Lessee of the security described in clause (i) above, which schedule shall in all events provide for a full funding of the security not later than two (2) years prior to the expiration of the Term. The amount of 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. Lessee shall have the right to use surplus funds in the Capital Improvement Fund towards satisfaction of the Demolition Security requirements under this Subsection 2.3.2 to the extent permitted under the last paragraph of Section 5.12. 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 boat anchorage facilities, the use of the Harbor Master Building for the uses for which the Harbor Master Building is used as of the Effective Date, and other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the "**Permitted Uses**"). Except as specifically provided herein, the Premises 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.

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, non-business activity of an individual that is confined to the privacy of such individual's private residence aboard its boat;

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 Redevelopment Work, Future

Anchorage Replacement or other 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; and provided further that this paragraph shall not pertain to an antennae located on a boat to the extent that such antennae is consistent with antennae typically operated on such a boat.

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 Redevelopment Plan or the Final Plans and Specifications for the Redevelopment Work, or if required under Applicable Laws that apply to the performance of the Redevelopment 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.

3.3 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, temporary interruption as necessary for maintenance and repair, or temporary interruption as necessary to accommodate renovation, alteration or other improvement work required or permitted to be performed by Lessee under this Lease (collectively, "**Operating Covenant Exceptions**")) in light of these objectives, consistent with the operation of comparable anchorage and related commercial 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. Lessee shall maintain a dockmaster on duty with respect to the Improvements pursuant to the terms and provisions of Section 15.21 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 dockmaster shall be subject to the written approval of Director, which approval shall not be unreasonably withheld, conditioned or delayed. Except as otherwise approved by Director, the Harbor Master Building shall be open on such days and for such hours as the Harbor Master Building is typically open as of the Effective Date, subject to the Operating Covenant Exceptions.

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 (i) all conditions and requirements of Coastal Development Permit No. 5-11-131, which conditions and requirements are attached to this Lease as Exhibit D and incorporated herein by this reference, and (ii) all public access requirements of the Marina del Rey Local Coastal Program, as amended.

3.7 Rules and Regulations. Lessee agrees to comply with such other reasonable rules and regulations governing the use and occupancy of the Premises and Improvements as may be promulgated by County from time to time for general applicability on a non-discriminatory basis to other anchorage and related commercial 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, this Lease shall be subject to the Reciprocal Easement Agreement. Lessee agrees during the Term of this Lease, as a covenant of Lessee under this Lease, to perform and comply with all obligations, covenants and liabilities of Lessee, and all other terms and provisions applicable to Lessee, under the Reciprocal Easement Agreement. Notwithstanding any contrary provision of this Lease, County shall have no liability to Lessee under this Lease, and Lessee's obligations under this Lease shall not be excused, delayed, deferred, extended or otherwise affected, by (a) any breach, default, act or omission by or on behalf of the Parcel 42 Lessee, its employees, agents, affiliates, subtenants, licensees, contractors, successors or assigns, under the Reciprocal Easement Agreement; or (b) any redevelopment or renovation of the Parcel 42 Premises or improvements located thereon (including without limitation, the Promenade), or any failure of, or delay in, the redevelopment or renovation of the Parcel 42 Premises or improvements located thereon, including, without limitation, any disturbance, inconvenience, disruption, noise or other adverse effect upon the Premises or Improvements, or the use or operation thereof, incurred or resulting therefrom. The terms and provisions of this paragraph are not intended to modify or affect any express obligations of County under the Reciprocal Easement Agreement that may be applicable under the Reciprocal Easement Agreement with respect to any period during which neither the Parcel 42 Lease nor any new or replacement lease is in effect with respect to the Parcel 42 Premises or a portion thereof.

Without limiting the foregoing, Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all prior matters of record and the right of County or City existing as of the Effective Date or otherwise disclosed to or known to Lessee, as their interests may appear, to install, construct, maintain, service and operate sanitary sewers, public roads and sidewalks, fire access roads, storm drains, drainage facilities, electric power lines, telephone lines and access and

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

4. PAYMENTS TO COUNTY.

4.1 Net Lease. The parties acknowledge that the rent to be paid by Lessee under this Lease is intended to be absolutely net to County. The rent and other sums to be paid to County hereunder are not subject to any 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 Parcel 43 Option (or the Replacement Parcel 43 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 day preceding the earlier of the CO Date or the Required Construction Completion Date (the "**Construction Period**"), the Annual Minimum Rent shall be equal to $_____ per year [DRAFTING NOTE: PRIOR TO LEASE EXECUTION THE ABOVE BLANK SHALL BE COMPLETED WITH THE AMOUNT EQUAL TO 75% OF THE AVERAGE TOTAL ANNUAL PERCENTAGE RENT (CALCULATED WITH NO OFFSET FOR ANNUAL SQUARE FOOT OR MINIMUM RENTAL) THAT WAS PAYABLE UNDER THE ORIGINAL LEASE AND THE INTERIM PARCEL 43 LEASE WITH RESPECT TO THE PREMISES UNDER THIS LEASE FOR EACH OF THE 3 YEARS PRECEDING THE EFFECTIVE DATE, AS REASONABLY DETERMINED BY DIRECTOR; PROVIDED THAT IN NO EVENT SHALL THE ANNUAL MINIMUM RENT PAYABLE DURING THE CONSTRUCTION PERIOD BE LESS THAN $360,490.00.] Lessee shall provide written notice to County of the CO Date promptly upon the occurrence thereof.

During the period commencing on the day following the Construction Period and continuing through the December 31 next following the third (3rd) anniversary of the last day of the Construction Period (or through the December 31 immediately preceding the third (3rd) anniversary of the last day of the Construction Period if the last day of the Construction Period is January 1), the Annual Minimum Rent shall be equal to seventy-five percent (75%) of the average total Annual Rent projected to be payable by Lessee during the three (3) year period following the CO 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 Construction Period. Not later than three (3) months prior to the earlier of the projected CO Date or the Required Construction Completion 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 CO Date. Upon approval by Director, such projected Gross Receipts shall be used to calculate the Annual Minimum Rent payable by Lessee under this paragraph.

As of the date immediately following the period described in the immediately preceding paragraph (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 (or on, from or within portions of the Parcel 42 Premises and improvements located thereon as to which Lessee has access, use, easement or similar rights under the Reciprocal Easement Agreement) 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, lockers or other similar facilities;

(c) SEVEN AND ONE-HALF PERCENT (7.5%) of Gross Receipts or other fees charged for the rental, occupancy or use of the following structures: (1) hotel and/or motel accommodations, and (2) meeting rooms; and TEN PERCENT (10%) of Gross Receipts from filming or other television and/or motion picture activities;

(c1) ELEVEN PERCENT (11%) 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 commercial establishments; provided that, except as provided in Subsection 4.2.2.5, Gross Receipts or other fees charged for the occupancy of restaurants, stores, shops or other commercial establishments shall not be included in the calculation of Percentage Rent under this 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) With respect to services such as 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, and other similar activities where earnings are normally on a commission basis, 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 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;

(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 the rental of boats or from other commercial boating activities including, but not limited to, charter boats, bareboat charters and sport fishing, or from the rental of bicycles, cycles carriages, scooters or other similar equipment;

(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) (1) In the case where parking facilities are operated by a third party operator under a parking operation agreement with Lessee or a Sublessee, (i) TWENTY PERCENT (20%) of the fee or other compensation paid by such third party operator to Lessee (or Sublessee) if the operator is entitled to receive parking revenue and is responsible for the payment of operating expenses; or (ii) SEVEN AND ONE-HALF PERCENT (5%) of the Gross Receipts from the operation of such parking if the operator collects such Gross Receipts on behalf of Lessee (or Sublessee) and Lessee (or Sublessee) is responsible for the payment of the operating expenses for such parking operation (which operating expenses include a fee or other compensation to the parking operator for the rendering of such parking services); or

(2) In the case where parking facilities are operated by Lessee or a Sublessee, SEVEN AND ONE-HALF PERCENT (7.5%) of Gross Receipts from such parking.

Notwithstanding the foregoing, if other comparable anchorage projects in Marina del Rey generally provide parking at no charge or for a charge less than that charged by Lessee, then at Director's election the Gross Receipts under this Lease attributable to parking charges in excess of the market rate for such parking shall not be included in Percentage Rent under this category (r) but shall instead be considered Gross Receipts from the rental or use of boat slips under category (a) 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;

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

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

4.2.2.1 Other Activities. If Director or Lessee reasonably determine that a percentage of Gross Receipts is not suitable or applicable for a particular activity not described above, although permitted hereunder, Director and Lessee shall mutually establish a minimum monthly payment to County as payment for the privilege of engaging therein, which shall remain effective until the next Renegotiation Date. Said minimum monthly amount shall be reasonable in accordance with the revenue generated by such activity and shall be included in Percentage Rent, as determined hereunder, in lieu of a percentage of Gross Receipts therefor.

4.2.2.2 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 (or on portions of the Parcel 42 Premises as to which Lessee has access, use, easement or similar rights under the Reciprocal Easement Agreement), 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) Gross Receipts shall not include any of the following items; provided, however, that the non-inclusion in Gross Receipts of the following items shall not be construed or interpreted to permit the reduction of, or any offset against, Gross Receipts by or for the amount of such 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;

l. amounts received for services rendered by a live-aboard Sublessee of an individual slip in connection with the operation by such live-aboard Sublessee of an in-home business on the boat of such live-aboard, as long as the primary purpose of Sublessee's use of the boat is for residential occupancy and such in-home business is an incident to such residential use; and

m. any payments or reimbursements received by Lessee from the Parcel 42 Lessee pursuant to the Reciprocal Easement Agreement that constitute or represent payment or reimbursement by the Parcel 42 Lessee to Lessee for costs incurred by Lessee in connection with the operation, maintenance or repair of any common or shared areas under the Reciprocal Easement Agreement.

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

4.4.1 Fair Market Rental Value. As used herein, "**Fair Market Rental Value**" shall mean, as of each Renegotiation Date, the fair market rent, including an annual minimum rent 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, all of the other terms, conditions and covenants contained in the Lease, and the rights and obligations of Lessee under the Reciprocal Easement Agreement, 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;

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 (excluding Excluded Transfers), the "**Net Proceeds Share**" shall be equal to the greater of (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 twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event. 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 Initial Lessee Under this Lease. 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) Five Million Eight Hundred Eighty Thousand Dollars ($5,880,000), plus (b) the total amount of the "Extension Fee" (including the "Option Fee" paid (or credited as payment) to County under the Parcel 43 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 Parcel 43 Option Agreement, the Parcel 43 Interim Lease and this Lease, plus (d) the Actual Costs reimbursed by Lessee to County in connection with the negotiation and consummation of the Parcel 43 Option Agreement, the Parcel 43 Interim Lease 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 costs paid by Lessee in connection with (I) the Redevelopment Work, (II) the Promenade, to the extent of the amount of payments made by Lessee for such Promenade costs pursuant to the Reciprocal Easement Agreement, or (III) other physical capital Improvements or Alterations made to the Premises by Lessee after the Effective Date in compliance with Article 5 of this Lease (in each instance excluding the amount of any such costs reimbursed or paid by the Parcel 42 Lessee), in each case to the extent that such costs have been submitted to County within ninety (90) days after the completion of such Improvements, together 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 (the amounts described in this clause (e) are referred to as "**Improvement Costs**"). Notwithstanding the foregoing, with respect to Improvements or Alterations which are not part of the Redevelopment Work, Lessee shall submit the cost of such Improvements on an annual basis within ninety (90) days following the end of each fiscal year. If by the date that is ninety (90) days after the completion of the Redevelopment Work (or other Improvements) the final amount of the Improvement Costs is not established because of a dispute or disputes between Lessee and its contractor(s), then Lessee shall note such dispute(s) in its submission of the Improvement Costs (including a description of the costs and the amounts under dispute). Lessee shall thereafter notify County in writing within thirty (30) days after the resolution of any such dispute as to any final adjustment required to the amount of the Improvement Costs to reflect the resolution of such dispute. 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.

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, including the Administrative Charge paid to County for such transaction (but without double counting) (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 Lessee, "**Net Transfer Proceeds**" shall mean the Gross Transfer Proceeds received by that successor, minus the following costs with respect to such successor Lessee:

4.8.2.1 The greatest of (a) the sum of the Base Value, plus Improvement Costs incurred subsequent to the Effective Date but prior to the acquisition of the leasehold interest by such successor; (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired (or 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 (or, in the case of a Financing Event on which Lessee would have paid a Net Proceeds Share but for the Financing Event Net Proceeds Exclusions), 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 (if any) 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. REDEVELOPMENT WORK; ALTERATIONS.

5.1 Redevelopment Work. Promptly following the Effective Date, Lessee shall proceed to demolish the existing Anchorage Improvements located on the Premises and replace such Anchorage Improvements with no fewer than 277 new slips, 13 end-ties and one side-tie, in a configuration and design that complies with current marina standards and the Redevelopment Plan attached to this Lease as Exhibit B ("**Redevelopment Plan**"). Lessee shall also renovate the Landside Anchorage Improvements in accordance with the Redevelopment Plan. All of the foregoing work and all related or associated improvements, alterations and site work are herein collectively referred to as the "**Redevelopment Work.**" The design, configuration, layout, construction materials and other specifications for the Redevelopment Work shall be subject to Department's approval as set forth in this Article 5 and shall be performed in accordance with the Final Plans and Specifications for the Redevelopment Work (as established under the Base Option Agreement and/or the Parcel 43 Option Agreement to the extent that the Final Plans and Specifications for the Redevelopment 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 Redevelopment 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 Redevelopment Work.

Lessee shall be solely responsible for all costs and expenses incurred in connection with the performance of the Redevelopment Work (including all design, engineering, entitlement and construction activities). Lessee shall expend on the Redevelopment Work not less than the

Required Cost Amount (as defined below) for out-of-pocket costs paid to third parties for the performance of the Redevelopment Work that comply with the definition of Applicable Redevelopment Costs set forth below. The immediately preceding sentence shall not be construed as a maximum amount that Lessee is required to expend for Applicable Redevelopment Costs for the Redevelopment Work, but only as a minimum amount, and Lessee shall be required to perform the Redevelopment Work in accordance with the requirements and standards set forth in this Article 5 even if the Applicable Redevelopment Costs necessary to do so exceed the Required Cost Amount. Only Applicable Redevelopment Costs may be used to satisfy the Required Cost Amount. "**Applicable Redevelopment Costs**" shall mean all out-of-pocket hard construction costs paid to unaffiliated third parties for the construction of the Redevelopment Work plus the following additional out-of-pocket soft costs paid to unaffiliated third parties: (a) architectural, design and engineering fees not to exceed 8% of the Required Cost Amount; (b) governmental permit fees; and (c) project oversight and management fees; provided, however, that the aggregate amount of project oversight and management fees, whether paid to the general contractor or another third party construction manager shall not exceed 5% of the Required Cost Amount. Applicable Redevelopment Costs shall not exceed $150,000 for Redevelopment Work pertaining to the Landside Anchorage Improvements. Applicable Redevelopment Costs shall not include any costs incurred or reimbursed by the Parcel 42 Lessee. The Applicable Redevelopment Costs shall also not include any construction loan fees or costs, construction loan interest, the Option Fee or Extension Fee under the Parcel 43 Option Agreement, working capital reserves, legal costs, any imputed cost or value of the existing Improvements, or any imputed cost or value of land, water area or the existing leasehold interest.

The "**Required Cost Amount**" for the Redevelopment Work means $6,000,000, as adjusted in accordance with the terms and provisions of this paragraph; provided, however, that the Required Cost Amount shall not be adjusted to an amount that is less than $6,000,000. For purposes hereof, the term "**Required Cost Adjustment Date**" shall mean each of the four dates that constitute the last day of each month during which the Redevelopment Work is first twenty-five percent (25%) completed, fifty percent (50%) completed, seventy-five percent (75%) completed and one hundred percent (100%) completed, respectively. The initial Required Cost Amount of $6,000,000 shall be increased as of the first Required Cost Adjustment Date by the same percentage increase in the Consumer Price Index during the period from (I) the month of July, 2006 until (II) the month of the first Required Cost Adjustment Date. Thereafter, on each subsequent Required Cost Adjustment Date, the Required Cost Amount shall be adjusted to an amount equal to the sum of (x) the Previous Adjusted Required Cost Amount, plus (y) the product of (A) the Previous Adjusted Required Cost Amount minus the total amount of Applicable Redevelopment Costs incurred by Lessee as of the most recent preceding Required Cost Adjustment Date, multiplied by (B) the percentage increase (if any) in the Consumer Price Index during the period from the month of the most recent preceding Required Cost Adjustment Date to the month of the current Required Cost Adjustment Date. The "**Previous Adjusted Required Cost Amount**" for each respective Required Cost Adjustment Date means the revised Required Cost Amount as of the most recent preceding Required Cost Adjustment Date. The Required Cost Amount as revised as of the last Required Cost Adjustment Date, shall be the Required Cost Amount under 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 Redevelopment Work (subject to

any extension set forth in Section 5.6 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) cause the commencement of construction of the Redevelopment Work to occur on or before the date (the "**Required Construction Commencement Date**") which is sixty (60) days following the Effective Date; (2) following commencement of construction of the Redevelopment Work diligently continue performance of the Redevelopment Work through completion of the Redevelopment Work in accordance with the construction schedule submitted to and approved by Director pursuant to Section 5.4.6 below; and (3) substantially complete the Redevelopment Work not later than the fifth (5th) anniversary of the Effective Date (the "**Required Construction Completion Date").** Notwithstanding any contrary provision of this Article 5 in no event shall the Required Construction Commencement Date or Required Construction Completion Date be extended for more than one (1) year for any Force Majeure delay.

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 Redevelopment Work. In the event that Lessee fails to comply with its obligations under this Section 5.1 to commence and complete the Redevelopment Work by the Required Construction Commencement Date and Required Construction Completion Date, respectively (as such dates may be extended pursuant to 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 automatically shall be amended such that the terms and provisions of this Lease become the same as the terms and provisions of the Interim Parcel 43 Lease (including, without limitation, modification of the Term to expire on the Existing Expiration Date and a reduction of the Premises to exclude the additional water area included in the Premises under this Lease but not included in the Premises under the Interim Parcel 43 Lease) (the "**Reversion Amendment**"). Notwithstanding the foregoing, if and as long as Lessee has commenced construction of the Redevelopment Work and is diligently prosecuting and continues to diligently prosecute such construction to completion, then the Lease shall not be amended by the Reversion Amendment unless and until such time as the delay in the completion of the Redevelopment Work exceeds the Required Construction Completion Date (as extended pursuant to Section 5.6, if applicable) by more than six (6) months.

During the period from the Required Construction Completion Date (as extended pursuant to Section 5.6, if applicable) until the earlier of (a) the date of the substantial completion by Lessee of the Redevelopment 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 Redevelopment Work by the Required Construction Completion Date (as extended pursuant to 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 Redevelopment 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 under Section 13.1 of this Lease.

5.2 Application of Article 5 to Redevelopment Work. The remaining sections of this Article 5 after this Section 5.2 pertain to the construction of the Redevelopment Work and to any other Alterations (as defined below) which Lessee may be required or desire to make to the Premises during the Term, including without limitation, the Future Anchorage Replacement described in Section 5.11 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 Redevelopment Work and Future Anchorage Replacement 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 Redevelopment Work and Future Anchorage Replacement.

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 Redevelopment Work pursuant to the Base Option Agreement or the Parcel 43 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 Redevelopment Work, Future Anchorage Replacement 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.

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 Redevelopment 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. The Redevelopment Work shall be performed in connection with a phased construction schedule approved by Director. If the phased construction schedule for the Redevelopment Work is not approved by Director prior to the Effective Date, then Lessee shall submit to Director no later than thirty (30) days after the Effective Date a phased construction schedule for the performance of the Redevelopment Work. Director shall have the right to reasonably approve such phased construction schedule, which schedule shall reasonably allocate the Redevelopment Work on a substantially equal basis over the period between the Required Construction Commencement Date and Required Construction Completion Date set forth in Section 5.1 above (or a more accelerated schedule reasonably acceptable to Director); provided, however, that Director shall have no liability in connection with the approval of such construction schedule, nor shall Director's approval of such construction schedule in any manner relieve or otherwise affect Lessee's obligations under this Lease with respect to the commencement and completion of the Redevelopment 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 Redevelopment Work and the Future

Anchorage Replacement, 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 Redevelopment Work. Upon commencement of construction of the Redevelopment Work, Lessee shall thereafter diligently pursue the completion of such construction by the Required Construction Completion Date, subject to Force Majeure as set forth below. If Lessee is delayed in the commencement of construction or completion of the Redevelopment Work due to Force Majeure, then the Required Construction Commencement Date and the Required Construction 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; (b) in no event shall the Required Construction Commencement Date be extended for more than an aggregate of one year due to Force Majeure; and (c) in no event shall the Required Construction Completion Date be extended beyond the sixth (6th) 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 Redevelopment Work and the Future Anchorage Replacement, the definition of Force Majeure shall also include delays in the commencement and completion of the Redevelopment Work or Future Anchorage Replacement (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 Redevelopment Work or Future Anchorage Replacement (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 Redevelopment Work or Future Anchorage Replacement (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 Redevelopment Work or Future Anchorage Replacement (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 Redevelopment Work or any other Alterations, Lessee shall file or cause to be filed in the Official Records of the County of Los Angeles a Notice of Completion (the "**Notice of Completion**") with respect to the Improvements and Lessee shall deliver to County, at no cost to County, two (2) sets of Conoflex or Mylar final as-built plans and specifications of the Improvements (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 Redevelopment Work or the Future Anchorage Replacement, 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 Future Anchorage Replacement. During the period from the thirtieth (30th) anniversary of the completion date of the first phase of the Redevelopment Work through the forty-fifth (45th) anniversary of such date, County shall have the right to have the condition of the Anchorage Improvements inspected from time to time (but not more often than annually) by an independent, nationally recognized, marine engineering consultant selected by County. County and Lessee shall equally share the fees and expenses incurred for the marine engineering consultant engaged by the County under this Section 5.11. If in the opinion of such engineering consultant the Anchorage Improvements, or any portions thereof, (a) are unsafe, unsightly or at the end of their useful lives; or (b) are of a lesser overall quality than a majority of the other anchorage facilities operated in Marina del Rey at the time of the inspection, then at the County's request Lessee shall, at Lessee's cost, replace such Anchorage Improvements with new Anchorage Improvements. For purposes of this Section 5.11, the Anchorage Improvements shall be inspected and evaluated by the engineering consultant on a section by section basis, and if a particular section, or a material portion of a particular section, of the Anchorage Improvements does not satisfy the test set forth above, then Lessee shall be required to replace all of the component parts of such section. Notwithstanding that the inspection of the Anchorage Improvements shall be performed on a section by section basis, if multiple sections of the Anchorage Improvements do not meet the test set forth above in this Section 5.11, then Lessee shall be required to perform the replacement of all of such deficient Anchorage Improvements at the same time unless Lessee and Director otherwise agree upon a mutually acceptable phasing schedule for such replacement. In all events, all of the Anchorage Improvements shall be replaced at one point or another during the period between the thirtieth (30th) and forty-fifth (45th) anniversary of the completion date of the first phase of the Redevelopment Work.

The replacement Anchorage Improvements under this Section 5.11 shall comply with the Anchorage Facilities Quality Standard (as defined below) and shall be performed in accordance with all terms and provisions of Article 5 of this Lease applicable to Alterations. The consultant's determination as to the date that the Anchorage Improvements, or portions thereof, require replacement pursuant to this Section 5.11 shall be based solely on the actual condition of such Anchorage Improvements, and no consideration shall be given to the duration of the remaining Term of the Lease in making such determination. If the consultant determines that Anchorage Improvements replacement work is required, then concurrent with such determination, the consultant shall include as a part of such determination its opinion as to the period of time reasonably necessary to perform the design, permitting and construction of such work. Lessee shall commence any required work (i.e., commence any design and permitting work) within sixty (60) days following receipt of the consultant's determination and thereafter complete the installation and construction of the work within the period prescribed in the consultant's determination. The "**Anchorage Facilities Quality Standard**" shall mean anchorage facilities that are first-class and state of the art as of the date of the replacement construction, and that in all events comply with (i) the then most recent edition of the Minimum Standards, (ii) the then most

recent edition of Layout and Design Guidelines for Small Craft Facilities by the California Department of Boating and Waterways (or similar successor publication), and (iii) design memoranda as provided by the Harbor Engineer of the Los Angeles County Department of Beaches and Harbors. The work required to be performed by Lessee under this Section 5.11 is sometimes referred to in this Lease as the "**Future Anchorage Replacement**."

5.12 Capital Improvement Fund. Commencing with the month following the month during which the earlier of the CO Date or the Required Construction Completion Date occurs, and continuing during the remaining Term of the Lease, Lessee shall establish and maintain a reserve fund (the "**Capital Improvement Fund**") in accordance with the provisions of this Section 5.12 for the cost of Permitted Capital Expenditures (as defined below) for the Premises. On or before the fifteenth (15th) day of each month during the period described in the immediately preceding sentence, Lessee shall make a monthly deposit to the Capital Improvement Fund in an amount equal to the sum of one and one-half percent (1.5%) of total Gross Receipts for the previous month from the operation of the Premises and Improvements. All interest and earnings on the funds in the Capital Improvement Fund shall be added to the Capital Improvement Fund, but shall not be treated as a credit against the Capital Improvement Fund deposits required to be made by Lessee pursuant to this Section 5.12.

Lessee and County agree and acknowledge that the purpose of the Capital Improvement Fund shall be to provide funds for the costs of additions, replacements, renovations or significant upgrades of or to the Improvements on the Premises, including building exteriors and major building systems (such as HVAC, mechanical, electrical, plumbing, vertical transportation, security, communications, structural or roof) that significantly increase the capacity, efficiency, useful life or economy of operation of the Improvements or their major systems, after the completion of the Redevelopment Work ("**Permitted Capital Expenditures**"). Notwithstanding any contrary provision of this Lease, the Capital Improvement Fund shall not be used to fund any portion of the cost of the Redevelopment Work or the Future Anchorage Replacement. 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 E 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 5.12. 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 5.12.

No disbursements shall be made from the Capital Improvement Fund until after the fifth (5th) anniversary of the CO Date. In addition, no disbursements shall be made from the Capital Improvement Fund after the fifth (5th) anniversary of the CO Date to cure deficiencies arising from the failure of Lessee to maintain and repair the Improvements in accordance with the requirements of this Lease during such five (5) year period. Disbursements shall be made from the Capital Improvement Fund for costs reasonably approved by Director which have been incurred after the fifth (5th) anniversary of the CO Date and that satisfy the requirements of this Section 5.12. 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 ten (10) 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 5.12; 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 5.12 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 Subsection 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 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). If as of a particular date for adjustment to the amount of the Security Deposit as provided above, Lessee has not at any time during the immediately preceding three (3) year period committed an Event of Default under this Lease, then effective as of such adjustment and continuing until the earlier of the occurrence of an Event of Default or the next date for adjustment of the amount of the Security Deposit as provided above, the amount of the Security Deposit required to be maintained by Tenant shall be reduced to two (2) times the Monthly Minimum Rent placed into effect as of such Security Deposit adjustment date.

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 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.

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 for General Aggregate is at least Two Million Dollars ($2,000,000) per occurrence, Two Million Dollars ($2,000,000) annual aggregate, (b) Lessee's Primary Coverage for Products/Completed Operations Aggregate is at least One Million Dollars ($1,000,000) per occurrence, One Million Dollars ($1,000,000) annual aggregate, (c) Lessee's Primary Coverage for Personal and Advertising Injury is at least One Million Dollars ($1,000,000) per occurrence, Two Million Dollars ($2,000,000) annual aggregate, and (d) the combination of each of such Primary Coverages 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 twelve (12) months of rent, with proceeds payable to Lessee and County as their interests may appear and utilized for repair and restoration of the Premises and Improvements. Notwithstanding the foregoing, during any period during which no Improvements exist on the Premises or all of the existing Improvements are being demolished in connection with the construction of Redevelopment Work, the obligation to provide insurance under this Subsection 9.1.4 shall not be applicable so long as the insurance coverage described in Subsection 9.1.5 below is carried.

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

9.1.5.3 Automobile Liability. Such coverage shall be written on ISO policy form CA 00 01 or its equivalent with a limit of liability as reasonably required by the County for the Redevelopment 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 Redevelopment Work (or such lesser amount as required by Director for the prime architect in connection with any subsequent Alterations), and (b) One Million Dollars ($1,000,000) with respect to each other contractor, subcontractor, architect, engineer, surveyor or other licensed professional rendering services in connection with the design or construction of the Redevelopment Work or subsequent Alterations, provided that Director shall have the discretion to reduce the coverage limits under this clause (b) if appropriate in the judgment of Director based on the nature and scope of the services being provided.

9.1.5.5 Asbestos Liability or Contractors Pollution Liability insurance, if construction requires remediation of asbestos or pollutants, and if such insurance is available. Such insurance shall cover liability for personal injury and property damage arising from the release, discharge, escape, dispersal or emission of asbestos or pollutants, whether gradual or sudden, and include coverage for the costs and expenses associated with voluntary clean-up, testing, monitoring and treatment of asbestos in compliance with governmental mandate or order. If the asbestos or pollutant will be removed from the construction site, asbestos or pollution liability is also required under the contractor's or subcontractor's Automobile Liability Insurance. Contractor shall maintain limits as reasonably required by the County for the Redevelopment 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. Lessee shall have the right to maintain the insurance coverage required under this Subsection 9.1.7 in a combination of primary and umbrella coverage as long as the primary coverage is at least One Million Dollars ($1,000,000) per occurrence and One Million Dollars ($1,000,000) aggregate, and the combination of such primary and umbrella coverage provides County with the same protection as if Lessee had carried primary coverage for the entire limits and coverage required under this Subsection 9.1.1.

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 Redevelopment 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 and 9.1.3 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 (excluding the Excluded Conditions and excluding the Seawall), in conformance with the Minimum Standards regarding the use and occupancy of anchorage and related commercial improvement projects in Marina del Rey (such as the Premises) as revised from time to time by County in a manner consistent with commercially reasonable maintenance standards applicable to other comparable commercial projects in Marina del Rey (the "**Maintenance Standard**"). Any dispute as to whether revisions to the Maintenance Standard adopted by the County from time to time pursuant to the immediately preceding sentence is commercially reasonable shall be submitted to arbitration pursuant to Article 16 of this Lease. Without limiting the foregoing, at Lessee's sole cost and expense, but subject to the terms and conditions of this Lease, Lessee shall keep and maintain the Premises 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 Redevelopment 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 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 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 docks, gangways, anchorage slips, end-ties and related anchorage Improvements ("**Anchorage Improvements**") in good repair and condition in accordance with the requirements of the Minimum Standards (except that during periods of construction the Redevelopment Work 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. Following the replacement of particular portions of the Anchorage Improvements pursuant to the Redevelopment Work, any requirement for subsequent repair of such replaced 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 any reasonable water quality management requirements hereafter adopted by County and imposed on a non-discriminatory basis to other similar marina operations in Marina del Rey. 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 the Marina Del Rey tree trimming policy referenced in Exhibit F, as such policy is updated 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 adjacent to 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; and (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. If repair of the Seawall requires access to the Premises, 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, an Approved Slip Lease or an Approved Storage Locker License (as such terms are 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 (a) any Sublease of an individual 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 boat slip lease hereafter submitted to and approved by County and the term of such Sublease does not exceed twelve (12) months (each, an "**Approved Slip Lease**"); or (b) any lease or license of an individual storage locker in the ordinary course (but not the master lease of multiple storage lockers), as long as such lease or license is in the form of the standard storage locker lease or license hereafter submitted to and approved by County and the term thereof does not exceed twelve (12) months (each, an "**Approved Storage Locker License**"). The terms and provisions of Sections 11.2 and 11.3 of this Lease shall not be applicable to Approved Slip Leases and Approved Storage Locker Licenses. Upon request by County, Lessee shall furnish County with a current rent roll respecting the Approved Slip Leases and Approved Storage Locker Licenses and a copy of all of such Approved Slip Leases and Approved Storage Locker Licenses.

11.1.3 Major Sublease. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable anchorage and related commercial facilities such as exist on the Premises. In light of the inherent detailed nature of a Major Sublease, Lessee shall deliver to County a copy of any proposed Major Sublease, or any sub-sublease or any other document pursuant to which an interest is proposed to be transferred in all or substantially all of the Premises, not less than 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 Slip Lease or Approved Storage Locker License, 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. Prior to the CO Date, County shall have the right to withhold its consent to any assignment or Major Sublease in its sole and absolute discretion. After the CO Date, County shall not unreasonably withhold or delay its consent to a proposed assignment or Major Sublease if (a) the assignee or Major Sublessee, either directly or through its affiliate or through a contractual relationship with a third party anchorage management company that will operate and manage the Premises, has adequate experience in the operation of anchorage facilities comparable to the Premises; and (b) the Assignment Standards are satisfied to the reasonable satisfaction of County. If County withholds its consent to an assignment or Major Sublease, 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 after March 1, 2022 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 ninety-five percent (95%) of 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, (II) those events identified in Subsection 4.6.2 of this Lease, or (III) any assignment, Major Sublease or transfer of a Controlling Interest that is consummated prior to March 1, 2022.

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 Restroom Sublease. Lessee and the Parcel 42 Lessee entered into a Restroom Sublease Agreement dated on or about the date of the Parcel 42 Lease ("**Restroom Sublease**") pursuant to which the Parcel 42 Lessee subleases to Lessee certain portions of the Parcel 42 Premises consisting of the interior portions of two restrooms and the outside accessways thereto, as more particularly described in the Restroom Sublease (the "**Restroom Sublease Premises**"). In the event of a termination of this Lease, all of Lessee's leasehold or other rights under the Restroom Sublease shall be automatically assigned to County. In the event that the Parcel 42 Lease is terminated prior to the termination of this Lease, County agrees upon the request of Lessee to sublease the Restroom Sublease Premises to Lessee during the remaining Term of this Lease on the same terms and conditions as set forth in the Restroom Sublease.

12. ENCUMBRANCES.

12.1 Financing Events.

12.1.1 Definitions. For the purposes of this Lease, including without limitation the provisions of Sections 4.6 through 4.8 hereof: (i) a "**Financing Event**" shall mean any financing or refinancing consummated by Lessee or by the holders of partnership interests or other direct or indirect ownership interests in Lessee (collectively, "**Ownership Interests**"), whether with private or institutional investors or lenders, where such financing or refinancing is an Encumbrance (as defined below); for purposes of Section 12.1.2 below and Sections 4.6 through

4.8 above, a "**Financing Event**" shall also include all of the foregoing actions involving the granting of a mortgage, deed of trust or other security interest in a Major Sublease; and (ii) an "**Encumbrance**" shall mean any direct or indirect grant, pledge, assignment, transfer, mortgage, hypothecation, grant of control, grant of security interest, or other encumbrance, of or in all or any portion of (A) Lessee's interest under this Lease and the estate so created (including without limitation a direct or indirect assignment of Lessee's right to receive rents from subtenants) or (B) Ownership Interests if an absolute assignment from the holder of such Ownership Interests to the holder of the Encumbrance would have required County's consent under this Lease, to a lender (upon County approval of the Encumbrance and consummation thereof, the "**Encumbrance Holder**") as security for a loan. The term "**Encumbrance Holder**" shall also be deemed to include any and all affiliates of such Encumbrance Holder which have succeeded by assignment or otherwise to any rights, interests or liabilities of the Encumbrance Holder with respect to the Encumbrance, or which have been designated by the Encumbrance Holder to exercise any rights or remedies under the Encumbrance or to take title to the leasehold estate under this Lease or to Ownership Interests, and such affiliates shall enjoy all of the rights and protections given to Encumbrance Holders under this Lease. The term "**Equity Encumbrance Holder**" shall mean an Encumbrance Holder holding an Encumbrance with respect to Ownership Interests.

12.1.2 County Approval Required. Lessee may, with the prior written consent of Director, which shall not be unreasonably withheld, and subject to any specific conditions which may be reasonably imposed by Director, consummate one or more Financing Event(s). Lessee shall submit to Director a preliminary loan package and thereafter a complete set of all proposed transaction documents in connection with each proposed Financing Event. The preliminary loan package shall include the loan commitment (or the so-called "loan application" if the loan commitment is styled as a loan application) and any other documents, materials or other information reasonably requested by Director. Lessee shall have the right, but not the obligation, to include draft loan documents in the preliminary loan package. Director shall have sixty (60) days (thirty (30) days for the initial construction loan for the Redevelopment Work) to grant or withhold approval of the preliminary loan package. Director shall have sixty (60) days (thirty (30) days for the initial construction loan for the Redevelopment Work) after receipt of substantially complete loan documents conforming to the approved preliminary loan package in which to grant or withhold final approval of the Financing Event; provided, however, that if the preliminary loan package included draft loan documents then the foregoing sixty (60) day period shall be reduced to thirty (30) days. If not approved by Director in writing within the foregoing periods, the proposed Financing Event shall be deemed disapproved by Director (and, if so requested in writing by Lessee), Director shall within thirty (30) days of such request deliver to Lessee a written description of Director's objections to said proposed Financing Event). Lessee shall reimburse County for County's Actual Cost incurred in connection with its review of the proposed Financing Event. One (1) copy of any and all security devices or instruments as finally executed or recorded by the parties in connection with any approved Encumbrance shall be filed with Director not later than seven (7) days after the effective date thereof. The same rights and obligations set forth above in this Subsection 12.1.2 shall inure to the benefit of and shall be binding upon any holder of Ownership Interests with respect to any proposed Financing Event involving Ownership Interests.

12.2 Consent Requirements In The Event of a Foreclosure Transfer.

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

12.2.2 Foreclosure Transfer. The consent of County shall not be required with respect to any Foreclosure Transfer.

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

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

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

respect to matters pertaining to or arising during such Institutional Lender's period of ownership of leasehold title.

12.3.2 Any other Foreclosure Transferee (i.e., other than an Institutional Lender as provided in 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 other financial obligation of Lessee under this Lease, (iii) any recapture right on the part of County, or (iv) any termination right under this Lease. Any Foreclosure Transfer, and any single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to Subsection 12.2.3, shall be deemed to be excluded from the definition of "Change of Ownership" for all purposes of this Lease. For clarification purposes, the "single subsequent transfer" referred to above applies to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder (as more fully explained in 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 Redevelopment Work or Future Anchorage Replacement described in Sections 5.1 or 5.11 above shall be tolled for a period of time, not to exceed twelve months, until such Institutional Lender completes a subsequent transfer of its foreclosed interest in the Lease or Ownership Interests, provided that such Institutional Lender is making commercially reasonable and diligent efforts to market and sell its foreclosed interest. Nothing in this Subsection 12.3.6 shall be construed as a limit or outside date on any cure periods provided to Encumbrance Holders under this Lease.

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

12.4 No Subordination. County's rights in the Premises and this Lease, including without limitation County's right to receive Annual Minimum Rent and Percentage Rent, shall not be subordinated to the rights of any Encumbrance Holder. Notwithstanding the foregoing, an Encumbrance Holder shall have all of the rights set forth in the security instrument creating the Encumbrance, as approved by County in accordance with Subsection 12.1.2, to the extent that such rights are not inconsistent with the terms of this Lease, including the right to commence an action against Lessee for the appointment of a receiver and to obtain possession of the Premises under and in accordance with the terms of said Encumbrance, provided that all obligations of Lessee hereunder shall be kept current, including but not limited to the payment of rent and curing of all defaults or Events of Default hereunder (other than Excluded Defaults or as otherwise provided herein).

12.5 Modification or Termination of Lease. This Lease shall not be modified or amended without the prior written consent in its sole discretion of each then existing Encumbrance Holder with respect to Lessee's entire leasehold interest in this Lease or all of the Ownership Interests in Lessee. Further, this Lease may not be surrendered or terminated (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 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 Redevelopment 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 same terms as the Interim Parcel 43 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 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 Required Construction Commencement Date or Required Construction Completion Date set forth in Section 5.1 (as such dates may extended pursuant to Sections 5.6, 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) expenses are accrued on an approximate basis each month during the fiscal year with full accrual treatment for the full fiscal year financial statements, (B) delinquent rents due from anchorage tenants that are individual persons (but not corporate tenants) is not accrued and any Gross Receipts from the operation of the Harbor Master Building are reported monthly on a cash basis with full reconciliation to accrual treatment on the annual statement of Gross Receipts, 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 boat anchorage management companies and which County reasonably deems necessary if the system then being used by Lessee does not adequately verify sales for audit or customer receipt purposes.

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

14.8 Annual Financial Statements. Within six (6) months after the end of each Accounting Year, Lessee shall deliver to County the following financial statements: (i) a balance sheet of Lessee as of the end of such Accounting Year, certified by Lessee's chief financial officer as accurately reflecting Lessee's assets and liabilities, which balance sheet shall not be required to be audited, provided that at County's request not more often than every two years, such balance

sheet shall be audited by a Certified Public Accountant who is a member of the American Institute of Certified Public Accountants and is satisfactory to County (a "**Qualified CPA**"); (ii) a profit and loss statement of Lessee for such Accounting Year, audited and certified by a Qualified CPA; and (iii) a Gross Receipts and Percentage Rent statement for such Accounting Year, audited and certified by a Qualified CPA, which statement shall include a certification and unqualified opinion of such Qualified CPA (1) concerning Lessee's Gross Receipts (including a breakdown by category), and (2) that the correct amount of Percentage Rent has been paid to the County in connection with such Gross Receipts. All financial statements prepared by or on behalf of Lessee shall be prepared in a manner that permits County to determine the financial results of operations in connection with Lessee's activities at, from or relating to the Premises, notwithstanding that Lessee may have income and expenses from other activities unrelated to its activities on the Premises.

14.9 Accounting Obligations of Sublessees. Lessee shall cause all Sublessees 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 1962. 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 Interim Parcel 43 Lease with respect to any abandoned wells or other environmental conditions existing on the Premises as of the Effective Date.

15.4.1.4 California Civil Code Section 1542 provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF

EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

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

_____
Lessee's Initials

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

15.5 Holding Over. If Lessee holds over after the expiration of the Term for any cause, with or without the express or implied consent of County, such holding over shall be deemed to be a tenancy from month-to-month only, and shall not constitute a renewal or extension of the Term. During any such holdover period, the Minimum Monthly Rent and Percentage Rent 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:	MDR Marina, L.P. c/o MDR Marina, LLC Pacific Marina Development, Inc. 3416 Via Lido, Suite G

Newport Beach, CA 92663
Phone: 949/673-6310
Fax: 949/673-6331

With a Copy to: Cox, Castle & Nicholson LLP
2049 Century Park East
28th Floor
Los Angeles, California 90067
Attn: 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 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.

15.20 Waterfront Promenade. The "Renovation Work" to be performed by the Parcel 42 Lessee under the Parcel 42 Lease includes the development (or as applicable, renovation) by the Parcel 42 Lessee of a continuous pedestrian walkway and related improvements (the "**Promenade**") along certain portions of the perimeter of the Parcel 42 Premises adjacent to the

Premises. The Reciprocal Easement Agreement includes certain covenants and agreements between Lessee and the Parcel 42 Lessee concerning the development and/or renovation of the Promenade, including without limitation, a covenant on the part of Lessee to pay or reimburse the Parcel 42 Lessee for a portion of the cost of the development and/or renovation of the Promenade. Lessee agrees as a covenant under this Lease to comply with all terms and provisions of the Reciprocal Easement Agreement pertaining or relating to the Promenade. Notwithstanding any contrary provision of this Lease, County shall have no liability to Lessee, and Lessee's obligations under this Lease shall not be excused, delayed, deferred, extended or otherwise affected, by any breach, default, act or omission by or on behalf of the Parcel 42 Lessee, its employees, agents, affiliates, subtenants, licensees, contractors, successors or assigns, pertaining or relating to the Promenade, including without limitation, the development or renovation thereof.

15.21 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. 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.

15.22 Seaworthy Vessels. On or before January 1, April 1, July 1 and October 1 of each year during the Term, Lessee shall deliver to Director a report which contains the following information with respect to every vessel (including floating homes as defined in Title 19 of the Los Angeles County Code) moored within the Premises: (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 subject to removal from the Premises by Lessee in accordance with applicable law for non-compliance with the requirements of the slip lease. The requirements of the two preceding sentences shall not be applicable to any vessel which is specifically exempted from seaworthiness requirements by Title 19 of the Los Angeles County Code.

15.23 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, 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, then 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 Water Taxi Slip/Transient Slip. Upon forty-five (45) days prior written notice from Director to Lessee from time to time during the Term, Lessee shall make available one (1) end-tie docking slip to be reserved for water taxi docking purposes, at a location approved by Director, during those time periods that a water taxi program is operated in the marina (the "**Water Taxi Slip**"). Lessee also agrees to make available one side-tie docking slip, at a location to be approved by Director, for transient boat use on an hourly or daily basis (the "**Transient Slip**"). Lessee shall be responsible for ensuring that the Transient Slip and the Water Taxi Slip (but not the water taxi operator itself) are in compliance with all Applicable Laws for the uses described in this Section 17.10. The operation of the Water Taxi Slip and 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. The operation of the Transient Slip shall be subject to certain other terms and provisions set forth in the Reciprocal Easement Agreement.

SIGNATURES ON FOLLOWING PAGE

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

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

MDR MARINA, L.P., a California limited partnership

By: MDR Marinas, LLC, a California limited liability company, General Partner

By: Pacific Marina Development, Inc., a California corporation, Manager

By: _____
Thomas J. Hogan, President

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 717 and 719, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 through 70, inclusive, of Assessor's Maps, in the office of the Registrar-Recorder/County Clerk of the County of Los Angeles, State of California.

TOGETHER WITH that portion of Parcel 905, as shown on said map, within the following described boundaries:

Beginning at the northwesterly corner of said Parcel 717; thence SOUTH, along the westerly line of said Parcel 717, a distance of 870.64 feet to the southwesterly corner of said Parcel 717; thence South 60°00'00" West 110 feet; thence North 10°00'27" West 802.35 feet to a point in the southwesterly prolongation of the northwesterly line of Parcel 715, as shown on said map, said point lying 271 feet southwesterly, measured along said prolongation, from said northwesterly corner of Parcel 717; thence North 60°00'00" East 271 feet to the point of beginning.

ALSO TOGETHER WITH that portion of Parcel 718, as shown on said map, within the following described boundaries:

COMMENCING at the northwesterly corner of said Parcel 718; thence North 60°00'00" East, along the northwesterly line of said Parcel 718, a distance of 578.76 feet to the most northerly corner of said Parcel 718; thence South 54°19'21" West 167.99 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 41.00 feet; thence South 30°00'00" East 34.00 feet; thence North 60° 00'00" East 41.00 feet; thence North 30°00'00" West 34.00 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH that portion of Parcel 720, as shown on said map, within the following described boundaries:

COMMENCING at the most northerly corner of said Parcel 720; thence South 30°00'00" East, along the northeasterly line of said Parcel 720, a distance of 150 feet to the most easterly corner of said Parcel 720; thence South 73°23'09" West 137.91 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 104.00 feet; thence North 30°00'00" West 45.00 feet; thence North 60°00'00" East 104.00 feet; thence South 30°00'00" East 45.00 feet to the TRUE POINT OF BEGINNING.

EXCEPTING therefrom an undivided one-half interest in all oil, gas, and other hydrocarbons lying at or below a depth of 500 feet from the surface, but without any right of entry upon the surface or the first 500 feet below the surface, as reserved to the defendants in a Final Order of Condemnation, had in Superior Court Case No. S.M.C. 5262, a certified copy of which was recorded on August 21, 1959, in Book D580, page 230, of said Official Records.

EXHIBIT B

REDEVELOPMENT PLAN

[See attached]

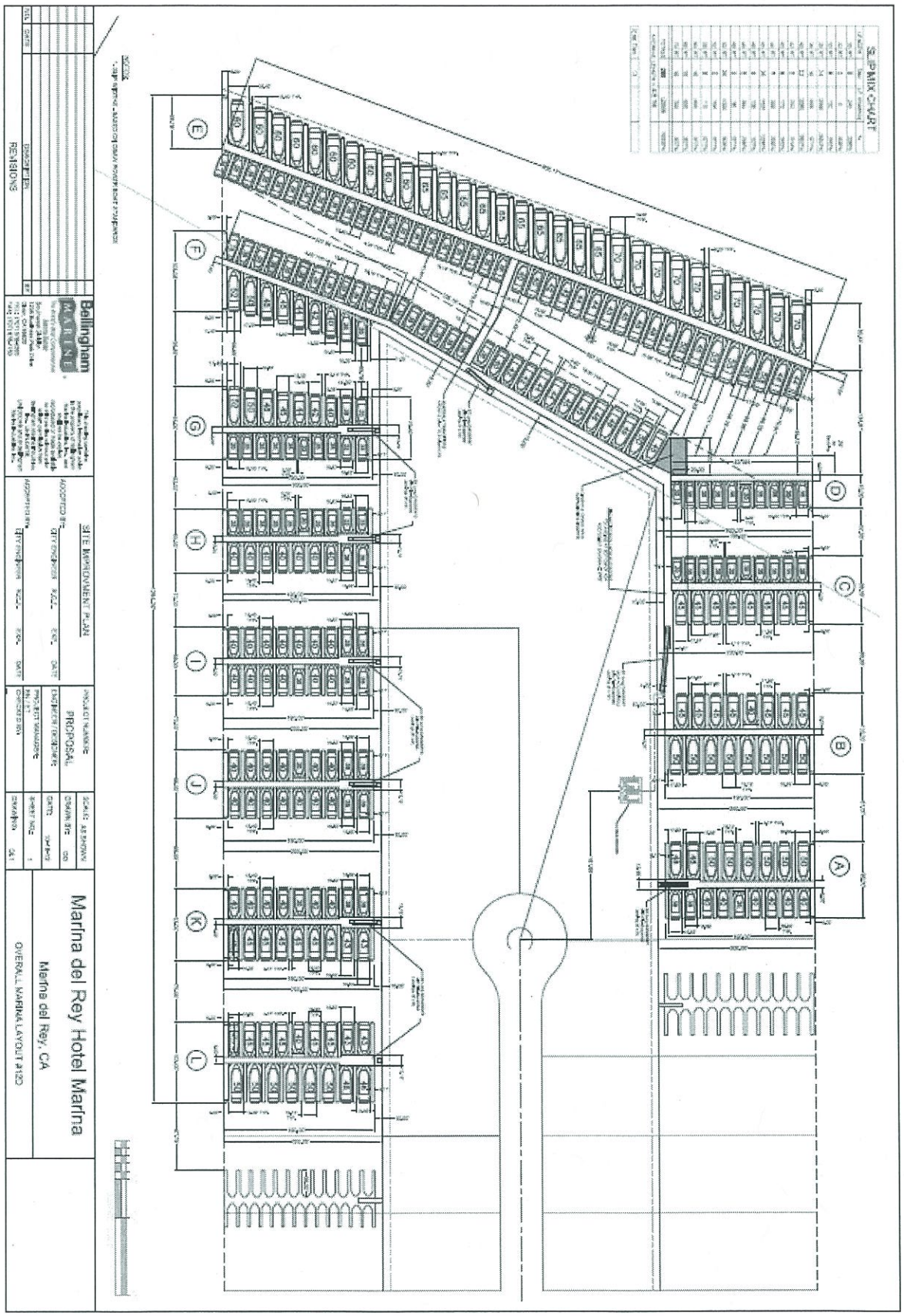
Marina del Rey Hotel Marina
Marina del Rey, CA
OVERALL MARINA LAYOUT #120
SITE IMPROVEMENT PLAN
PROPOSAL
Bellingham
REVISIONS
SLIPMIX CHART

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

CONDITIONS TO COASTAL DEVELOPMENT PERMIT

[Prior to lease execution attach list of conditions included in Coastal Development Permit No. 5-11-131]

EXHIBIT E

EXAMPLES OF PERMITTED CAPITAL EXPENDITURES

Subject to the terms and provisions of Section 5.12 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.

EXHIBIT F

TREE TRIMMING POLICY

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.

BOARD OF SUPERVISORS' ORIGINAL

AMENDED AND RESTATED LEASE AGREEMENT
(Parcel 43 – Marina del Rey)

by and between

COUNTY OF LOS ANGELES

and

MDR MARINA, L.P.

(Parcel 43 -- Lease No. 78023)

Dated as of August 30, 2013

78023

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AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 43 — MARINA DEL REY

THIS AMENDED AND RESTATED LEASE AGREEMENT ("**Lease**") is made and entered into as of the 30th day of August, 2013 ("**Effective Date**"), by and between the COUNTY OF LOS ANGELES ("**County**"), as lessor, and IWF MDR HOTEL, L.P., a California limited partnership (together with its permitted successors and assigns, "**Lessee**"), as lessee.

RECITALS

WHEREAS, County, as lessor, and Milton Weber, Elias Alan Fellman, Gerald Fellman and Edward Z. Fellman, a partnership, as lessee, entered into Lease No. 5577 dated May 7, 1962, as amended (the "**Existing Lease**"), concerning the lease of certain real property in the Marina del Rey Small Craft Harbor commonly known collectively as Parcels 42 and 43 and more particularly described in the Existing Lease;

WHEREAS, County and Lessee entered into that certain Option Agreement Regarding Leasehold Interest (Parcels 42 and 43) dated May 17, 2011 (the "**Original Base Option Agreement**"), pursuant to which County granted Lessee two options concerning the Existing Lease, one referenced in the Base Option Agreement as the "**Parcel 42 Option**" and one referenced in the Base Option Agreement as the "**Parcel 43 Option;**"

WHEREAS, County and Lessee entered into that certain Amendment to Option Agreement Regarding Leasehold Interest (Parcels 42 and 43) dated November 13, 2012 (the "**Base Option Agreement Amendment**") pursuant to which the Original Base Option Agreement was amended in certain respects, including the extension of the required dates for the exercise of the Parcel 42 Option and the Parcel 43 Option; the Original Base Option Agreement, as amended by the Base Option Agreement Amendment is referred to herein as the "**Base Option Agreement**;"

WHEREAS, Lessee has exercised the Parcel 42 Option in accordance with the terms and provisions of the Base Option Agreement, but has not exercised the Parcel 43 Option; and

WHEREAS, in connection with the exercise of the Parcel 42 Option, concurrent herewith County, as lessor, and Lessee, as lessee, have entered into that certain Amended and Restated Lease Agreement (Parcel 42) dated of even date herewith (the "**Parcel 42 Lease**") concerning the lease by County to Lessee of certain real property in the Marina del Rey Small Craft Harbor more particularly described in Exhibit A attached to the Parcel 42 Lease (the "**Parcel 42 Premises**"); and

WHEREAS, under the circumstance in which the Parcel 42 Option is exercised but the Parcel 43 Option is not exercised under the Base Option Agreement, the Base Option Agreement provides that concurrent with the execution and delivery of the Amended and Restated Parcel 42 Lease (a) the Base Option Agreement is terminated with respect to the Parcel 43 Option; (b) County and Lessee are to execute and deliver this Lease to amend and restate the Existing Lease

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in its entirety with respect to the Premises described herein; (c) if elected by Lessee, Lessee is to assign its rights, title and interests under this Lease to Pacific Marina Development, Inc. or an affiliate of Pacific Marina Development, Inc. approved by County in accordance with the Base Option Agreement ("**PMD**"); and (d) County and Lessee (or if this Lease is assigned to PMD, then County and PMD) are to execute and deliver an Option Agreement Regarding Leasehold Interest (Parcel 43) (the "**Parcel 43 Option Agreement**") to replace the Parcel 43 Option set forth in the Base Option Agreement with the replacement option set forth in the Parcel 43 Option Agreement (the "**Replacement Option**"); and

WHEREAS, concurrently herewith, Lessee's rights, title and interest under this Lease are being assigned to MDR MARINA, L.P., a California limited partnership ("**MDRM**"), an affiliate of Pacific Marina Development, Inc., and MDRM is assuming all of Lessee's obligations and liabilities under this Lease.

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 with respect to the Premises, 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 "AGGREGATE TRANSFER" shall mean 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 (excluding Excluded Transfers) 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; 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.

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

1.1.8 "ANCHORAGE IMPROVEMENTS" shall have the meaning set forth in Section 10.2.

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

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

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

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

1.1.13 "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.

1.1.14 "APPROVED GOVERNMENTAL CHANGES" shall mean any changes to Alterations 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 Alterations, except for any change that is a Material Modification.

1.1.15 "APPROVED SLIP LEASE" shall have the meaning set forth in Subsection 11.1.2.

1.1.16 "APPROVED STORAGE LOCKER LICENSE" shall have the meaning set forth in Subsection 11.1.2.

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

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

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

1.1.20 "BASE OPTION AGREEMENT" shall have the meaning set forth in the Recitals to this Lease.

1.1.21 "BENEFICIAL INTEREST" shall mean 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.

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

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

1.1.24 "CHANGE OF OWNERSHIP" shall mean the following: (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 clause (a) or (b) above 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 of Lessee or a Major Sublessee.

1.1.25 "CHANGE OF CONTROL" shall mean 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%).

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

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

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

1.1.29 "CONSUMER PRICE INDEX" shall mean the Consumer Price Index--All Urban Consumers for Los Angeles-Riverside-Orange 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.

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

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

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

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

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

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

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

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

1.1.38 "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.

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

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

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

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

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

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

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

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

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

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

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

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

1.1.51 "EXCLUDED TRANSFER" shall meaning any of the following:

1.1.51.1 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 (which for purposes of this Lease shall mean spouse, children, parents, siblings and grandchildren) of any direct or indirect partner, shareholder or member of Lessee who is an individual;

1.1.51.2 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;

1.1.51.3 a transfer of ownership interests in Lessee or in constituent entities of Lessee (i) to a member of the immediate family of the transferor, (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 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;

1.1.51.4 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;

1.1.51.5 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;

1.1.51.6 any transfer resulting from a Condemnation by County; or

1.1.51.7 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.

1.1.52 "EXISTING LEASE" shall have the meaning set forth in the Recitals to this Lease.

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

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

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

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

1.1.57 "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.

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

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

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

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

1.1.62 "HARBOR MASTER BUILDING" shall mean the free-standing building located on the Premises that as of the Effective Date is occupied by the harbor master.

1.1.63 "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.

1.1.64 "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.

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

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

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

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

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

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

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

1.1.72 "LEASE YEAR" shall have the meaning set forth in Subsection 2.1.1.

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

1.1.74 "MAINTENANCE STANDARD" shall have the meaning set forth in Section 10.1.

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

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

1.1.77 "MATERIAL MODIFICATION" shall mean a modification to any Alterations 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 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 changes the size, configuration or number of anchorage slips or end-ties.

1.1.78 "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 commercial projects in Marina del Rey.

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

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

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

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

1.1.83 "OPERATING COVENANT EXCEPTIONS" shall have the meaning set forth in Section 3.3.

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

1.1.85 "PARCEL 42 LEASE" shall have the meaning set forth in the Recitals to this Lease.

1.1.86 "PARCEL 42 LESSEE" shall mean the lessee under the Parcel 42 Lease.

1.1.87 "PARCEL 42 PREMISES" shall have the meaning set forth in the Recitals to this Lease, except that during any period during which no Parcel 42 Lease is in effect, the Parcel 42 Premises shall mean the "Parcel 42 Property" under the Reciprocal Easement Agreement.

1.1.88 "PARCEL 43 OPTION AGREEMENT" shall have the meaning set forth in the Recitals to this Lease.

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

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

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

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

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

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

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

1.1.96 "PREMISES" shall mean the real property described on Exhibit A attached to this Lease.

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

1.1.98 "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.

1.1.99 "PROMENADE" shall have the meaning set forth in Section 15.20.

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

1.1.101 "RECIPROCAL EASEMENT AGREEMENT" means that certain Reciprocal Easement Agreement dated as of the Effective Date between and among, MDRM, as successor Lessee under this Lease, the Parcel 42 Lessee and County with respect to the Premises and the Parcel 42 Premises, as amended from time to time.

1.1.102 "REPLACEMENT OPTION" shall have the meaning set forth in the Recitals to this Lease.

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

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

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

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

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

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

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

1.1.110 "STATE" shall mean the State of California.

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

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

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

1.1.114 "substantial completion" means the completion of construction of Improvements, 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 subject Improvements (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.

1.1.115 "TERM" shall have the meaning set forth in Subsection 2.1.1.

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

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

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

1.1.119 "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 with respect to the Premises.

1.2.1 As-Is. Lessee acknowledges that (1) it is currently in possession of the Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Premises since 1962, and (3) the Improvements now existing on the Premises were constructed by Lessee or its predecessors with contractors selected by them. Except as provided in 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 March 1, 1962 and, unless terminated sooner in accordance with the provisions of this Lease, shall expire at 11:59 p.m. on February 28, 2022. 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 five (5) years, and no later than four (4) 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, in the case of land, 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**") by the later of (a) one (1) year following delivery by Lessee to County of the Demolition and Removal Report, or (b) three (3) 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 County ("**Demolition Security**"), and (ii) a schedule satisfactory to County for the delivery by Lessee of the security described in clause (i) above, which schedule shall in all events provide for a full funding of the security not later than two (2) years prior to the expiration of the Term. The amount of 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 boat anchorage facilities, the use of the Harbor Master Building for the uses for which the Harbor Master Building is used as of the Effective Date, and other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the "**Permitted Uses**"). Except as specifically provided herein, the Premises 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.

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, non-business activity of an individual that is confined to the privacy of such individual's private residence aboard its boat;

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.

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; and provided further that this paragraph shall not pertain to an antennae located on a boat to the extent that such antennae is consistent with antennae typically operated on such a boat.

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, and (ii) 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.

3.3 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, temporary interruption as necessary for maintenance and repair, or temporary interruption as necessary to accommodate renovation, alteration or other improvement work required or permitted to be performed by Lessee under this Lease (collectively, "**Operating Covenant Exceptions**")) in light of these objectives, consistent with the operation of comparable anchorage and related commercial 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. Lessee shall maintain a dockmaster on duty with respect to the Improvements pursuant to the terms and provisions of Section 15.21 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 dockmaster shall be subject to the written approval of Director, which approval shall not be unreasonably withheld, conditioned or delayed. Except as otherwise approved by Director, the Harbor Master Building shall be open on such days and for such hours as the Harbor Master Building is typically open as of the Effective Date, subject to the Operating Covenant Exceptions.

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 anchorage and related commercial 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, this Lease shall be subject to the Reciprocal Easement Agreement. Lessee agrees during the Term of this Lease, as a covenant of Lessee under this Lease, to perform and comply with all obligations, covenants and liabilities of Lessee, and all other terms and provisions applicable to Lessee, under the Reciprocal Easement Agreement. Notwithstanding any contrary provision of this Lease, County shall have no liability to Lessee under this Lease, and Lessee's obligations under this Lease shall not be excused, delayed, deferred, extended or otherwise affected, by (a) any breach, default, act or omission by or on behalf of the Parcel 42 Lessee, its employees, agents, affiliates, subtenants, licensees, contractors, successors or assigns, under the Reciprocal Easement Agreement; or (b) any redevelopment or renovation of the Parcel 42 Premises or improvements located thereon (including without limitation, the Promenade), or any failure of, or delay in, the redevelopment or renovation of the Parcel 42 Premises or improvements located thereon, including, without limitation, any disturbance, inconvenience, disruption, noise or other adverse effect upon the Premises or Improvements, or the use or operation thereof, incurred or resulting therefrom. The terms and provisions of this paragraph are not intended to modify or affect any express obligations of County under the Reciprocal Easement Agreement that may be applicable under the Reciprocal Easement Agreement with respect to any period during which neither the Parcel 42 Lease nor any new or replacement lease is in effect with respect to the Parcel 42 Premises or a portion thereof.

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.

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 Replacement 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 next following the third (3rd) anniversary of the Effective Date, the Annual Minimum Rent shall be equal to $360,490.00 per year.

As of January 1 immediately following the period described in the immediately preceding sentence (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 Section 4.3 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 (or on, from or within portions of the Parcel 42 Premises and improvements located thereon as to which Lessee has access, use, easement or similar rights under the Reciprocal Easement Agreement) 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) TEN PERCENT (10%) of Gross Receipts from the rental or other fees charged for the use of dry storage facilities, landside storage space, lockers or other similar facilities; provided, however, if the Replacement Option is not exercised prior to the expiration of the Replacement Option, then commencing on and after the date of the expiration of the Replacement Option and continuing during the remaining Term of this Lease, the percentage for this category (b) shall be TWENTY PERCENT (20%) instead of TEN PERCENT (10%);

(c) SEVEN AND ONE-HALF PERCENT (7.5%) of Gross Receipts or other fees charged for the rental, occupancy or use of the following structures: (1) hotel and/or motel accommodations, and (2) meeting rooms; and TEN PERCENT (10%) of Gross Receipts from filming or other television and/or motion picture activities;

(c1) ELEVEN PERCENT (11%) 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 commercial establishments; provided that, except as provided in Subsection 4.2.2.5, Gross Receipts or other fees charged for the occupancy of restaurants, stores, shops or other commercial establishments shall not be included in the calculation of Percentage Rent under this 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) With respect to services such as 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, and other similar activities where earnings are normally on a commission basis, 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 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;

(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 the rental of boats or from other commercial boating activities including, but not limited to, charter boats, bareboat charters and sport fishing, or from the rental of bicycles, cycles carriages, scooters or other similar equipment;

(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) (1) In the case where parking facilities are operated by a third party operator under a parking operation agreement with Lessee or a Sublessee, (i) TWENTY PERCENT (20%) of the fee or other compensation paid by such third party operator to Lessee (or Sublessee) if the operator is entitled to receive parking revenue and is responsible for the payment of operating expenses; or (ii) FIVE PERCENT (5%) of the Gross Receipts from the operation of such parking if the operator collects such Gross Receipts on behalf of Lessee (or Sublessee) and Lessee (or Sublessee) is responsible for the payment of the operating expenses for such parking operation (which operating expenses include a fee or other compensation to the parking operator for the rendering of such parking services); or

(2) In the case where parking facilities are operated by Lessee or a Sublessee, FIVE PERCENT (5.0%) of Gross Receipts from such parking.

Notwithstanding the foregoing, if other comparable anchorage projects in Marina del Rey generally provide parking at no charge or for a charge less than that charged by Lessee, then at Director's election the Gross Receipts under this Lease attributable to parking charges in excess of the market rate for such parking shall not be included in Percentage Rent under this category (r) but shall instead be considered Gross Receipts from the rental or use of boat slips under category (a) 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;

(s1) TWO PERCENT (2%) of the Gross Receipts from the operation of all stores, shops or boutiques selling items at retail; provided, however, if the Replacement Option is not exercised prior to the expiration of the Replacement Option, then commencing on and after the date of the expiration of the Replacement Option and continuing during the remaining Term of this Lease, the percentage for this category (s1) shall be FIVE PERCENT (5%) instead of TWO PERCENT (2%);

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

4.2.2.1 Other Activities. If Director or Lessee reasonably determine that a percentage of Gross Receipts is not suitable or applicable for a particular activity not described above, although permitted hereunder, Director and Lessee shall mutually establish a minimum monthly payment to County as payment for the privilege of engaging therein, which shall remain effective until the next Renegotiation Date. Said minimum monthly amount shall be reasonable in accordance with the revenue generated by such activity and shall be included in Percentage Rent, as determined hereunder, in lieu of a percentage of Gross Receipts therefor.

4.2.2.2 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 (or on portions of the Parcel 42 Premises as to which Lessee has access, use, easement or similar rights under the Reciprocal Easement Agreement), 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) Gross Receipts shall not include any of the following items; provided, however, that the non-inclusion in Gross Receipts of the following items

shall not be construed or interpreted to permit the reduction of, or any offset against, Gross Receipts by or for the amount of such 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;

l. amounts received for services rendered by a live-aboard Sublessee of an individual slip in connection with the operation by such live-aboard Sublessee of an in-home business on the boat of such live-aboard, as long as the primary purpose of Sublessee's use of the boat is for residential occupancy and such in-home business is an incident to such residential use; and

m. any payments or reimbursements received by Lessee from the Parcel 42 Lessee pursuant to the Reciprocal Easement Agreement that constitute or represent payment or reimbursement by the Parcel 42 Lessee to Lessee for costs incurred by Lessee in connection with the operation, maintenance or repair of any common or shared areas under the Reciprocal Easement Agreement.

(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 First Adjustment Date and every three (3) years thereafter during the remaining Term of the Lease (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 Intentionally Deleted.

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.

5. ALTERATIONS.

5.1 Intentionally Deleted.

5.2 Definition of Alterations. 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.

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. 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 Alterations shall be commenced until each and all of the following conditions have been satisfied:

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

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

5.4.3 Performance and Payment Bonds. Lessee shall, at its own cost and expense, have furnished County with the following separate corporate surety bonds (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 Alterations. Lessee shall furnish Director with copies of all final notes,

guarantees, partnership, shareholder or limited liability company agreements, construction loan and/or permanent loan commitments, as applicable, evidence of equity, documents creating and/or perfecting security interests, and all documents and exhibits referred to in any of the foregoing, together with any and all recorded documents affecting an interest in the Premises.

5.5 Intentionally Deleted.

5.6 Intentionally Deleted

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 any 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)).

5.8 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.

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 Subsection 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 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). If as of a particular date for adjustment to the amount of the Security Deposit as provided above, Lessee has not at any time during the immediately preceding three (3) year period committed an Event of Default under this Lease, then effective as of such adjustment and continuing until the earlier of the occurrence of an Event of Default or the next date for adjustment of the amount of the Security Deposit as provided

above, the amount of the Security Deposit required to be maintained by Tenant shall be reduced to two (2) times the Monthly Minimum Rent placed into effect as of such Security Deposit adjustment date.

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 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.

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 for General Aggregate is at least Two Million Dollars ($2,000,000) per occurrence, Two Million Dollars ($2,000,000) annual aggregate, (b) Lessee's Primary Coverage for Products/Completed Operations Aggregate is at least One Million Dollars ($1,000,000) per occurrence, One Million Dollars ($1,000,000) annual aggregate, (c) Lessee's Primary Coverage for Personal and Advertising Injury is at least One Million Dollars ($1,000,000) per occurrence, Two Million Dollars ($2,000,000)

annual aggregate, and (d) the combination of each of such Primary Coverages 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 twelve (12) 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.

9.1.5 For construction projects on the Premises for 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 Alterations. The products/completed operations coverage shall continue to be maintained for such period after the date such Alterations are completed and accepted by Lessee as reasonably determined by County, but not to exceed three (3) years after such completion and acceptance.

9.1.5.3 Automobile Liability. Such coverage shall be written on ISO policy form CA 00 01 or its equivalent with a limit of liability as reasonably required by the County for the Alterations. 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 or such lesser amount as required by Director, 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 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 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. Lessee shall have the right to maintain the insurance coverage required under this Subsection 9.1.7 in a combination of primary and umbrella coverage as long as the primary coverage is at least One Million Dollars ($1,000,000) per occurrence and One Million Dollars ($1,000,000) aggregate, and the combination of such primary and umbrella coverage provides County with the same protection as if Lessee had carried primary coverage for the entire limits and coverage required under this Subsection 9.1.1.

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 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 and 9.1.3 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 (excluding the Excluded Conditions and excluding the Seawall), in conformance with the Minimum Standards regarding the use and occupancy of anchorage and related commercial improvement projects in Marina del Rey (such as the Premises) as revised from time to time by County in a manner consistent with commercially reasonable maintenance standards applicable to other comparable commercial projects in Marina del Rey (the "**Maintenance Standard**"). Any dispute as to whether revisions to the Maintenance Standard adopted by the County from time to time pursuant to the immediately preceding sentence is commercially reasonable shall be submitted to arbitration pursuant to Article 16 of this Lease. Without limiting the foregoing, at Lessee's sole cost and expense, but subject to the terms and conditions of this Lease, Lessee shall keep and maintain the Premises 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 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 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 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 docks, gangways, anchorage slips, end-ties and related anchorage Improvements ("**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. After the expiration of the Replacement Option, 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 any reasonable water quality management requirements hereafter adopted by County and imposed on a non-discriminatory basis to other similar marina operations in Marina del Rey. 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 the Marina Del Rey tree trimming policy attached to this Lease as Exhibit C, as such policy is updated 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 adjacent to 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; and (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. If repair of the Seawall requires access to the Premises, 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, an Approved Slip Lease or an Approved Storage Locker License (as such terms are 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 (a) any Sublease of an individual 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 boat slip lease hereafter submitted to and approved by County and the term of such Sublease does not exceed twelve (12) months (each, an "**Approved Slip Lease**"); or (b) any lease or license of an individual storage locker in the ordinary course (but not the master lease of multiple storage lockers), as long as such lease or license is in the form of the standard storage locker lease or license hereafter submitted to and approved by County and the term thereof does not exceed twelve (12) months (each, an "**Approved Storage Locker License**"). The terms and provisions of Sections 11.2 and 11.3 of this Lease shall not be applicable to Approved Slip Leases and Approved Storage Locker Licenses. Upon request by County, Lessee shall furnish County with a current rent roll respecting the Approved Slip Leases and Approved Storage Locker Licenses and a copy of all of such Approved Slip Leases and Approved Storage Locker Licenses.

11.1.3 Major Sublease. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable anchorage and related commercial facilities such as exist on the Premises. In light of the inherent detailed nature of a Major Sublease, Lessee shall

deliver to County a copy of any proposed Major Sublease, or any sub-sublease or any other document pursuant to which an interest is proposed to be transferred in all or substantially all of the Premises, not less than 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 B 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 Slip Lease or Approved Storage Locker License, 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. Prior to the expiration or termination of the Replacement Option, County shall have the right to withhold its consent to any assignment or Major Sublease in its sole and absolute discretion. In addition, if the Replacement Option is exercised, then during any period between the date of the exercise of the Replacement Option and the date of the execution of the "Amended and Restated Parcel 43 Lease (Post-Parcel 43 Option Exercise" referenced in the Parcel 43 Option Agreement, County shall have the right to withhold its consent to any assignment or Major Sublease in its sole and absolute discretion. If the Replacement Option is not exercised, then after the expiration or termination of the Replacement Option, County shall not unreasonably withhold or delay its consent to a proposed assignment or Major Sublease if (a) the assignee or Major Sublessee, either directly or through its affiliate or through a contractual relationship with a third party anchorage management company that will operate and manage the Premises, has adequate experience in the

operation of anchorage facilities comparable to the Premises; and (b) the Assignment Standards are satisfied to the reasonable satisfaction of County. If County withholds its consent to an assignment or Major Sublease, 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.

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.

11.3 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.

11.4 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.

11.5 Restroom Sublease. Concurrently or substantially concurrently with the execution and delivery of this Lease, Lessee and the Parcel 42 Lessee have executed and delivered a Restroom Sublease Agreement ("**Restroom Sublease**") pursuant to which the Parcel 42 Lessee has subleased to Lessee certain portions of the Parcel 42 Premises consisting of the interior portions of two restrooms and the outside accessways thereto, as more particularly described in the Restroom Sublease (the "**Restroom Sublease Premises**"). In the event of a termination of this Lease, all of Lessee's leasehold or other rights under the Restroom Sublease shall be automatically assigned to County. In the event that the Parcel 42 Lease is terminated prior to the termination of this Lease, County agrees upon the request of Lessee to sublease the Restroom Sublease Premises to Lessee during the remaining Term of this Lease on the same terms and conditions as set forth in the Restroom Sublease.

12. ENCUMBRANCES.

12.1 Financing Events.

12.1.1 Definitions. For the purposes of this Lease: (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, 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 to grant or withhold approval of the preliminary loan package. Director shall have sixty (60) days after receipt of substantially complete loan documents conforming to the approved preliminary loan package in which to grant or withhold final approval of the Financing Event; provided, however, that if the preliminary loan package included draft loan documents then the foregoing sixty (60) day period shall be reduced to thirty (30) days. If not approved by Director in writing within the foregoing periods, the proposed Financing Event shall be deemed disapproved by Director (and, if so requested in writing by Lessee), Director shall within thirty (30) days of such request deliver to Lessee a written description of Director's objections to said proposed Financing Event). Lessee shall reimburse County for County's Actual Cost incurred in connection with its review of the proposed Financing Event. One (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, or (iii) is a non-monetary default that is not reasonably susceptible of being cured by such transferee (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 acceleration of any financial obligation of Lessee under this Lease, (ii) any recapture right on the part of County, or (iii) any termination right under this Lease. Any Foreclosure Transfer, and any single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to Subsection 12.2.3, shall be deemed to be excluded from the 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 Intentionally deleted.

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 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). If more than one such Encumbrance Holder desires to exercise the foregoing right, the most senior Encumbrance Holder shall have priority in the exercise of such right.

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

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

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

13. DEFAULT.

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

13.1.1 Monetary Defaults. The failure of Lessee to pay the rentals due, or make any other monetary payments required under this Lease, within 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.

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 and court costs.

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 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) expenses are accrued on an approximate basis each month during the fiscal year with full accrual treatment for the full fiscal year financial statements, (B) delinquent rents due from anchorage tenants that are individual persons (but not corporate tenants) is not accrued and any Gross Receipts from the operation of the Harbor Master Building are reported monthly on a cash basis with full reconciliation to accrual treatment on the annual statement of Gross Receipts, 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 Article 4, 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.

For purposes of clarification, in addition to application of this Section 14.4 to portions of the Term after the Effective Date, this Section 14.4 shall also apply with respect to unaudited periods under the Existing Lease from and after April 1, 2013. In the event of any deficiency in the payment of percentage rent under the Existing Lease for the period between April 1, 2013 through the date preceding the Effective Date, Lessee shall be liable for the payment of any portion of such deficiency that pertains to percentage rent attributable to the Premises. Such liability of Lessee shall be joint and several with that of the Parcel 42 Lessee.

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 boat anchorage management companies and which County reasonably deems necessary if the system then being used by Lessee does not adequately verify sales for audit or customer receipt purposes.

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

14.8 Annual Financial Statements. Within six (6) months after the end of each Accounting Year, Lessee shall deliver to County the following financial statements: (i) a balance

sheet of Lessee as of the end of such Accounting Year, certified by Lessee's chief financial officer as accurately reflecting Lessee's assets and liabilities, which balance sheet shall not be required to be audited, provided that at County's request not more often than every two years, such balance sheet shall be audited by a Certified Public Accountant who is a member of the American Institute of Certified Public Accountants and is satisfactory to County (a "**Qualified CPA**"); (ii) a profit and loss statement of Lessee for such Accounting Year, audited and certified by a Qualified CPA; and (iii) a Gross Receipts and Percentage Rent statement for such Accounting Year, audited and certified by a Qualified CPA, which statement shall include a certification and unqualified opinion of such Qualified CPA (1) concerning Lessee's Gross Receipts (including a breakdown by category), and (2) that the correct amount of Percentage Rent has been paid to the County in connection with such Gross Receipts. All financial statements prepared by or on behalf of Lessee shall be prepared in a manner that permits County to determine the financial results of operations in connection with Lessee's activities at, from or relating to the Premises, notwithstanding that Lessee may have income and expenses from other activities unrelated to its activities on the Premises.

14.9 Accounting Obligations of Sublessees. Lessee shall cause all Sublessees 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 1962. Lessee accepts the Premises in their present condition notwithstanding the fact that there may be certain defects in the Premises, whether or not known to either party to this Lease, at the time of the execution of this Lease by Lessee and Lessee hereby represents that it has performed all investigations necessary, including without limitation soils and engineering inspections, in connection with its acceptance of the Premises "AS IS".

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

15.4.1.3 Lessee hereby waives, withdraws, releases, and relinquishes any and all claims, suits, causes of action (other than a right to terminate as otherwise provided in this Lease), rights of rescission, or charges against County, its officers, agents, employees or volunteers which Lessee now has or may have or asserts in the future which are based upon any defects in the physical condition of the Premises and the soil thereon and thereunder, regardless of whether or not said conditions were known at the time of the execution of this instrument. The waiver and release set forth in this Subsection 15.4.1.3 (i) shall not apply to the Excluded Conditions, and (ii) shall not alter the parties' rights and obligations under the Existing Lease with respect to any abandoned wells or other environmental conditions existing on the Premises as of the Effective Date.

15.4.1.4 California Civil Code Section 1542 provides as follows:

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

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

Lessee's Initials

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

15.5 Holding Over. If Lessee holds over after the expiration of the Term for any cause, with or without the express or implied consent of County, such holding over shall be deemed to be a tenancy from month-to-month only, and shall not constitute a renewal or extension of the Term. During any such holdover period, the Minimum Monthly Rent and Percentage Rent 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: (after assignment	MDR Marina, L.P. c/o MDR Marina, LLC

to MDRM) Pacific Marina Development, Inc.
3416 Via Lido, Suite G
Newport Beach, CA 92663
Phone: 949/673-6310
Fax: 949/673-6331

With a Copy to: Cox, Castle & Nicholson LLP
2049 Century Park East
28th Floor
Los Angeles, California 90067
Attn: 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 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.

15.20 Waterfront Promenade. The "Renovation Work" to be performed by the Parcel 42 Lessee under the Parcel 42 Lease includes the development (or as applicable, renovation) by the Parcel 42 Lessee of a continuous pedestrian walkway and related improvements (the

"**Promenade**") along certain portions of the perimeter of the Parcel 42 Premises adjacent to the Premises. The Reciprocal Easement Agreement includes certain covenants and agreements between Lessee and the Parcel 42 Lessee concerning the development and/or renovation of the Promenade, including without limitation, a covenant on the part of Lessee to pay or reimburse the Parcel 42 Lessee for a portion of the cost of the development and/or renovation of the Promenade. Lessee agrees as a covenant under this Lease to comply with all terms and provisions of the Reciprocal Easement Agreement pertaining or relating to the Promenade. Notwithstanding any contrary provision of this Lease, County shall have no liability to Lessee, and Lessee's obligations under this Lease shall not be excused, delayed, deferred, extended or otherwise affected, by any breach, default, act or omission by or on behalf of the Parcel 42 Lessee, its employees, agents, affiliates, subtenants, licensees, contractors, successors or assigns, pertaining or relating to the Promenade, including without limitation, the development or renovation thereof.

15.21 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. 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.

15.22 Seaworthy Vessels. On or before January 1, April 1, July 1 and October 1 of each year during the Term, Lessee shall deliver to Director a report which contains the following information with respect to every vessel (including floating homes as defined in Title 19 of the Los Angeles County Code) moored within the Premises: (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 subject to removal from the Premises by Lessee in accordance with applicable law for non-compliance with the requirements of the slip lease. The requirements of the two preceding sentences shall not be applicable to any vessel which is specifically exempted from seaworthiness requirements by Title 19 of the Los Angeles County Code.

15.23 Pump-Out Station. If pump-out facilities are currently located on the Premises as of the Effective Date, 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 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 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.

16.7 Written Appraisal Evidence. Neither party may, at any time during the proceedings, introduce any written report which expresses an opinion regarding 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. 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 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. 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, then 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

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.

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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, 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.

SIGNATURES ON FOLLOWING PAGE

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

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

IWF MDR HOTEL, L.P., a California limited partnership

By: IWF MDR Hotel, LLC, a California limited liability company, its general partner

By: Invest West Financial, LLC, a California limited liability company, its sole member

By: _____
Name: _____
Title: _____

78023

ATTEST:

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

By: _____
Deputy

AUG 2 8 2013

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

AUG 2 8 2013

APPROVED AS TO FORM:

JOHN F. KRATTLI,
COUNTY COUNSEL

By: _____
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

30 MAY 17 2011

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

SACHI A. HAMAI
EXECUTIVE OFFICER

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

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

IWF MDR HOTEL, L.P., a California limited partnership

By: IWF MDR Hotel, LLC, a California limited liability company, its general partner

By: Invest West Financial, LLC, a California limited liability company, its sole member

By: _____
Name: Matthew D. Marquis
Title: President

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 717 and 719, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 through 70, inclusive, of Assessor's Maps, in the office of the Registrar-Recorder/County Clerk of the County of Los Angeles, State of California.

TOGETHER WITH that portion of Parcel 718, as shown on said map, within the following described boundaries:

COMMENCING at the northwesterly corner of said Parcel 718; thence North 60°00'00" East, along the northwesterly line of said Parcel 718, a distance of 578.76 feet to the most northerly corner of said Parcel 718; thence South 54°19'21" West 167.99 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 41.00 feet; thence South 30°00'00" East 34.00 feet; thence North 60°00'00" East 41.00 feet; thence North 30°00'00" West 34.00 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH that portion of Parcel 720, as shown on said map, within the following described boundaries:

COMMENCING at the most northerly corner of said Parcel 720; thence South 30°00'00" East, along the northeasterly line of said Parcel 720, a distance of 150 feet to the most easterly corner of said Parcel 720; thence South 73°23'09" West 137.91 feet to the TRUE POINT OF BEGINNING; thence South 60°00'00" West 104.00 feet; thence North 30°00'00" West 45.00 feet; thence North 60°00'00" East 104.00 feet; thence South 30°00'00" East 45.00 feet to the TRUE POINT OF BEGINNING.

EXCEPTING therefrom an undivided one-half interest in all oil, gas, and other hydrocarbons lying at or below a depth of 500 feet from the surface, but without any right of entry upon the surface or the first 500 feet below the surface, as reserved to the defendants in a Final Order of Condemnation, had in Superior Court Case No. S.M.C. 5262, a certified copy of which was recorded on August 21, 1959, in Book D580, page 230, of said Official Records.

EXHIBIT B

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 C

TREE TRIMMING POLICY

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.

BOARD OF SUPERVISORS' ORIGINAL

GROUND LESSOR ESTOPPEL CERTIFICATE AND CONSENT
[PARCEL 43]

August 30, 2013

MDR MARINA, L.P,
3416 Via Lido, Suite G
Newport Beach, CA 92663

To Whom It May Concern:

The undersigned, County of Los Angeles ("**Lessor**"), as lessor under that certain Amended and Restated Lease Agreement (Parcel 43 – Marina del Rey) dated of even date herewith (the "**Lease**") between Lessor and IWF MDR HOTEL, L.P., a California limited partnership ("**Lessee**"), as lessee, covering the premises therein described (the "**Premises**"), hereby certifies as set forth below, as of the date hereof. The Lease constitutes a bifurcation and amendment to that certain Lease Agreement No. 5577, dated May 7, 1962 (as amended prior to the Lease, the "**Pre-Existing Lease**") which Pre-Existing Lease related to the Premises and certain other real property adjacent to the Premises. All capitalized terms used in this Ground Lessor Estoppel Certificate and Consent and not otherwise defined herein shall have the meanings given to such terms in the Lease.

1. Lessor is the owner of the fee simple estate in the Premises and is lessor under the Lease.

2. Lessor does hereby consent to the assignment of said Lease by the Lessee to MDR MARINA, L.P., a California limited partnership ("**New Lessee**").

3. The term of the Lease commenced on March 1, 1962 and expires on February, 28, 2022. Pursuant to that certain Option Agreement Regarding Leasehold Interest dated as of even date herewith, New Lessee has the right to extend the term of the Lease subject to the terms of such Option Agreement Regarding Leasehold Interest.

4. Rents and other charges have been fully paid under the Pre-Existing Lease through March 31, 2013, as verified by formal audit for the period ending such date (the "**Effective Audit Date**"), and all delinquencies revealed by such audit have been paid to Lessor. The Minimum Rent payable under the Lease as of the date hereof is as stated in the Lease. Monthly payments of annual square foot rental in the amount of $52,842.25, as required under Section 12 of the Pre-Existing Lease, have been timely and fully made since the Effective Audit Date for all months up through and including August, 2013. Monthly Percentage Rent payments under the Pre-Existing Lease have been made through the month of August, 2013 (i.e., Percentage Rent payable for reported Gross Receipts through the month of July, 2013), but all such payments are subject to audit for periods from and after the Effective Audit Date. In the event any such audit reveals a rental deficiency, Lessor is entitled to receive and will expect payment by Lessee and/or

New Lessee for all unpaid deficiencies accruing on and after the Effective Audit Date, provided, however, New Lessee shall only be responsible for any deficiency with respect to the Percentage Rent payable for the Premises. Minimum Rent under the Lease is subject to adjustment in accordance with the terms and provisions of the Lease. The amount of the security deposit required under the Lease is $90,122.00 and such amount has been paid to Lessor.

5. Lessor acknowledges that Almar Management, Inc. has been approved as the property management company for the Premises and all improvements located thereon.

6. The Lease is in full force and effect and has not been modified, supplemented or amended in any way whatsoever. County has not been notified by Lessee of any assignment of the Lease other than the contemplated assignment of the Lease to New Lessee.

7. Except with respect to the reservation of audit rights described in Paragraph 4 above, to the knowledge of Lessor, there is no existing uncured default under the Lease with respect to any monetary or non-monetary provision of the Lease and no event has occurred which, with the passage of time or giving of notice, or both, would constitute a default with respect to any provision of the Lease. Notwithstanding any contrary provision of this Paragraph 7, County has made no inspection of the Premises or investigation or inquiry as to Lessee's performance of any non-monetary obligation under the Lease, and the certification in this Paragraph 7 is made without any duty of such investigation or inquiry.

11. Lessor has not assigned, conveyed, transferred, sold, encumbered or mortgaged its interest in the Lease or the Premises and there are no mortgages, deeds of trust or other security interests encumbering Lessor's fee interest in the Premises.

12. The undersigned individual is duly authorized to execute this certificate.

The truth and accuracy of the certifications contained herein may be relied upon by New Lessee and its successors, assigns and transferees and said certifications shall be binding upon Lessor and its successors and assigns, and inure to the benefit of New Lessee and its successors, assigns and transferees. Except as specifically set forth herein, this Ground Lease Estoppel Certificate and Consent shall not be deemed to alter or modify any of the terms and conditions of the Lease.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

ATTEST:

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

By: _____
Deputy AUG 28 2013

APPROVED AS TO FORM:

JOHN F. KRATTLI,
County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

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
AUG 28 2013

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

30 MAY 17 2011

SACHI A. HAMAI
EXECUTIVE OFFICER