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December 11, 2012

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

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

28 December 11, 2012

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

Gary Jones
Deputy Director

Dear Supervisors:

**APPROVAL OF OPTION TO AMEND LEASE AGREEMENT TO FACILITATE
REDEVELOPMENT AND DEVELOPMENT OF A PUBLIC PARK – MARINA WEST
SHOPPING CENTER**

**(Parcel 95S at 404–480 Washington Boulevard and Parcel LLS at 4001 Via Marina)
MARINA DEL REY
(4th DISTRICT-- 4 VOTES)**

SUBJECT

Request to adopt the Mitigated Negative Declaration for: i) demolition of single-story office/retail buildings, and ii) the exterior renovation of the existing Islands restaurant building, and to approve an Option to Amend Lease Agreement to extend the term of the existing Marina West Shopping Center lease (Parcel 95S) and add to the leasehold area County Parcel LLS. Exercise of the Option is contingent upon Lessee's receipt of entitlements and fulfillment of other conditions required therein.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Consider the Mitigated Negative Declaration for the Marina West Shopping Center lease extension and renovation project 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 for the project.

12440695.1

2. Approve and authorize the Chair of the Board to sign the Option to Amend Lease Agreement granting to the current Lessee, upon fulfillment of stated conditions, the right to extend the term of its existing ground lease on Parcel 95S by 28 years and add Parcel LLS to the leased premises.
3. Approve and authorize the Chair of the Board to sign the Amended and Restated Lease in substantially similar form to Exhibit A attached to the Option to Amend Lease Agreement (along with a memorandum of lease and other associated documentation in a form acceptable to the Director), upon confirmation by the Director of the Department of Beaches and Harbors that the Lessee has fulfilled the option conditions.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Your Board previously granted Gold Coast West, LLC ("Lessee") an option to extend the term of the lease for Parcel 95S and to incorporate Parcel LLS into Parcel 95S (hereafter collectively referred to as Parcel 95S) on July 8, 2003 to facilitate the redevelopment of the parcel that initially included retail/office/restaurant uses and, upon the recommendation of the Regional Planning Commission, later added a 72 residential-unit component. The Lessee ultimately decided that a mixed-use project was economically unfeasible and let the previous option expire without exercise on October 8, 2005.

Subsequently, Lessee re-designed the project into its currently proposed configuration and entered into negotiations with the Chief Executive Office and the Department of Beaches and Harbors ("Department") to extend the Parcel 95S lease for 28 years, from its current expiration on May 31, 2028 to May 31, 2056.

Among the significant terms of the lease extension are the following:

- i) Lessee will pay an option fee of \$100,000 upon grant of the option and has agreed to spend no less than \$5,296,300 in renovating the improvements. Lessee, upon exercise of option, must fulfill all the conditions of the Option to Amend Lease ("Option") within 12 months following the grant thereof. In the event that Lessee is unable to do so, the Department Director may in his discretion extend the Option term for one additional six-month period on the following conditions: a) Lessee is diligently pursuing fulfillment of its obligations under the Option; and b) Lessee pays to the County an extension fee of \$66,000.
- ii) Lessee has agreed to pay the County percentage rent in an amount following the completion of construction equal to 16% of all gross revenue derived by Lessee from the leasehold including square footage rents, percentage rents, CAM charges, and reimbursements for any operating expenses billed to the sublessees.

iii) During the first seven years of the Amended and Restated Lease ("Lease"), Lessee will receive a \$50,000 annual rent credit to total \$350,000 as a reimbursement for the costs of creating the public park.

iv) Lessee shall: a) perform an exterior renovation of the existing Islands restaurant building, b) demolish the three existing office/retail building structures, c) replace the three demolished buildings with two retail buildings totaling approximately 16,719 square feet of rentable space, d) renovate 130 existing surface parking spaces, and e) construct a public park at the southwest corner of Washington and Via Marina to replace parking on County Parcel LLS.

A more detailed summary of the proposed terms for the lease extension 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 the Department, recommends your Board's adoption of the Mitigated Negative Declaration ("MND") and Mitigation Monitoring Program (Attachment B).

The Department has obtained an appraisal that confirms that the anticipated returns to the County from the proposed lease extension for Parcel 95S are equivalent to, or greater than, fair market value.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended action will allow Lessee to continue its effort towards the proactive redevelopment of the parcel, which will result in fulfillment of Strategic Plan Goal No. 1, "Operational Effectiveness," Strategy No. 1, "Fiscal Sustainability," and Goal No. 3, "Community and Municipal Services," Strategy No. 1, "Cultural and Recreational Enrichment," respectively.

FISCAL IMPACT/FINANCING

The transaction will produce the following fiscal benefits to the County of Los Angeles ("County"): 1) an Option fee; and 2) if the Option is exercised, revenue increases due to renovation of the restaurant and replacement of the office/retail buildings. Each component is discussed below.

Option Fee

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

Revenue Increase Due to Project Redevelopment

The total revenue derived from Parcel 95S during Fiscal Year 2011-12 was \$151,092. After stabilization in 2015, our economic consultant has estimated that the total County rent will increase to approximately \$230,000 annually, an increase of approximately \$79,000.

OPERATING BUDGET IMPACT

Upon your Board's approval of the Option, the Department's Marina operating budget will receive a one-time \$100,000 option fee as stated above. The option fee is included in the Department's 2012-13 budget as one-time revenue.

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

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The existing 60-year lease for Parcel 95S expires on May 31, 2028. The proposed extension provides for a 28-year extension through May 31, 2056. The current improvements on Parcel 95S include an existing free-standing restaurant and single-story office/retail buildings and associate parking. Parcel LLS is currently in use as public parking with eight available spaces. Parcel 95S has frontage on Washington Boulevard and Parcel LLS is located at the intersection of Washington Boulevard and Via Marina.

The redevelopment project as proposed is consistent with the existing Local Coastal Program for Marina del Rey.

Approval of the Option is without prejudice to the County's full exercise of its regulatory authority in the consideration of the land use entitlements required for the possible exercise of the Option.

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 October 10, 2010, the Small Craft Harbor Commission endorsed the recommendations to adopt the MND and approve the Option in the form attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

The Department recommends that an MND is the appropriate environmental documentation under the California Environmental Quality Act ("CEQA") and County environmental guidelines. The Initial Study concluded that there are certain potentially significant environmental impacts associated with the project that can be reduced to less than significant with the implementation of the proposed mitigation measures. The Initial Study identified potentially significant impacts of the project relative to aesthetics, air quality, biological resources, geology/soils, greenhouse gas emissions, hazards/hazardous substances, hydrology/water quality, noise, transportation/traffic, utilities/services, and mandatory findings of significance. 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 August 16, 2012 through September 17, 2012 to the appropriate government agencies and public. Notice was posted on the Department of Regional Planning website. Public Notice was mailed to 977 owners and occupants located within 500 feet of the subject property and was then published in the *Daily Breeze* on August 18, 2012 pursuant to Public Resources Code section 21092 and notice was posted at the office of the County Clerk, the local library, and the subject property pursuant to section 21092.3. During the 30-day comment period, no written comments were 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 Anita Gutierrez, 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 \$2,176.50.

CONTRACTING PROCESS

Lessee acquired the leasehold interest to Parcel 95S through a bankruptcy court sale on December 3, 1998. Lessee thereafter entered into negotiations with the Department to extend the lease term for Parcel 95S. The Lease will be available to Lessee only upon the exercise of the Option. Upon the Department Director's confirmation to the Executive Officer, Board of Supervisors that Lessee has satisfied the conditions for exercise of the 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 Option, we will request the execution of the Lease in substantially similar form to Exhibit A of the Option (Attachment C).

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

Respectfully submitted,

Gary Jones
for
Santos H. Kreimann, Director

SK:gj;mk

Attachments (3)

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

Attachment A

Summary of Terms PARCEL 95S and LLS – MARINA WEST SHOPPING CENTER

- **Lessee:** Gold Coast West, LLC
- **Project:** Complete an exterior renovation of the existing Islands restaurant building and associated parking. Demolition of the three existing office/retail buildings and redevelopment of approximately 16,719 square feet of single-story retail space in two buildings. Replacement of an existing 8 space parking lot with a public park.
- **Term:** 28-year extension
Current expiration: Expires 5/31/2028
Extended expiration: Expires 5/31/2056
- **Option Fee:** \$100,000
- **Development Cost:** Not less than \$5,296,300.
- **Minimum Rent (during construction period):** The greater of a) Not less than 75% of the previous three years' average annual rent paid to the County or b) upon Islands Construction period, 3.5% of gross sales for Islands.
- **Minimum Rent (upon operation):** Upon the earlier of the award of the Certificate of Occupancy for the retail buildings or required completion date, the minimum rent shall be adjusted to \$172,500. Thereafter, minimum rent resets every three years to equal 75% of previous three years' average total annual rent due to County until the next renegotiation.
- **Percentage Rent:** Upon exercise of the lease extension option, Lessee shall pay as rent to County the greater of Minimum Rent or 3.5% of gross sales for Islands Restaurant. Upon completion of construction (but not later than the Required Completion Date) Lessee shall pay 16% of all of Lessee's gross revenue derived from the leasehold, including base rent, CAM reimbursement, property tax reimbursements, insurance reimbursement, percentage rents and any other amounts received from sub-lessees. If a sub-lessee pays any of the aforementioned costs directly in lieu of reimbursements to Lessee, Lessee shall provide County a reconciliation of those costs paid directly, and add those costs to the rent basis upon which the 16% ground rent is calculated.
- **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.
- **Rent Credit:** Lessee to receive a \$350,000 rent credit to be provided in equal monthly installments during the first seven (7) years of the lease.
- **County Participation in Sales:** Greater of A) lesser of (1) Net Transfer Proceeds or (2) 5% of the Gross Transfer Proceeds; or (B) 20% of Net Transfer Proceeds
- **County Participation in a Refinance:** 20% of net loan proceeds not reinvested in leasehold.

ATTACHMENT B



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

Project title: Parcel 95/LLS Redevelopment / Project No. R2012-00180/ Case No(s). RENV201200026

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

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

Project sponsor's name and address: Gold Coast Village, LLC c/o Pacific Ocean Management, LLC.
13737 Fiji Way, C10 Marina del Rey, California 90292

Project location: Lease Parcels 95 and LLS: (West Coast Escrow) 444 Washington Boulevard, (Islands) 404 Washington Boulevard, 450 Washington Boulevard (vacant) and 480 Washington Boulevard (Images Furniture), Marina Del Rey, California 90292
APN: 4224 005 910 Thomas Guide: Page 671 J-7 USGS Quad: Venice (T2S, R15W)

Gross Acreage: About 2.0 acres

General plan designation: Specific Plan

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

Zoning: Marina del Rey Land Use Plan (Parcel 95: Visitor-Serving/Convenience Commercial; LLS: Public Facilities)

Description of project: The Proposed Project consists of the demolition of the existing three office and retail structures to be replaced by the construction of two new commercial retail buildings. The existing, 5,713-square-foot Islands restaurant will remain and will undergo rehabilitation. The existing 115-space surface parking area covering 35,000 square feet will undergo renovation. In addition, a new entrance gateway public park will be constructed at the southeast corner of Washington Boulevard and Via Marina. There are four existing buildings on Parcel 95, totaling 22,393 square feet: the Islands restaurant of 5,713 square feet; a bank building of 7,500 square feet; a 4,584-square-foot building; and a 4,596-square-foot building. The bank and two other buildings will be demolished, to be replaced by two new buildings of 5,797 square feet (Building A) and 11,296 square feet (Building B). The total coverage of the two new buildings with the existing Islands restaurant will be 22,806 square feet. Fire Department requirement for public safety access is 28 feet width, clear to sky with vehicular access to within 150 feet of all exterior walls. The required Fire Department fire flow is 3,500 gallons per minute (gpm) at 20 PSI for duration of 3 hours, with an additional public hydrant required on Washington Boulevard, west of Grayson.

Building A is estimated to require a 2-inch water meter and 2-inch domestic water line lateral. Building B is estimated to require a 2.5-inch water meter and a 2.5-inch water line lateral. The average daily water demand is anticipated to be 2091 gallons/day. An existing 12-inch Department of Water and Power water main is located in the alley south of the project site.

The existing number of parking spaces is 115, excluding street parking, with an existing total parking area of approximately 35,000 square feet. The project proposes 129 parking spaces that will cover about 31,800 square feet. Per L.A. County Code, the project requires 131 parking spaces; therefore, a parking deviation

would be required to allow a modest (two-space) reduction in Code-required parking, as justified in the shared-parking analysis submitted with this application, prepared by a licensed traffic engineering firm.

The front parkway will be fully landscaped and make use of decorative interlocking pavers. The parking areas will be flanked by shade trees.

The proposed accent pedestrian-oriented park, to be located at the corner of Washington Boulevard and Via Marina, would be approximately 0.20 acre (8,700 sq. ft.) in size. The park would consist of raised and on grade planters surrounded by palms with a lowered central gathering or seating area for pedestrians and community gatherings. Irrigation would be an underground weep system and the landscape plant palette would consist of low water demand plant material.

Project implementation will be developed in a single, one-year development phase. The demolition of existing structures, with the exception of the Islands restaurant, will require about 2,900 cubic yards of materials deportation from the site, to occur over an approximate two-week period. Site grading would require about 16 days with an additional two weeks for utility infrastructure trenching. The building construction stage is estimated to last up to nine weeks, with two weeks of asphalt paving and two weeks of final architectural coating.

The proposed grading plan includes 750 cubic yards of cut and an over excavation and recompaction of approximately 4,850 cubic yards. Construction disturbance area is approximately 1.24 acres. In total, approximately 4,000 cubic yards of material (demolition debris and cut earth) would be exported off-site (Puente Hills landfill), requiring about 400 haul trucks.

The proposed project will require a coastal development permit and a parking deviation approval in addition to the ministerial building permit.

Surrounding land uses and setting: The project site is an existing commercial retail complex with restaurant, bank, escrow company, and furniture sales. On the opposite side of Washington Boulevard, within the City of Los Angeles, are restaurants (Japanese and Italian), a mixed-use building structure with office/retail space on the ground floor and a multi-story apartment complex above, two-story multi-family apartments, and commercial/retail buildings including hair and nail care and clothing alterations. Single-family residences are located farther north of Washington Boulevard. To the west is a mixed-use multi-story building with apartments above the ground floor. To the east is a Wells Fargo Bank and commercial strip mall along with the Marina del Rey Marriott hotel on Admiralty Way at Via Marina. To the south of the project site is the Oakwood Marina del Rey residential hotel and apartment complex.

Major projects in the area:

Project/ Case No.

Description and Status

R2010-00669/
RENV201000022

Parcels 42 and 43 (APN No. 4224-008-900): Coastal Development Permit for rehabilitation of the Marina del Rey Hotel, an existing 154-room hotel, and the demolition and subsequent redevelopment of the hotel's private boat anchorage.

R2006-03647/
CDP200600008

Parcel 10R (APN No. 4224-003-900): 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).

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.

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.

<u>R2006-03643/CDP200600006</u>	<u>Parcel 9U, Southern Portion (APN No. 4224-002-900): Pending Coastal Development Permit to authorize the development of a public wetland and upland park.</u>
<u>R2007-01480/</u> <u>CDP200700001</u>	<u>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.</u>
<u>R2005-04106/</u> <u>CDP200500006</u>	<u>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)</u>
<u>R2006-01510/</u> <u>CDP200600002 &</u> <u>CDP 20060003</u>	<u>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)</u>
<u>R2009-00924</u>	<u>Parcel 145R (APN No. 4224-006-900): (Pending) Interior and exterior renovation of the existing 132-room Marina International Hotel</u>
<u>R2009-00752</u> <u>PP201000954</u>	<u>Parcel 64 (APN No. 4224-011-901): Interior and exterior renovation of the existing 224-unit Villa Venetia apartment complex.</u>
<u>R2008-02340/ CDP200800007</u>	<u>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.</u>

Reviewing Agencies:*Responsible Agencies*☐ NoneRegional Water Quality Control
Board:☒ Los Angeles Region☐ Lahontan Region☒ Coastal Commission☐ Army Corps of Engineers☒ City of Los Angeles☐ City of Culver☐ Los Angeles City Bureau of
Sanitation*Special Reviewing Agencies*☐ None☐ Santa Monica Mtns.
Conservancy☐ National Parks☐ National Forest☐ Edwards Air Force Base☐ Resource Conservation Dist.
of Santa Monica Mtns. Area☒ Local Native American Tribe*Regional Significance*☐ None☐ SCAG Criteria☐ Air Quality☐ Water Resources☐ Santa Monica Mtns. Area*Trustee Agencies*☐ None☐ State Fish and Game☐ State Parks*County Reviewing Agencies*☐ Subdivision Committee☒ DPW: Traffic & Lighting

-Waterworks Division

-Land Development (Road
Grading)

-Watershed Mngt. (NPDES)

-Geotechnical & Materials Eng.

-Environmental Programs

-Sewer Maintenance

☒ Public Health: Env. Hygiene
(Noise)☒ Sheriff Department☒ Beaches & Harbors Dept.☒ Sanitation District☒ Fire Dept.: Planning Division

-Forestry, Environmental Div.

Public agency approvals which may be required:*Public Agency**Approval Required*(E.g., permits, financing approval, or participation agreement.)

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

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

DETERMINATION: (To be completed by the Lead Department.)

On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature (Prepared by)

[Signature]
[Signature]

Signature (Approved by)

Date

8/14/12

Date

8/14/12

EVALUATION OF ENVIRONMENTAL IMPACTS:

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

1. AESTHETICS

Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Would the project:

a) Have a substantial adverse effect on a scenic vista, including County-designated scenic resources areas (scenic highways as shown on the Scenic Highway Element, scenic corridors, scenic hillsides, and scenic ridgelines)?

☐	☐	☒	☐
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The proposed project site is located on the south side of Washington Boulevard between Via Dolce and Via Marina on Lease Parcel 95 and Lease Parcel LLS, within a highly urbanized commercial corridor on the perimeter of County unincorporated Marina del Rey. The closest designated scenic highway is the stretch of roadway from Via Marina to Admiralty Way to Fiji Way (south and east); therefore, the project site is not easily visible from this scenic highway.¹ 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.).² None of these water oriented aesthetic qualities are visible from the project site.

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

☐	☐	☐	☒
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The project site is not located near or adjacent to a regional riding or hiking trail. 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 is not be required.

c) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, historic buildings, or undeveloped or undisturbed areas?

☐	☐	☐	☒
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The project site is located on a highly urbanized commercial corridor on the perimeter of the County unincorporated community of Marina del Rey. The proposed project site is currently developed with surface parking lots, and commercial retail structures. 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 95/LLS would not influence unique aesthetic features in the area, including historic buildings. There would be no impact and further analysis on this topic would not be required.

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

☐	☐	☐	☒
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The proposed project includes demolition of three existing commercial buildings, construction of two new commercial buildings, construction of a "pocket park" at the Washington Blvd/Via Marina corner, and the renovation of an existing Islands restaurant and associated surface parking. The new commercial structures proposed are one-story structures, consistent with the height of the buildings to be removed from the site. The newly constructed buildings would thus be of a similar height and

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

² Los Angeles County Local Coastal Program, Marina Del Rey Land Use Plan, February 8, 1996, pg. 7-1 through pg. 9-3.

massing to those being removed from the site. The proposed project site would be redeveloped in a similar character to other commercial uses along the Washington Boulevard commercial corridor. Therefore, there would be no impacts with implementation of the proposed project and further analysis would not be required.

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

☐☐☒☐

The proposed project does not include the construction of additional floors to the replacement buildings nor does it include a substantial increase of floor area and bulk to the replacement building (total increase of 413 square feet). The buildings in the area are located at a distance from the proposed project structures, so any shadows that are cast due to the height and bulk of the building are typically cast across the adjacent structures opposite the Parcels 95/LLS for a brief period in the morning or evening. Since the proposed project design would not include significant additional building height or bulk, it is expected that the shadows that are cast by the new 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 proposed project will include modern lighting features that would minimize impacts and further analysis would not be required on this topic.

2. AGRICULTURE / FOREST

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

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

b) Conflict with existing zoning for agricultural use, with a designated Agricultural Opportunity Area, or with a Williamson Act contract?	☐	☐	☐	☒
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The project site is located in the community of Marina del Rey, which is designated as Specific Plan Zone as zoned under the County of Los Angeles. Parcel 95 is designated Visitor Serving/ Convenience Commercial and Parcel LLS is designated Public Facility. The project site does not have nor is it located near an area that is contracted under the Williamson Act. Therefore, no impacts would occur to agricultural land uses or conflict with any agricultural zones, and further analysis on this topic is not required.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code § 12220 (g)) or timberland zoned Timberland Production (as defined in Public Resources Code § 4526)?	☐	☐	☐	☒
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The project site is located in the unincorporated community of Marina del Rey, which is designated as Specific Plan Zone as zoned under the County of Los Angeles. Parcel 95 is designated Visitor Serving/ Convenience Commercial and Parcel LLS is designated Public Facility. The project site is not located near or within an area that is zoned as or for forestland or timberland. Therefore, no impacts would occur and further analysis on this topic is not required.

d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
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The project site is located in the unincorporated community of Marina del Rey, and is within the Marina del Rey Specific Plan area pursuant to the County of Los Angeles Zoning Code. Parcel 95 is designated Visitor Serving/ Convenience Commercial and Parcel LLS is designated Public Facility. The project site is not located near or within an area that is zoned as forestland or timberland. Therefore, no impacts resulting from the loss of forestland would occur or be converted, and further analysis on this topic is not required.

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

☐☐☐☒

The project site is located in the unincorporated community of Marina del Rey, a highly urbanized area that is within the Marina del Rey Specific Plan area pursuant to the County of Los Angeles Zoning Code. Parcel 95 is designated Visitor Serving/Convenience Commercial and Parcel LLS is designated Public Facility. The proposed project site does not contain agricultural farmland nor is it near an area of agricultural farmland. Therefore, implementation of the proposed project would not convert farmland to non-agricultural land. No further analysis on this topic is required.

3. AIR QUALITY

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

	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Would the project:

a) Conflict with or obstruct implementation of applicable air quality plans of the South Coast AQMD (SCAQMD) or the Antelope Valley AQMD?

☐ ☐ ☒ ☐

The proposed project falls under the jurisdiction of the SCAQMD. In conjunction with the Southern California Association of Governments (SCAG), the SCAQMD is responsible for formulating and implementing air pollution control strategies. The SCAQMD's Air Quality Management Plan (AQMP) was adopted in 2003 and updated in 2007 to establish a comprehensive air pollution control program leading to the attainment of CAAQS and NAAQS in the Basin. The AQMP also addresses the requirements set forth in the California and Federal Clean Air Acts. Potential impacts on local and regional air quality are anticipated to be less than significant, falling below SCAQMD thresholds as a result of the nature and small scale of the proposed project. Implementation of the proposed project would fall below the SCAQMD significance thresholds for both short-term construction and long-term operation emissions. Because construction and operation of the project would not exceed the SCAQMD significance thresholds, the proposed project would not increase the frequency or severity of existing air quality violations, neither cause or contribute to new air quality violations, not delay timely attainment of air quality standards or the interim emission reductions specified in the AQMP. Based on the above discussion, the proposed project would not conflict with applicable regional plans or policies adopted by agencies with jurisdiction over the project. Therefore, the proposed project would be consistent with the AQMP and would have a less than significant impact with respect to this criterion.

b) Violate any applicable federal or state air quality standard or contribute substantially to an existing or projected air quality violation (i.e. exceed the State's criteria for regional significance which is generally (a) 500 dwelling units for residential uses or (b) 40 gross acres, 650,000 square feet of floor area or 1,000 employees for nonresidential uses)?

☐ ☐ ☐ ☒

The proposed project is a renovation of Parcel 95 located in the unincorporated community of Marina Del Rey in Los Angeles County. The proposed project would redevelop less than 23,000 square feet of space, to include retail space and a coffee shop. The project does not propose the addition of new dwelling units or substantial extension of its existing facilities. Therefore, the proposed project would not exceed the state's criteria for regional significance and would have no impact with respect to this criterion.

c) Exceed a South Coast AQMD or Antelope Valley AQMD CEQA significance threshold?

☐ ☐ ☒ ☐

In 1993, the SCAQMD prepared its CEQA Air Quality Handbook to assist local government agencies and consultants in preparing environmental documents for projects subject to CEQA. The SCAQMD is in the process of developing an Air Quality Analysis Guidance Handbook to replace the CEQA Air Quality Handbook. While the Air Quality Analysis Guidance Handbook is being developed, supplemental information has been adopted by the SCAQMD. These include revisions to the air quality significance thresholds and a new procedure referred to as "localized significance thresholds," which

has been added as a significance threshold under the Final Localized Significance Threshold Methodology.³ The SCAQMD has recommended that lead agencies not use the screening tables in the CEQA Air Quality Handbook's Chapter 6 because the tables were derived using an obsolete version of the California Air Resources Board (CARB) mobile source emission factor inventory and are also based on outdated trip generation rates from a prior edition of the Institute of Transportation Engineer's Trip Generation Handbook. The SCAQMD has also recommended that lead agencies not use the on-road mobile source emission factors in Table A9-5-I1 through A9-5-L of the CEQA Air Quality Handbook as they are obsolete, and instead recommends using on-road mobile source emission factors approved by CARB. The outdated and obsolete screening tables and information were not used in this analysis. The applicable portions of the CEQA Air Quality Handbook, the Air Quality Analysis Guidance Handbook supplemental information, and other revised methodologies were used in preparing the air quality analysis for this section.

Traffic Congestion

The proposed project includes the redevelopment and renovation of retail and commercial land uses in an existing mixed-use commercial corridor along Washington Boulevard in Marina Del Rey. While the proposed project would result in modest additional traffic, it is not anticipated to result in a substantial number of new trips to the area. The project would not cause a significant increase in traffic volumes or parking structure use.

CO Hotspots

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 the state 1-hour standard of 20 ppm or the 8-hour standard of 9.0 ppm are termed CO hotspots. 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. The project would redevelop less than 23,000 square feet of space and would not result in substantial extension of its existing facilities. As a result, the project would not result in a substantial additional number of vehicle trips and would not be anticipated to create additional traffic congestion in the vicinity. Therefore, the proposed project would not cause or contribute to CO hotspots and would be less than significant with respect to this criterion.

Construction Emissions

Construction activities have the potential to cause short-term impacts with respect to air quality standards. According to SCAQMD, a project's construction emissions are considered to cause a significant impact to air quality if they would exceed the SCAQMD threshold of significance for the following criteria pollutants: volatile organic compounds (VOC), nitrogen oxides (NO_x), CO, sulfur oxides (SO_x), respirable particulate matter (PM₁₀), and fine particulate matter (PM_{2.5}). The construction emissions associated with the proposed project were estimated using the California Emissions Estimator Model (CalEEMod). CalEEMod is a program that calculates air pollutant emissions from land use development projects and incorporates CARB's 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.

Site-specific or project-specific data were used in the CalEEMod model, where available. The project Applicant provided the estimated construction schedule and information. The number and types of construction equipment, vendor trips (e.g., transport of building materials), and worker trips were based on values provided in the CalEEMod model. The existing project site contains primarily commercial and retail space, including a 7,500-square-foot bank, a 5,713-square-foot sit-down restaurant, and two other buildings of approximately 4,600 square feet each. The development would also include 129 parking spaces. The project would be constructed over a period of approximately 15 months, anticipated to begin in late 2012 and to end in fall or

³ South Coast Air Quality Management District, Final Localized Significance Threshold Methodology, (2008).

winter of 2013. Construction would include sequential demolition, fine grading, trenching, building construction, architectural coating, and asphalt paving sub-phases.

Table 1, Estimated Unmitigated Construction Emissions, shows the construction emissions that would occur during each sub-phase of construction of the project. As indicated below, emissions would not exceed the SCAQMD's significance thresholds during any phase of construction.

Table 1
Estimated Unmitigated Construction Emissions

Construction Phase	Maximum Emissions in Pounds per Day ¹					
	VOC	NO _x	CO	SO _x	PM10	PM2.5
Demolition	1.64	11.14	8.68	0.01	3.85	0.87
Grading	9.79	83.73	48.51	0.09	33.24	7.25
Trenching	1.15	6.77	5.04	0.01	0.74	0.59
Building Construction	1.60	11.36	8.07	0.01	1.12	0.63
Architectural Coating	67.19	2.99	2.33	0.00	0.35	0.28
Asphalt Paving	1.88	10.00	7.13	0.01	1.07	0.87
Maximum pounds per day:	67.19	83.73	48.51	0.09	33.24	7.25
SCAQMD Threshold:	75	100	550	150	150	55
Exceeds Threshold?	NO	NO	NO	NO	NO	NO

Source: Impact Sciences, Inc. Emissions calculations are provided in the Appendix.

Totals in table may not appear to add exactly due to rounding in the computer model calculations.

¹ PM10 and PM2.5 emissions reflect compliance with SCAQMD Rule 403 (Fugitive Dust).

Operational Emissions

Emissions from operation of the project have the potential to cause long-term impacts with respect to air quality standards. According to SCAQMD, a project's operational emissions are considered to cause a significant impact to air quality if they would exceed the SCAQMD threshold of significance for the following criteria pollutants: VOC, NO_x, CO, SO_x, PM10, and PM2.5. Operational emissions would be generated by both mobile and stationary sources as a result of normal day-to-day activities on the project site after occupation. Mobile emissions would be generated by the motor vehicles traveling to, from, and within the project site. Stationary emissions, both point source and area source, would be generated by the consumption of natural gas for space and water heating devices (including water heater and boilers).

Table 2, Estimated Unmitigated Operational Emissions, shows the emissions that would occur due to operation of the project. As indicated below, emissions would not exceed the SCAQMD's significance thresholds.

Table 2
Estimated Unmitigated Operational Emissions

Operational Source	Maximum Emissions in Pounds per Day					
	VOC	NO _x	CO	SO _x	PM10	PM2.5
Area Sources	1.81	0.00	0.00	0.00	0.00	0.00
Energy	0.01	0.12	0.10	0.00	0.01	0.01

Operational Source	Maximum Emissions in Pounds per Day					
	VOC	NO _x	CO	SO _x	PM10	PM2.5
Mobile Sources	5.23	12.16	51.02	0.07	7.32	0.68
Maximum pounds per day:	7.05	12.28	51.12	0.07	7.33	0.69
SCAQMD Threshold:	75	100	550	150	150	55
Exceeds Threshold?	NO	NO	NO	NO	NO	NO

Source: Impact Sciences, Inc. 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.

Localized Significance Thresholds

The SCAQMD recommends that the potential localized impacts be evaluated on the ambient air concentrations of NO_x, CO, PM10, and PM2.5 due to on-site emissions. The evaluation requires that anticipated ambient air concentrations, determined using a computer based air quality dispersion model, be compared to localized significance thresholds. The thresholds for NO_x 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 National Ambient Air Quality Standards (NAAQS) or California Ambient Air Quality Standards (CAAQS). The threshold for PM10, which is 10.4 micrograms per cubic meter (µg/m³), represents compliance with SCAQMD's Rule 403 (Fugitive Dust). The threshold for PM2.5, which is also 10.4 µg/m³, is intended to constrain emissions to aid in progress toward attainment of the NAAQS and CAAQS.

The SCAQMD Final Localized Significance Threshold Methodology (LST Methodology) includes screening 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 emissions 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). To monitor the concentrations of the pollutants, the SCAQMD has divided the Basin into SRAs for the purpose of operating ambient air quality monitoring stations. The project site is located in Marina Del Rey, which is in SRA 2 (Northwest Los Angeles County Coastal). The entire project site area including parking spaces is approximately 1 acre. The project site is located in a mixed-use area, immediately adjacent to potential receptors. 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."⁴ Therefore, the thresholds are based on a 25-meter distance for a 1-acre site.

The LSTs for the construction portion of the proposed project are shown in Table 3, Localized Significance Thresholds Analysis during Construction, and are compared with the maximum daily on-site construction emissions.

Table 3
Localized Significance Thresholds Analysis during Construction

Pollutant	Maximum On-Site Emissions ¹ (Pounds per day)	LST Thresholds ² (Pounds per day)	Exceeds LST?
Nitrogen Oxides (NO _x)	45.42	103	NO
Carbon Monoxide (CO)	24.71	562	NO

⁴ South Coast Air Quality Management District, Final Localized Significance Threshold Methodology, (2008).

Pollutant	Maximum		Exceeds LST?
	On-Site Emissions ¹ (Pounds per day)	LST Thresholds ² (Pounds per day)	
Respirable Particulate Matter (PM10)	3.23	4	NO
Fine Particulate Matter (PM2.5)	2.85	3	NO

Source: Impact Sciences, Inc. Emissions calculations are provided in the Appendix.

¹ PM10 and PM2.5 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 operation of the proposed project are shown in Table 4, Localized Significance Thresholds Analysis during Operation, and are compared with the maximum daily on-site operational emissions.

Table 4
Localized Significance Thresholds Analysis during Operation

Pollutant	Maximum		Exceeds LST?
	On-Site Emissions ¹ (Pounds per day)	LST Thresholds ² (Pounds per day)	
Nitrogen Oxides (NO _x)	0.12	103	NO
Carbon Monoxide (CO)	0.10	562	NO
Respirable Particulate Matter (PM10)	0.01	1	NO
Fine Particulate Matter (PM2.5)	0.01	1	NO

Source: Impact Sciences, Inc. Emissions calculations are provided in the Appendix.

¹ PM10 and PM2.5 emissions reflect compliance with SCAQMD Rule 403 (Fugitive Dust).

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

As indicated in Table 3 and Table 4, on-site construction and operational emissions of NO_x, CO, PM10, and PM2.5 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 (NO₂). The new 1-hour standard is 100 parts per billion (ppb) (188 micrograms per cubic meter [µg/m³]) and went 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 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 NO₂ was the most stringent standard at 180 ppb. The SCAQMD screening tables for NO₂ 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 NO₂ standard. However, as shown in Table 3 and Table 4, the NO_x emissions are much less than the screening thresholds based on previous standards. Given that the project's NO_x emissions are well under the screening thresholds, the project would not exceed the new U.S. EPA 1-hour NO₂ standard at nearby sensitive receptors.

Based on the above analysis, the project would not exceed the SCAQMD thresholds of potential significance. The project would have a less than significant impact with respect to this criterion.

d) Otherwise result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

☐☐☒☐

According to the SCAQMD's CEQA Air Quality Handbook, projects that are within the emission thresholds identified above for construction and operation should be considered less than significant on a cumulative basis, unless there is other pertinent information to the contrary.⁵ As discussed previously, emissions associated with construction and operation of the proposed project would not exceed any of the SCAQMD-recommended significance thresholds and would not cause an individually significant impact. There is no other pertinent information that would suggest that the project could have a cumulatively considerable net increase in emissions. Since both construction and operation emissions are below the thresholds of significance, the proposed project would result in a less than significant cumulative impact.

e) Expose sensitive receptors (e.g., schools, hospitals, parks) to substantial pollutant concentrations due to location near a freeway or heavy industrial use?

☐☐☐☒

The proposed project is located in the South Coast Air Basin (Basin), which is under the jurisdiction of the SCAQMD. The SCAQMD considers a sensitive receptor to be a receptor where it is possible that an individual could remain for 24 hours.⁶ The project consists of a retail land use where it is not possible under normal operating circumstances for individuals to remain for 24 hours; therefore, the proposed project is not considered to be a sensitive use and would have no impact with respect to this criterion.

f) Create objectionable odors affecting a substantial number of people?

☐☐☒☐

The proposed project consists of renovating the existing land uses and would not develop new land uses. The 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. Therefore, the proposed project would not have a significant impact on air quality with respect to this criterion.

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

⁶ South Coast Air Quality Management District, Final Localized Significance Threshold Methodology, (2008).

4. BIOLOGICAL RESOURCES

	<i>Less Than Significant</i>		
<i>Potentially Significant Impact</i>	<i>Impact with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game (DFG) or U.S. Fish and Wildlife Service (USFWS)?

☐ ☒ ☐ ☐

The project site is currently occupied by urbanized, commercial-retail land uses and surface parking lots without any common or sensitive natural habitat areas. There are no habitat areas that may support any federally or state-listed endangered or threatened species, such as the least tern that may occur at Venice Beach or foraging over the marina waters. Since the project site does not have any natural habitat areas that can be affected by project construction or infrastructure improvements, the proposed project would not have a substantial adverse effect to a species regulated by the California Department of Fish and Game or the U.S. Fish and Wildlife Service. However, there is a slight possibility that special-status birds may nest in the landscape trees within or adjacent to the project site that may affect the breeding success for those species. Applicant's mandatory compliance with all applicable policies contained in LCP Policy Nos. 23 ("Marina del Rey Tree Pruning and Tree Removal Policy"), 34 ("Marina del Rey Leasehold Tree Pruning and Tree Removal Policy"), and 37 ("Biological Report & Construction Monitoring Requirements") (BIOTA 1) will reduce this potential impact to special-status bird species to a less than significant level. Therefore, no further analysis would be required on this topic with the adoption of the recommended mitigation measure.

b) Have a substantial adverse effect on sensitive natural communities (e.g., riparian habitat, coastal sage scrub, oak woodlands, non-jurisdictional wetlands) identified in local or regional plans, policies, and regulations DFG or USFWS? These communities include Significant Ecological Areas (SEAs) identified in the General Plan, SEA Buffer Areas, and Sensitive Environmental Resource Areas (SERAs) identified in the Coastal Zone Plan.

☐ ☐ ☐ ☒

The project site is currently occupied by commercial-retail land uses and surface parking lots. The project site is urbanized and does not contain any natural habitat areas, sensitive or common. The proposed project is located within the state-designated Coastal Zone but is surrounded on all sides by urban land uses. The project site is not located within a designated SEA, coastal Sensitive Environmental Resource Area (SERA) or ESHA. The closest SEA to the project site is the Ballona Creek SEA, located approximately 1 mile southeast of the project site. Because the project site is not located within or adjacent to an SEA or SERA, no impacts would occur from implementation of the proposed project. Moreover, there are no known "important biological resources" located on the subject property, as defined in the certified Local Coastal Program for Marina del Rey. As noted in the response to item 4(a) above, there is a slight possibility that special-status birds may nest in the landscape trees within or adjacent to the project site that may affect the breeding success for those species; however, Applicant's mandatory compliance with all applicable policies contained in LCP Policy Nos. 23 ("Marina del Rey Tree Pruning and Tree Removal Policy"), 34 ("Marina del Rey Leasehold Tree Pruning and Tree Removal Policy"), and 37 ("Biological Report &

Construction Monitoring Requirements”) (BIOTA 1) will reduce this potential impact to special-status bird species to a less than significant level. Therefore, no further analysis would be required on this topic.

c) Have a substantial adverse effect on federally protected wetlands (including marshes, vernal pools, and coastal wetlands) or waters of the United States, as defined by § 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means?

☐ ☐ ☐ ☒

The project site is currently occupied by urbanized, commercial-retail land uses and surface parking lots without any common or sensitive natural habitat areas, including wetlands or waters of the United States. Since the project site does not have any natural jurisdictional habitat areas that can be affected, removed, or filled by construction, fire clearance, or flood related improvements, there would be no impacts. Therefore, no further analysis would be required on this topic.

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

☐ ☒ ☐ ☐

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

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

☐ ☐ ☐ ☒

The project site is currently occupied by urbanized, commercial-retail land uses and surface parking lots without any natural habitat areas. There are no habitat areas that support oak woodlands and no native trees occur on the project site. Therefore, no oak resources would be impacted and no further analysis is required.

f) Conflict with any local policies or ordinances protecting biological resources, including Wildflower Reserve Areas (L.A. County Code, Title 12, Ch. 12.36) and the Los Angeles County Oak Tree Ordinance (L.A. County Code, Title 22, Ch. 22.56, Part 16)?

☐ ☐ ☐ ☒

The project site is currently occupied by urbanized, commercial-retail land uses and surface parking lots without any natural habitat areas. There are no habitat areas that support oak resources on the project site, so the Oak Tree Ordinance would not apply to the proposed project. The project site is located in or near a Wildflower Reserve Area. Therefore, the proposed project would not conflict with any local policies or ordinances protecting biological resources and no further analysis is required.

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

☐☐☐☒

The project site is currently occupied by urbanized, commercial-retail land uses and surface parking lots without any natural habitat areas. There are no habitat areas that support native biological resources on the project site. The proposed project would not conflict with any adopted state, regional, or local habitat conservation plan, as none exist in the project vicinity. Therefore, the proposed project would not conflict with provisions of any habitat conservation plan and no further analysis is required.

MITIGATION MEASURES:

BIOTA 1: Applicant shall strictly comply with all applicable policies contained in Policy Nos. 23 ("Marina del Rey Tree Pruning and Tree Removal Policy") and 34 ("Marina del Rey Leasehold Tree Pruning and Tree Removal Policy") and 37 ("Biological Report & Construction Monitoring Requirements") of the certified LCP.

5. CULTURAL RESOURCES

	<i>Less Than Significant Impact with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in *State CEQA Guidelines* Section 15064.5?

☐ ☐ ☐ ☒

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

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to *State CEQA Guidelines* Section 15064.5?

☐ ☐ ☐ ☒

The proposed project site is located in an area of Marina del Rey that is currently developed and has been developed for the past 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 4,000 cubic yards of underlying soil and debris would take place during the renovation process. The closest area containing known archaeological resources is the Ballona Creek Watershed area, approximately 1 mile from the project site, where remnants of past human activity have been located. Any resources on Marina del Rey land already altered or designated for development have been or have already been impacted. The proposed project would have no impact on archaeological resources and no further analysis is required.

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

☐ ☐ ☐ ☒

The proposed project site is currently developed with commercial-retail structures and surface parking lots. As described above, the proposed project site has been urbanized over the past 50 years and the likelihood of paleontological resources existing under the project site is limited. The proposed project would involve limited excavation on site with no unique geologic feature. Additionally, the project site is not adjacent to any unique geologic features. Since the proposed project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature there would be no impacts. Further analysis on this topic would not be required.

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

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

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

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The project site is not known to contain any human remains. Furthermore, the proposed project entails minimal excavation or extensive grading. Only minor surface grading is proposed. The proposed project would have no impact on human remains and no further analysis is required.

6. ENERGY

	<i>Potentially Significant Impact</i>	<i>Less Than Significant Impact with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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Would the project:

a) Comply with Los Angeles County Green Building Standards? (L.A. County Code Title 22, Ch. 22.52, Part 20 and Title 21, Section 21.24.440.)

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The proposed project would comply with the County Green Building Ordinance and would be designed in compliance with the County of Los Angeles Green Building Standards. Further, the project would be developed in compliance with all state and local regulations related to energy conservation. Therefore, additional analysis is not required.

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

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The project site is currently served by Southern California Edison for its electrical needs. The existing commercial-retail uses on the project site are currently outdated with respect to energy reduction resources within its design. Renovation of the Parcel 95 structures would include replacement of outdated lighting fixtures with replacement of more energy efficient lighting fixtures and LED bulbs. This would reduce the net amount of energy that the proposed project would require, compared to existing conditions.

7. GEOLOGY AND SOILS

	<i>Less Than Significant</i>	<i>Less Than Significant</i>	<i>No Impact</i>
<i>Potentially Significant Impact</i>	<i>Impact with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>

Would the project:

a) Be located in an active or potentially active fault zone, Seismic Hazards Zone, or Alquist-Priolo Earthquake Fault Zone, and expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault.

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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.⁹ 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.¹⁰ 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.

ii) Strong seismic ground shaking?

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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 from seismic ground shaking would be less than significant, and no further analysis would be required. The structural engineering of all proposed project structures will be required to comply with all applicable seismic engineering standards enforced by LA County Division of Building & Safety.

iii) Seismic-related ground failure, including liquefaction?

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The proposed project site is located in an area that has been designated as a liquefiable area.¹¹ Furthermore, the proposed project is located within an area having a high groundwater level.¹² As noted, the proposed project involves redevelopment and renovation of existing commercial retail structures and appurtenant facilities. If required by the Los Angeles County

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

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

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

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

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.

iv) Landslides?

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

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

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The proposed project site is located on land that is topographically flat. There are no hills, mounds or mountains located on the proposed project site. Furthermore, the surrounding area of the project site is topographically flat as well. The proposed project is currently developed with a surface parking lot, and commercial retail structures. 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 renovation project, the project site would not be subject to high erosion. Because the proposed project is not located in an area containing easily erodible soil, there would be no impacts, and no further analysis would be required. Moreover, the applicant will be required to comply with all applicable NPDES and low-impact development building requirements affecting site drainage to the satisfaction of LA County Division of Building & Safety.

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

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The proposed project site is located in an area that has been designated as a liquefiable area. Furthermore, the proposed project is located within an area having a high groundwater level. As noted, the proposed project involves the redevelopment and renovation of existing commercial retail structures and appurtenant facilities. 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.

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

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The proposed project is located on an area of land that is currently developed with an existing commercial retail facility. 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 the redevelopment of the existing commercial retail buildings, rehabilitation of the existing restaurant, and surface parking lot. The proposed project would cause minor disturbance to the existing soils that are beneath the project site including the above-noted surface demolition, minor site drainage improvements, and storm water management trenching work. There would be no additional excavation or grading associated with renovation activities. The applicant would submit expansive soil data as part of any Geotechnical Report that may be required by DPW.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

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The proposed project does not include the use of a septic system as sanitary sewers are used in the project area. Building A and Building B are each estimated to require 4-inch sewer lines and the new buildings will generate 1882 gallons/ day of sewage. An existing 15-inch Los Angeles City sewer main is located south of the project site in the alley. Therefore, the proposed project would have no impact in regard to the use of septic systems or alternative wastewater disposal. No further analysis is required.

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

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The proposed project site is located on land that is topographically flat and therefore the project site not located within a Hillside Management Area. There are no hills, mounds, or mountains on the project site that could result in the project site having slope instability or conflict with the Hillside Management design standards. No substantial alteration of topography is involved due to the fact that all existing buildings would be replaced by similar structures or 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.

MITIGATION MEASURES:

GEOLOGY AND SOILS 1: Applicant shall conform to Dept of Public Works' soils and seismic engineering requirements, to the satisfaction of said Dept.

8. GREENHOUSE GAS EMISSIONS

	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Would the project:

a) 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.

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Construction of the proposed project would result in one-time emissions of greenhouse gases (GHGs). These emissions, primarily carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O), 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 project's GHG emissions were estimated using CalEEMod using the same parameters for criteria pollutants.

Table 5, 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.

At full buildout, the project would result in direct annual emissions of GHGs during project operation. These emissions, primarily CO₂, CH₄, and N₂O, 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 SCAQMD has not yet formally adopted significance thresholds for emissions of GHG. However, a SCAQMD working group has produced draft guidance that includes proposed significance thresholds for land use projects. The draft threshold applicable for mixed-use or all land use projects is 3,000 metric tons of carbon dioxide equivalents per year (MTCO₂e/year).

Table 5
Estimated Construction GHG Emissions

GHG Emissions Source	Emissions (Metric Tons CO ₂ e/year)
Demolition	9.08
Grading	72.78
Trenching	4.54
Building Construction	187.27
Architectural Coating	3.73
Asphalt Paving	8.30
One-Time Total Construction GHG Emissions	285.70
Amortized over Project Lifetime	9.52

Source: Impact Sciences, Inc. Emissions calculations are provided in the Appendix.

Note: Totals in table may not appear to add exactly due to rounding.

Table 6, Estimated Operational GHG Emissions, lists the estimated GHG emissions associated with operation of the project as well as construction emissions amortized over a 30-year project lifetime. The existing sit-down restaurant (i.e., Islands restaurant, which is to remain but be renovated) was assumed to have no impact on GHG emissions as no change in size or operation for this building is associated with the project.

Table 6
Estimated Operational GHG Emissions

GHG Emissions Source	Emissions (Metric Tons CO ₂ e/year)
Energy	202.32
Mobile	991.21
Waste	17.05
Water	18.38
Amortized Construction	9.52
One-Time Total Construction GHG Emissions	1,238.48
Draft Significance Threshold	3,000
Exceeds Threshold?	NO

Source: Impact Sciences, Inc. Emissions calculations are provided in the Appendix.

Totals in table may not appear to add exactly due to rounding.

It is generally the case that an individual project is of insufficient magnitude by itself to influence climate change or result in a substantial contribution to the global GHG inventory.¹³ GHG impacts are recognized as exclusively cumulative impacts; there

¹³ 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.

are no non-cumulative GHG emission impacts from a climate change perspective.¹⁴ As shown in Table 6, the project's net GHG emissions would not exceed the SCAQMD draft thresholds. Therefore, the project's net GHG emissions would have a less than significant impact on the environment.

b) 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?

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On January 16, 2007, the County Board of Supervisors instructed the Directors of Regional Planning and Public Works to create a green building program that would incorporate green building standards into all appropriate industrial, commercial, and residential development Projects within all unincorporated areas of the County. The green building program was approved by the Board on November 18, 2008 and became effective on January 1, 2009. However, the green building program applies to new buildings or first-time tenant improvements greater than or equal to 10,000 square feet. This program would require non-residential projects greater than 10,000 and less than 25,000 square feet with building permits filed after January 1, 2010 to meet the minimum standards:

- Energy: 15 percent more energy efficient than Title 24 (2005) and LEED certification or equivalent;
- Water: High efficiency toilets (maximum 1.28 gallons per flush) and smart irrigation controller in landscaped areas;
- Resources: Minimum 65 percent waste diversion during construction; and
- Trees: Minimum of 3 trees planted per 10,000 square feet of developed area, 65 percent of which must be from the drought-tolerant plant list (existing trees greater than or equal to 6 feet in diameter count towards this requirement).

The low impact development (LID) ordinance requires the use of LID principles in development projects. LID encourages site sustainability and smart growth in a manner that respects and preserves the characteristics of the County's watersheds, drainage paths, water supplies, and natural resources. Non-residential projects that alter less than 50 percent of the existing impervious surface must comply with LID best management practices that promote infiltration and beneficial use of stormwater runoff for the altered portion. If greater than 50 percent of the existing impervious surface is altered, the entire site must comply with LID best management practices.

The drought-tolerant landscaping ordinance establishes minimum standards for the design and installation of landscaping using drought-tolerant and native plants that require minimal use of water. The requirements ensures that the County conserves water resources by requiring landscaping that is appropriate to the region's climate and nature of the use. Projects consisting of new non-residential buildings or first-time tenant improvements greater than or equal to 10,000 square feet shall use drought-tolerant plants for at least 75 percent of all landscaping and require that all turf be water-efficiency and limited to 25 percent of all landscaped area not to exceed 5,000 square feet (minimum of 5 feet width for all turf areas).

The proposed project is required to comply with the County of Los Angeles green building, LID, and drought-tolerant landscaping ordinances. Therefore, the new buildings will be constructed to exceed Title 24 (2005) by at least 15 percent and meet LEED certification or equivalent. The new buildings will be installed with high efficiency toilets. Landscaped areas would be installed with smart irrigation controllers and would contain at least 7 trees, at least 5 of which would be drought tolerant.

14 Ibid.

The incorporation of these features in the project design will ensure that the project reduced GHG emissions consistent with the County of Los Angeles green building, LID, and drought-tolerant landscaping ordinances.

The goal of Assembly Bill 32, The Global Warming Solutions Act of 2006, is to reduce statewide GHG emissions to 1990 levels by 2020. In order to achieve the state mandate of AB 32, CARB has been tasked with implementing statewide regulatory measures to reduce GHG emissions from all sectors. In December 2008 CARB adopted the Climate Change Scoping Plan, which details strategies to meet that goal. The Scoping Plan instructs local governments to establish sustainable community strategies to reduce GHG emissions associated with transportation, energy, and water, as required under Senate Bill 375. 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 complement land use and transit strategies. The Climate Change Scoping Plan also recommends energy-efficiency measures in 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 purpose of the proposed project is to redevelop and renovate existing commercial land uses and to develop a small "pocket park." The project would produce GHG emissions below the draft SCAQMD significance threshold for land use projects, which was designed to enable the region to meet the requirements of AB 32. The project incorporates design standards and measures that are both feasible and consistent with recommended measures for projects. Therefore, the project would generally be consistent with GHG reduction measures recommended by CARB. Based on the above analysis, the project would have a less than significant impact on the environment with respect to this criterion.

The Pacific Institute prepared a report for the California Climate Change Center on the on the impacts of sea level rise on the California coast.¹⁵ The report listed a number of key findings for the state. The findings that are particularly relevant to the proposed project include:

- Under medium to medium-high GHG, mean sea level along the California coast is projected to rise from 1.0 to 1.4 meters by the year 2100;
- A demographic analysis identified large numbers of people at risk with heightened vulnerability, including low-income households and communities of color. Additionally, adapting to sea-level rise will require tremendous financial investment. Given the high cost and the likelihood that individuals, the state, and local agencies will not protect everything, adaptation raises additional environmental justice concerns;
- Coastal armoring is one potential adaptation strategy. Approximately 1,100 miles of new or modified coastal protection structures are needed on the Pacific Coast and San Francisco Bay to protect against coastal flooding. The total cost of building new or upgrading existing structures is estimated at about \$14 billion (in year 2000 dollars). We estimate that operating and maintaining the protection structures would cost approximately 10 percent of the initial capital investment, or around another \$1.4 billion per year (in year 2000 dollars); and
- Continued development in vulnerable areas will put additional areas at risk and raise protection costs.

According to the report, the project site would be considered at risk from a 100-year coastal flood event with a 1.4-meter sea-level rise. As noted from the key findings, under medium to medium-high GHG emissions scenarios, mean sea level along the

¹⁵ California Climate Change Center, *The Impacts of Sea Level Rise on the California Coast*, (2009). Available at the following website: http://www.pacinst.org/reports/sea_level_rise/.

California coast is projected to rise from 1.0 to 1.4 meters by the year 2100.¹⁶ The report also indicates that a number of actions can help mitigate saltwater intrusion, including:

- Investments in water conservation and efficiency improvements to allow water managers to reduce pumping;
- Enhancing natural recharge by limiting impervious areas (pavement); and
- Adopting low-impact development techniques.

Project compliance with the County of Los Angeles green building, LID, and drought-tolerant landscaping ordinances would be consistent with these measures to mitigate saltwater intrusion. A preliminary drainage concept has been prepared by Breen Engineering for the Marina Gateway Parcel 95 project, December 23, 2011. Review of the drainage concept/LID plan will be required as part of the Department of Public Works' Land Development Division's Site Plan Review, preceding the issuance of any project grading or building permits.

¹⁶ California Climate Change Center, *The Impacts of Sea Level Rise on the California Coast*, (2009). Based on the National Center for Atmospheric Research (NCAR) Community Climate System Model (CCSM) Special Report on Emissions Scenarios (SRES) A2 Scenario. Under the A2 Scenario, population is expected to continuously increase, but economic growth and technological development are expected to be slow.

9. HAZARDS AND HAZARDOUS MATERIALS

	<i>Potentially Significant Impact</i>	<i>Less Than Significant Impact with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, storage, production, use, or disposal of hazardous materials or use of pressurized tanks on-site?

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Commercial retail uses do not typically store or handle hazardous materials. However, on-site support services, such as janitorial services and or other 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 commercial uses submit 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 other 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) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials or waste into the environment?

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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 construction and renovation activities on the project site, as well as during operation of the uses on the project site upon buildout. 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. No further analysis is required on this topic.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 500 feet of sensitive land uses (e.g., homes, schools, hospitals)?

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The project site is located within 500 feet of residential units; however, the proposed project would not include the storage of large quantities of hazardous materials or pressurized tanks. Consequently, there would be no impacts. Further analysis on this topic is not required.

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

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The project site is not located on a parcel of land that has been included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.¹⁷ The closest site that is included on a list of hazardous materials sites is located at 4144 Glencoe Avenue, approximately 1 mile east of the project site. Since the proposed project site is not located on a site that is listed as a hazardous materials site, there would be no impacts. Further analysis on this topic would not be required.

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

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

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

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

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

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

¹⁷ California Department of Toxic Substances, Envirostor, Hazardous Waste and Substances Site List, Accessed January 11, 2010.

¹⁸ Los Angeles County Department of Regional Planning, Los Angeles County Airport Land Use Commission, Santa Monica Airport Influence Area, http://planning.lacounty.gov/assets/upl/project/aluc_airport-santa-monica.pdf. Accessed January 11, 2010.

¹⁹ Los Angeles County Department of Regional Planning, Los Angeles County Airport Land Use Commission, LAX Airport Influence Area, http://planning.lacounty.gov/assets/upl/project/aluc_airport-lax.pdf. Accessed January 11, 2010.

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

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

The proposed project would not expose people or structures to a significant risk of loss based on the discussion below.

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

The project site is not located within a Very High Fire Hazard Severity Zone. Therefore, the project would have no impact on fire safety.

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

The project site is not located in a high fire hazard zone and there is adequate emergency access. Therefore, the project would have no impact on fire safety.

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

The proposed project will be required to meet all fire safety requirements including the need to provide adequate fire flow in the event of a fire hazard. There would be a less than significant impact from the project to fire safety in regard to fire flow.

iv) in proximity to land uses that have the potential for dangerous fire hazard (such as refineries, flammables, and explosives manufacturing)? ☐ ☐ ☐ ☒

The project site is not located in proximity to land uses with the potential for dangerous fire hazard. The project site is located in a rural area with few land uses besides rural residential land uses.

10. HYDROLOGY AND WATER QUALITY

	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Would the project:

a) Violate any water quality standards or waste discharge requirements?

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The project site is currently an urbanized development with commercial retail buildings and surface parking areas. Best management practices (BMPs) would be applied during demolition, construction, and renovation activities to ensure that pollutants associated with the construction activities are not introduced into the storm drain system. With BMPs in place during renovation and redevelopment activities, water quality standards would remain similar to the existing conditions, and the proposed project would not violate any water quality standards. Impacts would be less than significant and further analysis on this topic is not required.

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

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The project site is currently an urbanized development with commercial retail buildings and surface parking areas. There is currently no groundwater recharge on the project site and this condition will not change with the implementation of the proposed project. The project does not propose any extraction of groundwater and therefore the proposed project would not cause any impacts to groundwater resources or to groundwater recharge. Further analysis on this topic is not required.

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

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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 runoff 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 storm drain system 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. The project's conformance with the County's LID drainage requirements will ensure that site drainage will be accommodated in accordance with the County's most current standards. A preliminary Drainage Concept has been prepared by Breen Engineering on December 23, 2011 for the Parcel 95 project. Review of the drainage concept/LID plan will be required as part of the Department of Public Works' Land Development Division's Site Plan Review, preceding the issuance of any project grading or building permits.

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

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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 runoff quantities of the project site would remain substantially the same size as under current conditions with gravel sub base for proper treatment of stormwater runoff. Runoff would continue to outlet through the storm drain system 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.

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems?

☐☐☐☒

The project site is currently an urbanized development with commercial retail buildings and surface parking areas. The proposed project would have the same or less runoff entering the stormwater drainage system as the current site condition. The project would not cause runoff that would exceed the capacity of the stormwater system. Consequently, there would be no impact to the stormwater drainage system. Further analysis on this topic is not required.

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

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The project site is currently an urbanized development with commercial retail buildings and surface parking areas. The proposed demolition, construction, and renovation of the existing commercial-retail buildings and surface parking lot could introduce pollutants from construction activities into the storm water flow that empties into Marina del Rey small craft harbor. The Applicant would use BMPs during the renovation and redevelopment process to ensure that a minimal amount of pollutants enter into the stormwater flow from the proposed project site. The project proponent would be required to comply with the California Regional Water Quality Control Board (CRWQCB) and the County National Pollutant Discharge Elimination System (NPDES) permit discharge requirements. Impacts from construction and operational runoff would be less than significant and no further analysis on this topic is required.

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

☐☐☒☐

The proposed project site contains an existing drainage system that is adequate in terms of capacity but 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 runoff quantities of the project site would remain substantially the same size as under current conditions with a gravel sub base for proper treatment of stormwater runoff. Runoff would continue to outlet through the storm drain after such treatment. The aforementioned stormwater management improvements would not alter the existing drainage pattern of the site or area and would only be introduced to treat and retain runoff in compliance with the County's LID Program. Compliance with the LID requirements will be achieved through the implementation of the Drainage Concept prepared December 23, 2011 by Breen Engineering. Review of the drainage concept/LID plan will be required as part of the Department of Public Works' Land Development Division's Site Plan Review, preceding the issuance of any project grading or building permits.

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

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

i) Use septic tanks or other private sewage disposal system in areas with known septic tank limitations or in close proximity to a drainage course?

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The project does not propose to use septic systems or private sewage disposal systems. The proposed project would have no impact on septic limitations. No further analysis is required.

j) Otherwise substantially degrade water quality?

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The project site is currently an urbanized development with commercial retail buildings and surface parking areas. Redevelopment and renovation of the existing commercial-retail buildings and surface parking lot would not substantially degrade water quality through compliance with NPDES and implementation of an Stormwater Pollution Prevent Plan (SWPPP). The new permit order 2009-0009DWG requires a certified Qualified SWPPP Developer (QSD) to prepare the SWPPP and a certified Qualified SWPPP Practitioner (QSP) to enforce the SWPPP. Typical construction BMP's include the following: EC-1 Scheduling, EC-2 Preservation of Existing Vegetation, EC-7 Geotextiles & Mats, SE-1 Silt Fence, SE-7 Street Sweeping and Vacuuming, SE-8 Sandbag Barrier, WE-1 Wind Erosion Control, TC-1 Stabilized Construction Entrance/Exit, TC-3 Entrance/Outlet Tire Wash, NS-1 Water Conservation Practices, NS-6 Illicit Connection/Illegal Discharge Detection and Reporting, NS-8 Vehicle and Equipment Cleaning, NS-12 Concrete Curing, WM-1 Material Delivery and Storage, WM-2 Material Use, WM-3 Stockpile Management, WM-4 Spill Prevention and Control, WM-5 Solid Waste Management, WM-6 Hazardous Waste Management, WM-8 Concrete Waste Management, and WM-9 Sanitary/Septic Waste Management. Impacts from the proposed project would be less than significant on water quality and no further analysis on this topic is required.

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

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The proposed project would include the redevelopment and renovation of existing commercial retail structures and surface parking lot. Two new buildings will replace three existing buildings; 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. In addition, the project is not located within a floodway, floodplain, or other flood hazard area. Further analysis on this topic would not be required. A preliminary Drainage Concept has been prepared by Breen Engineering on December 23, 2011 for the Parcel 95 project.

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

☐☐☐☒

The proposed project would include the redevelopment and renovation of existing commercial retail structures and surface parking lot. Two new buildings will replace three existing buildings; 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 project site is not located within a floodway, floodplain, or other flood hazard area and no structures would be placed within a floodway, floodplain, or other flood hazard area. Therefore, the proposed project would not impact or impeded a flood hazard area. Further analysis on this topic would not be required.

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

☐☐☒☐

The project site is currently an urbanized development with commercial retail buildings and surface parking areas. The proposed redevelopment of the existing commercial-retail buildings and surface parking lot with two new buildings to replace three existing buildings would not be placed in an area having high flood potential. Impacts from the proposed project would be less than significant and no further analysis on this topic is required.

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

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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.²¹ Tsunamis generated from local earthquakes may be larger than distant earthquakes but are less likely to occur. Furthermore, the proposed project has been developed with a finished pad and street elevation 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 but the project site is not located near the water and 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. 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.

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.

²¹ County of Los Angeles, Department of Regional Planning, Marina del Rey Land Use Plan, February 9, 1996, pg. 10-4.

11. LAND USE AND PLANNING

	<i>Potentially Significant Impact</i>	<i>Less Than Significant Impact with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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Would the project:

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

b) Be inconsistent with the plan designations of the subject property? Applicable plans include: the County General Plan, County specific plans, County local coastal plans, County area plans, County community/neighborhood plans, or Community Standards Districts.
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The subject parcels' land use designations per the Marina del Rey Land Use Plan are "Visitor-Serving/Convenience Commercial" and "Public Facility." The Visitor-Serving/Convenience Commercial land use designation permits commercial and retail visitor-serving services including dining and entertainment uses. The Public Facility land use designation permits the proposed pedestrian-oriented park. The renovation of the existing commercial-retail structures is therefore consistent with the plan designations on the project site.

c) Be inconsistent with the zoning designation of the subject property?
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The proposed project is zoned as Marina del Rey Specific Plan under the Los Angeles County Zoning Ordinance. Furthermore, the subject parcels are designated Public Facilities (Parcel LLS) and Visitor-Serving/Convenience Commercial-Mixed Use Overlay (Parcel 95) in the certified LCP. The proposed public park use on Parcel LLS is a permitted use in the subject Public Facilities land use category. Likewise, the proposed visitor-serving commercial development proposed for Parcel 95 is a permitted use in the subject Visitor-Serving/Convenience Commercial-Mixed Use Overlay land use designation for the parcel.

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

12. MINERAL RESOURCES

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

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

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒
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The project site is not located within a Mineral Resource Zone as mapped by the County of Los Angeles. However, the project site is located within an Oil and Gas Resource Zone.²³ The project site is developed with commercial-retail land uses and does not currently contain existing drilling sites for the recovery of oil and natural gas, nor are any drilling sites located on the project site for the recovery of oil or natural gas proposed in the future. There would be no impacts to oil and natural gas resources with implementation of the proposed project. The proposed project would not result in the loss of availability of a locally important mineral resource recovery site delineated within the County of Los Angeles General Plan or the Marina del Rey Specific Plan. No further analysis is required.

²² County of Los Angeles Draft General Plan, Chapter 6 Conservation and Open Spaces Element, Figure 6.5, Natural Resource Areas, 2008.

²³ County of Los Angeles Draft General Plan, Chapter 6 Conservation and Open Spaces Element, Figure 6.5, Natural Resource Areas, 2008.

13. NOISE

	Less Than Significant	Potentially Significant	Impact with Mitigation Incorporated	Less Than Significant	No Impact
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Would the project result in:

a) Exposure of persons to, or generation of, noise levels in excess of standards established in the County noise ordinance (Los Angeles County Code, Title 12, Chapter 12.08) or the General Plan Noise Element?

☐ ☐ ☒ ☐

The project site is located in the unincorporated community of Marina del Rey, a highly urbanized area that is within the Marina del Rey Specific Plan area pursuant to the County of Los Angeles Zoning Code. Noise monitoring over a 24-hour period was conducted at three different locations around the proposed project site from November 15, 2011 to November 16, 2011. The noise measurements were taken near existing off-site residential receptors in order to characterize the ambient noise environment for the project and receptors that could be potentially affected by the project. The highest monitored ambient noise level that was recorded during the 24-hour noise monitoring was 68.4 dB(A) Leq at the north end of the project site adjacent to Washington Boulevard. Noise levels drop off substantially from Washington Boulevard as shown from noise measurements taken near the southern end of the project site, which recorded 24-hour noise levels of 61.4 Leq near Via Dolce and 58.5 Leq at the interior of the project site near the residential uses to the south. Refer to Figure 1, Noise Monitoring Locations, in the Appendix for a graphical representation of the noise monitoring locations.

Construction of the proposed project would temporarily increase noise levels due to the use of heavy-duty construction equipment during demolition, grading, building construction and trenching activities. As is discussed below in item (d), construction could result in noise levels of 81 dB(A) Leq. Noise levels would be reduced to below 80 dB(A) for people residing in nearby multi-family residential buildings due to the attenuating effect of typical structures, which are constructed to attenuate noise by 17 dB Leq when windows are open and by 25 dB Leq when windows are closed. Therefore, construction impacts would result in a less than significant impact.

In operation, the proposed project would not substantially alter the current noise generated at the project site. The project would redevelop three of the existing buildings on the site with similarly sized buildings and would renovate the restaurant building, but would not change the commercial nature of the site. Operation of the project would not result in a substantial change in on-site stationary noise sources or traffic levels. As a result, the project would result in a less than significant noise impact.

b) Exposure of sensitive receptors (e.g., schools, hospitals, senior citizen facilities) to excessive noise levels?

☐ ☐ ☒ ☐

The proposed project is not considered a sensitive use such as 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 Westside Leadership Magnet School located approximately 0.16 mile (840 feet) west of the project site. The closest hospital is the Marina del Rey Hospital located approximately 1.1 miles (6,160 feet) to the east of the project site. The closest sensitive residential uses are located at the residential apartment hotel complex to the south of the project site. Burton W. Chace Park is approximately 1 mile southeast of the project site. The proposed project does not include a sensitive land use. At these distances, the project would not generate construction noise that would expose sensitive receptors to excessive noise source. However, construction of the proposed project would temporarily increase noise levels due to the use of heavy-duty construction equipment during demolition, grading, building construction, and trenching activities.

As discussed below in item (d), construction could result in noise levels of 81 dB(A) Leq. Noise levels would be reduced to below 80 dB(A) for people residing in nearby multi-family residential buildings due to the attenuating effect of typical structures, which are constructed to attenuate noise by 17 dB Leq when windows are open and by 25 dB Leq when windows are closed. Therefore, construction impacts would result in a less than significant impact.

Operation of the proposed project would not substantially alter the current noise generated at the project site. The project would redevelop three of the existing buildings on the site with similarly sized buildings and would renovate the restaurant building, but would not change the commercial nature of the site. Operation of the project would not result in a substantial change in on-site stationary noise sources or traffic levels. As a result, the project would result in a less than significant impact.

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

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The proposed project would not increase the intensity of the land uses on the project site when compared to existing conditions. The project would redevelop three of the existing buildings on the site with similarly sized buildings and would renovate the restaurant building, but would not change the commercial land uses on the site. The project would also renovate the existing surface parking lot. The proposed project would not include any new substantial sources of stationary noise, such as the development of an amplified outdoor sound system. The project would also not result in substantial changes to traffic levels and associated noise compared to existing conditions as the intensity and size of the commercial land uses would remain the same on the project site compared to existing conditions. As a result, the ambient noise level upon completion of the redevelopment and renovation of the commercial structures and surface parking would not be increased during project operation. The project would result in a less than significant impact.

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

☐ ☒ ☐ ☐

As previously discussed in (a) above, the highest monitored ambient noise level that was recorded at the project site during the 24-hour noise monitoring was 68.4 dB(A) Leq at the north end of the project site adjacent to Washington Boulevard. The ambient noise levels measured near the southern end of the project site recorded 24-hour noise levels of 61.4 Leq near Via Dolce and 58.5 Leq at the interior of the project site near the residential uses to the south. This was determined based on noise monitoring that was conducted over a 24-hour period at three different locations around the project site from November 15, 2011 to November 16, 2011. Renovation and redevelopment of the commercial buildings and surface parking lot would cause temporary increases in ambient noise levels in the area due to the heavy-duty construction equipment that would be used during the 52-week renovation work. The County of Los Angeles has developed a standard for construction noise for multi-family 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. Noise calculations have been completed by Impact Sciences, Inc. to determine the noise levels that the nearest sensitive use to the project site (the multi-family residential buildings to the south of the project site), would be exposed to during construction activities.

Construction activities would include demolition, grading, building construction, and paving. During demolition and grading activities, equipment such as backhoes, a grader, a loader, a scraper would be used. Building construction would use a crane and forklift. Paving activities would use a paver and roller. Off-highway trucks would also be used to transport materials to the site. The loudest expected noise level that residents living at the nearest multi-family residential buildings would experience during the renovation phases would be 81 dB(A) Leq, which is above the standard of 80.0 dB(A) Leq for multi-family residential uses. Moreover, typical structures are constructed to attenuate noise by 17 dB Leq when windows are open and by 25 dB Leq when windows are closed, thus reducing the noise level experienced by residents to 64.0 dB(A) if windows are open or 56.0 dB(A) Leq if windows are closed. The residential apartment complex does not have garden, pool, or other open outdoor space facing the

project site, so residents would not be exposed to unattenuated construction noise from project development. Therefore, noise levels expected to be experienced by residents and guests of the adjacent residential apartment complex would not exceed the 80.0 dB(A) L_{eq} standard for residences. As a result, impacts will be less than significant.

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

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The project site is not located within the Los Angeles International Airport or Santa Monica Airport land use plan and would not expose people to excessive noise levels. The project would have no impact with respect to this threshold.

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

☐ ☐ ☐ ☒

The project site is not located adjacent or near a private airstrip and would not expose receptors to excessive noise levels. The project would have no impact with respect to this threshold.

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 residential uses, temporary portable noise attenuating structures shall be used.*

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

NOISE 2: *Construction activities shall be restricted to between the hours of 7:30 AM to 6:00 PM 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: *Construction crews shall turn off trucks or heavy equipment if the expected duration of engine idling exceeds 5 minutes in order to reduce noise disturbance to adjacent multi-family residences.*

NOISE 4: *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 5: *Construction-related deliveries and hauling activities shall be scheduled between 8:00 AM and 4:00 PM, except on Saturdays, Sundays, and legal holidays, to minimize disturbance to surrounding residents.*

NOISE 6: *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 7: *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.*

14. POPULATION AND HOUSING

Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

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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.

b) Cumulatively exceed official regional or local population projections?

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The proposed project is the redevelopment and renovation of an existing commercial retail complex and the development of a small 'pocket park'; there would be no change in use, except for the addition of a small public park at the corner of Washington Blvd and Via Marina on the site. No residential land use component is proposed. Therefore, implementation of the proposed project would not exceed official regional or local population projections and there would be no impacts. Additional analysis on this topic would not be required.

c) Displace existing housing, especially affordable housing?

☐ ☐ ☐ ☒

The existing land uses on the project site include surface parking lots and commercial-retail buildings. 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 is needed.

d) 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.

15. PUBLIC SERVICES

	<i>Less Than Significant</i>	<i>Less Than Significant</i>	<i>No Impact</i>
<i>Potentially Significant Impact</i>	<i>Impact with Mitigation Incorporated</i>	<i>Impact</i>	

a) Would the project create capacity or service level problems, or result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

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The project site is located in the urbanized area of Marina del Rey. BMPs would be standard during renovation and construction of the commercial-retail buildings 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, the proposed project would include the development of a new up-to-date fire sprinkler systems throughout the new buildings to help in reducing the risk of fire spread in case of a conflagration. Since the proposed project would not pose any special fire problems, there would be no impacts. Therefore, further analysis on this topic would not be required. The nearest County Fire Station (#110), located at 4433 Admiralty Way, to the project site is 0.90 miles away.

Sheriff protection?

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The project site is located in the urbanized area of Marina del Rey. The redevelopment and construction of the existing commercial-retail buildings could provide opportunity for crime (pilferage of the construction equipment and materials) but not different from other construction locations within the area. Furthermore, redevelopment and renovation of the proposed project would include on-site security in addition to the existing Los Angeles County Sheriff service provided from the Marina del Rey station. Since the proposed project would not pose any special law enforcement problems, there would be no impacts. Therefore, further analysis on this topic would not be required. The nearest County Sheriff's Station, located at 13851 Fiji Way, to the project site is 2.84 miles away.

Schools?

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The proposed project is not a residential land use and would not have an impact on schools.

Parks?

☐ ☐ ☐ ☒

The proposed project includes a 0.20-acre pedestrian-oriented park. There would be no impact to park resources.

Libraries?

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The proposed project would have no change to current library services as the proposed project would have the same demand as the current uses. The nearest County library, located at 4533 Admiralty Way, is 1.2 miles away from the project site.

Other public facilities?

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There are no other public services in the project area that would be impacted by the proposed project.

16. RECREATION

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

The existing commercial-retail structures do not currently include recreational features for visitors. The proposed project would include the construction of a 0.20-acre pedestrian-oriented park on the site at the corner of Washington Blvd and Via Marina. Because 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 passing by the project site would still be able to access the abundant existing recreational facilities in the project vicinity, including Venice Beach, Marina/Mother's Beach, in addition to the new pocket park to be developed on site. No impacts would occur and further analysis on this topic would not be required.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | ☐ | ☐ | ☐ | ☒ |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The existing commercial-retail structures do not currently includes recreational features for visitors. The proposed project would include the construction of a 0.20-acre pedestrian-oriented park. 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. There would be no impact from the proposed project.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Is the project consistent with the Department of Parks and Recreation Strategic Asset Management Plan for 2020 (SAMP) and the County General Plan standards for the provision of parkland? | ☐ | ☐ | ☐ | ☒ |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The proposed project would be consistent with the Department of Parks and Recreation Strategic Asset Management Plan 2020.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Would the project interfere with regional open space connectivity? | ☐ | ☐ | ☐ | ☒ |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

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

17. TRANSPORTATION/TRAFFIC

	<i>Less Than Significant</i>	<i>Less Than Significant</i>	<i>No Impact</i>
<i>Potentially Significant Impact</i>	<i>Impact with Mitigation Incorporated</i>	<i>Impact</i>	<i>Impact</i>

Would the project:

a) Conflict with an applicable plan, ordinance, or policy establishing a measure of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel, and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? Measures of performance effectiveness include those found in the most up-to-date Southern California Association of Governments (SCAG) Regional Transportation Plan, County Congestion Management Plan, and County General Plan Mobility Element.

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The proposed project site is currently served by the Los Angeles County Metropolitan Transportation Authority (MTA) and Culver Citybus that provides alternative transportation throughout the community of Marina del Rey and into parts of the Los Angeles Metro Region. The closest bus stops from the proposed project are located on Washington Boulevard at Via Dolce and Via Marina (Culver City) and at Palawan Way (Los Angeles County) for eastbound and at Washington Boulevard and Dell and Ocean Avenues (Culver City) and at Mindanao Way and Lincoln Boulevard (Los Angeles County) for westbound. Redevelopment and renovation of the commercial-retail structures and surface parking lot would not interfere with alternative transportation service as provided by the MTA and Culver Citybus. Since implementation of the proposed project would not conflict with adopted policies, plans, or programs supporting alternative transportation, there would be no impacts. Further analysis on this topic would not be required.

Based on the analyses contained in the traffic report prepared for the project, which report has been reviewed and approved by the Department of Public Works, the proposed project itself would not be expected to produce significant impacts at any of the nine studied intersections, and, as a result, no project-specific off-site mitigation measures are warranted. However, the traffic anticipated from cumulative development, including trips associated with the proposed Parcel 95 project, could result in substantial increases in area traffic, producing potentially significant impacts at one of the study intersections (Admiralty Way and Via Marina) during both the AM and PM peak hours. The project is subject to traffic impact assessment fees imposed by the County of Los Angeles pursuant to the certified LCP. These fees are designated to fund a series of traffic improvement measures identified in the certified LCP to mitigate traffic generated by the Phase II development in Marina del Rey, of which the project is a part. The traffic fees (which are comprised of "fair share" contributions from each applicant based on the amount of project PM peak hour trips generated by new developments) fund improvements to both the internal Marina del Rey circulation system and the sub-regional transportation system. The County's traffic mitigation fee structure is currently \$5,690 per PM peak hour trip. Based on the expected project trip generation of 17 net new PM peak hour trips, the project would be required to pay \$96,730 in trip mitigation fees (see TRAFFIC-1 below).

b) Exceed the County Congestion Management Plan (CMP) Transportation Impact Analysis thresholds?

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The CMP requires that detailed analyses be conducted for any of these locations where the proposed project is anticipated to add 50 or more total trips during either the weekday AM or PM peak hours. The current CMP (2010) identifies five arterial monitoring intersections within approximately 3 miles of the project site. Four of the five CMP intersections are located within the City of Los Angeles, while the remaining intersection is located within the City of Santa Monica. The CMP arterial monitoring locations are listed below.

- Lincoln Boulevard and Venice Boulevard (Los Angeles)
- Lincoln Boulevard and the Marina Expressway (SR-90) (Los Angeles)
- Lincoln Boulevard and Manchester Avenue (Los Angeles)
- Lincoln Boulevard and Sepulveda Boulevard (Los Angeles)
- Lincoln Boulevard and Pico Boulevard (Santa Monica)

None of the intersections identified above are specifically examined as part of the nine study intersections already included in the detailed analyses of project impacts, and therefore, the net project traffic additions to these five CMP monitoring intersection locations were assessed. A review of the project's anticipated traffic travel patterns into, out of, and through the study vicinity indicates that project traffic will disperse throughout the area roadway network outside the immediate study vicinity, and that project traffic volume additions to any of the CMP monitoring intersections are expected to be substantially less than the 50-trip threshold.

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

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The CMP requires that detailed analyses be conducted for any of these locations where the proposed project is anticipated to add 50 or more total trips during either the weekday AM or PM peak hours. The current CMP (2010) identifies five arterial monitoring intersections within approximately 3 miles of the project site. Four of the five CMP intersections are located within the City of Los Angeles, while the remaining intersection is located within the City of Santa Monica. The CMP arterial monitoring locations are listed below.

- Lincoln Boulevard and Venice Boulevard (Los Angeles)
- Lincoln Boulevard and the Marina Expressway (SR-90) (Los Angeles)
- Lincoln Boulevard and Manchester Avenue (Los Angeles)
- Lincoln Boulevard and Sepulveda Boulevard (Los Angeles)
- Lincoln Boulevard and Pico Boulevard (Santa Monica)

None of the intersections identified above are specifically examined as part of the nine study intersections already included in the detailed analyses of project impacts, and therefore, the net project traffic additions to these five CMP monitoring intersection locations were assessed. A review of the project's anticipated traffic travel patterns into, out of, and through the study vicinity indicates that project traffic will disperse throughout the area roadway network outside the immediate study vicinity, and that project traffic volume additions to any of the CMP monitoring intersections are expected to be substantially less than the 50-trip threshold.

d) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

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

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

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The proposed project does not include changes in roadway design or incompatible uses. The haul trucks will follow the regular main arterial routes in exporting grading materials.

f) Result in inadequate emergency access?

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The proposed project does not include a change to any of the existing emergency access routes. The project design will require fire equipment access within 150 feet of all structures. There would be no impact from the proposed project.

g) Conflict with the Bikeway Plan, Pedestrian Plan, Transit Oriented District development standards in the County General Plan Mobility Element, or other adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

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

h) Decrease the performance or safety of alternative transportation facilities?

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The proposed renovation of existing commercial-retail buildings will not decrease the performance or safety of an alternative transportation facility. Project changes besides infrastructure upgrades will be confined to the project site.

MITIGATION MEASURES:

TRAFFIC 1: Prior to issuance of a project building permit, applicant shall, to the satisfaction of the Director of Public Works, pay the County's traffic mitigation fee structure, currently \$5,690 per PM peak hour trip, for cumulative impacts at the intersection of Admiralty Way at Via Marina. The Applicant's "fair share" contribution based on the expected project trip generation of 17 net new PM peak hour trips will be \$96,730 in trip mitigation fees.

18. UTILITIES AND SERVICE SYSTEMS

	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Would the project:

a) Exceed wastewater treatment requirements of the Los Angeles or Lahontan Regional Water Quality Control Boards?

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The only new use is the proposed 0.2-acre "pocket park," which will not generate new wastewater requiring treatment. No substantial increase in commercial square footage would occur; therefore, the proposed project would not substantially increase the amount of sewage that is generated compared to existing conditions. The proposed project would not increase capacity problems at the Hyperion wastewater treatment plant that currently serves the project site. No impacts would occur and further analysis on this topic is not required.

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

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The only new use is the proposed 0.2-acre "pocket park," which will be landscaped with low water demand plant species. No substantial increase in commercial square footage would occur; therefore, the proposed project would not substantially increase the amount of sewage that is generated nor substantially increase the demand for water compared to existing conditions. The proposed project would not increase capacity problems at the Hyperion wastewater treatment plant that currently serves the project site nor generate additional demand for water supply from the Marina del Rey Water System. No impacts to water supply or wastewater treatment capacity would occur and further analysis on this topic is not required.

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

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The proposed project would require the same or less drainage from the project site as the existing land uses as the project will need to comply with the Low Impact Development standards that improves groundwater infiltration. Review of the drainage concept/LID plan will be required as part of the Department of Public Works' Land Development Division's Site Plan Review, preceding the issuance of any project grading or building permits. Therefore, the project should have no impact on the existing drainage system.

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

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The project site is located in a developed area of Marina del Rey that is currently served by an existing water conveyance system. Fire flows to the project site are adequate for the uses that currently exist on the project site (Parcel 95 and LLS). Furthermore,

the proposed project site contains fire hydrants located around the project site to provide hook-ups for the fire department in case of a fire on the project site. The proposed project would not include the addition of floors to the existing commercial structures; 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) Conflict with the Los Angeles County Low Impact Development Ordinance (L.A. County Code, Title 12, Ch. 12.84 and Title 22, Ch. 22.52) or Drought Tolerant Landscaping Ordinance (L.A. County Code, Title 21, § 21.24.430 and Title 22, Ch. 21, Part 21)?

☐☐☒☐

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 a gravel sub base for proper treatment of stormwater runoff. Runoff would continue to outlet through the storm drain after such treatment. The aforementioned stormwater management improvements would not alter the existing drainage pattern of the site or area and would only be introduced to treat and retain runoff in compliance with the County's LID Program. Compliance with the LID requirements will be achieved through the Drainage Concept prepared on December 23, 2011 by Breen Engineering. Review of the drainage concept/LID plan will be required as part of the Department of Public Works' Land Development Division's Site Plan Review, preceding the issuance of any project grading or building permits.

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

☐☐☐☒

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

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

☐☐☐☒

The proposed project would not result in an appreciable increase the intensity of the existing land uses, and therefore, would generate the same amount of solid waste that is being generated under existing conditions. During project demolition, construction and renovation activities, an increase in the amount of construction debris would occur; however, this increase would be temporary in nature and would be able to be accommodated by the local solid waste disposal service provided in the community of Marina del Rey. Furthermore, any debris that would be generated by the proposed project would be subject to the diversion rate. Since the proposed project would not generate more solid waste upon its completion than is being generated under existing conditions and since renovation of the proposed project site would produce a minimal amount of renovation debris that can be adequately disposed of at landfill facilities serving the project site, no impacts would occur.

h) Comply with federal, state, and local statutes and regulations related to solid waste?

☐☐☒☐

The proposed project would comply with all federal, state, and local statutes regulating solid waste. As there is no proposed change in land use with the exception of the new 0.20-acre park, there would be a less than significant impact from the proposed project on solid waste statutory compliance.

19. MANDATORY FINDINGS OF SIGNIFICANCE

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

Based on the findings of this initial study, the proposed project would neither degrade the quality of the environment nor is 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. Some potential exists for the proposed project to impact nesting birds such as the Great Blue Heron, Black-crowned Night Heron, Double-crested Cormorant, and Great Egret, to the extent these species might happen to establish nests on the site. Mitigation measures are presented in this Initial Study that would require surveys for the presence of these bird and other species prior to redevelopment and renovation activities. With implementation of these mitigation measures, impacts would be reduced to a less than significant level and further analysis on this topic is not required.

b) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☐	☒
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The proposed project would not disadvantage any long-term environmental goals of Los Angeles County or those identified in the Marina del Rey 2010 Conservation and Management Plan in an effort to achieve short-term environmental goals, as both goals are consistent with each other. Moreover, by incorporating state-of-the-industry water quality protection measures and Green Building standards (as will be required for the project under the County's applicable Low-Impact Development and Green Building ordinances), the project's short-term environmental protection and sustainability components will help to fulfill the County's longer-term environmental protection and sustainability goals.

c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☒	☐	☐
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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. However, the traffic anticipated from cumulative development, including trips associated with the proposed Parcel 95 project, could result in substantial increases in area traffic, producing potentially significant impacts at one of the study intersections (Admiralty Way and Via Marina)

during both the AM and PM peak hours. As such, the project's contribution to cumulative impacts would be cumulatively considerable before mitigation but cumulative impacts would be less than significant after implementation of mitigation (TRAFFIC-1).

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

☐ ☐ ☒ ☐

As described throughout this Initial Study, the proposed project includes the redevelopment and renovation of an existing commercial-retail complex and the associated surface parking lot, including the development of a small 'pocket park' on the site. The proposed project would not include construction or operational activities that would cause a substantial adverse effect on human beings. No significant impacts would occur and further analysis on this topic is not required.

APPENDICES

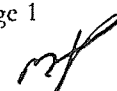
- APPENDIX A: Traffic Impact Analysis Report. Proposed Commercial Redevelopment of Parcel 95 on Washington Boulevard between Via Marina and Via Dolce in Marina del Rey, California. Hirsch/Green Transportation Consulting, November 2011
- APPENDIX B: Noise Monitoring and Noise Calculations for Parcel 95 on Washington Boulevard, Marina del Rey, California. Impact Sciences, December 2011

MITIGATION MONITORING PROGRAM
PROJECT NO. R2012-00180 / ENV NO.201200026

The Department of Regional Planning staff has determined that the following mitigation measures for the project are necessary in order to assure that the proposed project will not cause significant impacts on the environment.

The permittee shall deposit the sum of \$6,000.00 with the Department of Regional Planning within 30 days of permit approval in order to defray the cost of reviewing and verifying the information contained in the reports required by the Mitigation Monitoring Program.

Mitigation		Action Required	When Monitoring to Occur	Responsible Agency or Party	Monitoring Agency or Party
BIOLOGICAL RESOURCES					
1	Applicant shall strictly comply with all applicable policies contained in Policy Nos. 23 ("Marina del Rey Tree Pruning and Tree Removal Policy") and 34 ("Marina del Rey Leasehold Tree Pruning and Tree Removal Policy") and 37 ("Biological Report & Construction Monitoring Requirements") of the certified LCP.	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.	Prior to construction	Applicant	Department of Regional Planning
GEOLOGY/SOILS					
2	Applicant shall conform to Department of Public Works' soils and seismic engineering requirements, to the satisfaction of said Department.	Submit geotechnical report for approval.	Prior to construction	Applicant	Department of Public Works
NOISE					



3	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 residential uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive residential uses that preclude all sight-lines from the equipment to said sensitive use(s).	Properly maintain construction equipment and provide temporary portable noise structures, where applicable	Throughout construction activities	Applicant	Department of Public Works
4	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.	Restriction on construction hours	Throughout construction activities	Applicant	Department of Public Works
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.	Minimize idling of engine equipment	Throughout construction activities	Applicant	Department of Public Works
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.	Posting of notice	Throughout construction activities	Applicant	Department of Regional Planning
7	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.	Location of staged equipment to be as far as possible from residences and deliveries and hauling to be restricted to the hours noted	Throughout construction activities	Applicant	Department of Regional Planning
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.	Minimize equipment noise through proper maintenance	Throughout construction activities	Applicant	Department of Public Works

10	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.	Postcard notification of residents within 1,000 feet	Prior to start of construction activities	Applicant	Department of Regional Planning
TRANSPORTATION/TRAFFIC					
11	The applicant shall, to the satisfaction of the Director of Public Works, pay the County's traffic mitigation fee structure, currently \$5,690 per PM peak hour trip, for cumulative impacts at the intersection of Admiralty Way at Via Marina. The Applicant's "fair share" contribution based on the expected project trip generation of 17 net new PM peak hour trips will be \$96,730 in trip mitigation fees.	Payment of traffic mitigation fees	Prior to issuance of a building permit	Applicant	Department of Public Works
MITIGATION COMPLIANCE					
As a means of ensuring compliance of above mitigation measures, the applicant and subsequent owner(s) are responsible for submitting compliance report to the Department of Regional Planning for review, and for replenishing the mitigation monitoring account if necessary until such as all mitigation measures have been implemented and completed.		Submittal and approval of compliance report and replenishing mitigation monitoring account	Yearly and as required until all measures are completed.	Applicant and subsequent owner(s)	Department of Regional Planning

As the applicant, I agree to incorporate these mitigation measures into the project, and understand that the public hearing and consideration by the Hearing Officer and/or Regional Planning Commission will be on the project as mitigation measures.



Applicant

Staff

10-1-2012

Date

10/2/12

Date

ATTACHMENT C

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

THIS OPTION TO AMEND LEASE AGREEMENT ("Agreement") is made and entered into as of the 11th day of December, 2012, by and between the COUNTY OF LOS ANGELES ("County") and GOLD COAST WEST, LLC, a Delaware limited liability company ("Lessee").

R E C I T A L S

A. County and Interstate Properties, a limited partnership (the "Original Lessee"), entered into Lease No. 13508, dated June 5, 1968, as amended (the "Existing Lease") regarding the lease from County of certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 95S, as more particularly described in the Existing Lease (the "Parcel 95S Premises").

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

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

D. County and Lessee entered into an Option to Amend Lease Agreement dated as of July 8, 2003 (as amended, the "Prior Option Agreement"), pursuant to which County granted to Lessee an option (the "Prior Option") to extend the term of the Existing Lease and to add to the premises leased under the Existing Lease certain additional real property located adjacent to the Parcel 95S Premises and commonly referred to as Parcel LLS (the "Parcel LLS Premises"), on the terms and conditions set forth in such Prior Option Agreement. The Prior Option expired without exercise by Lessee.

E. The Parcel 95S Premises and the Parcel LLS Premises are described in Exhibit A attached to the Restated Lease (as defined in Section 1 of this Agreement) and are collectively referred to herein and in the Restated Lease as the "Premises."

F. Lessee has requested County, and County is willing, to grant Lessee a new option to amend and restate the Existing Lease in its entirety upon the terms and conditions more specifically set forth in this Agreement, including, without limitation, (i) an extension of the term of the Existing Lease through May 31, 2056, (ii) the addition to the premises of the Parcel LLS Premises, and (iii) the redevelopment of certain portions of the Premises and the renovation of the improvements located on certain other portions of the Premises in accordance with the terms and provisions of this Agreement.

A G R E E M E N T

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

1. Grant of Option. County hereby grants to Lessee an option (the "Option") to amend and restate the Existing Lease in its entirety upon the terms and conditions more



specifically provided in this Agreement, including, without limitation (i) an extension of the term of the Existing Lease through May 31, 2056, (ii) the addition to the premises of the Parcel LLS Premises, and (iii) the redevelopment of certain portions of the Premises and the renovation of the improvements located on certain other portions of the Premises in accordance with the terms and provisions of this Agreement.. Such amended and restated lease shall be in the form of the Amended and Restated Lease Agreement for Parcels 95S and LLS attached to this Agreement as Exhibit A (the "Restated Lease").

Lessee acknowledges and agrees that it did not exercise the Prior Option before its expiration under the Prior Option Agreement and that accordingly the Prior Option has terminated and Lessee has no further rights under the Prior Option Agreement. Lessee also acknowledges that County has the right to retain the previous "Option Fee" and "Supplemental Fee" paid by Lessee to County under the Prior Option Agreement and that such amounts shall not be credited against the Option Fee to be paid by Lessee under this Agreement. Notwithstanding the terms of Section 7 of the Prior Option Agreement, County and Lessee hereby agree that the Existing Lease has not, and shall not, be amended in accordance with the "Non-Exercise Amendment" referenced in Section 7 of the Prior Option Agreement. If, however, the Option set forth in this Agreement is not exercised on or before the Option Expiration Date (as defined in Section 2 below), then the terms and provisions of Section 7 of this Agreement shall be applicable.

2. Option Term. The term of the Option (the "Option Term") shall commence on the date of this Agreement and expire on that date (the "Option Expiration Date") that is the earlier of (a) sixty (60) days following the Conditions Satisfaction Date (as defined below), or (b) the first anniversary of the date of this Agreement (the "Outside Expiration Date"). For purposes hereof, the "Conditions Satisfaction Date" shall mean the first date upon which both of the Option Conditions set forth in Section 3 below have been satisfied. For purposes of the commencement of the sixty (60) day period set forth in clause (a) in the first sentence of this Section 2, County shall not have the right to waive an Option Condition without the prior written approval of Lessee.

If by the Outside Expiration Date set forth above in this Section 2 the Conditions Satisfaction Date has not occurred, then upon written request of Lessee the Director of the Department of Beaches and Harbors of the County (the "Director") shall grant a six (6) month extension of the Outside Expiration Date if the following conditions to such extension are satisfied: (i) if Lessee has not satisfied the Entitlement Conditions (as defined in Section 3.1 below), Director determines in Director's reasonably judgment that Lessee has proceeded with best efforts to satisfy the Entitlement Conditions but has been delayed in doing so as a result of delays beyond normal entitlement processing periods in the processing by the applicable governmental authorities of Lessee's applications for the Entitlements or the pendency of an appeal, proceeding or litigation described in clauses (a) and (b) of Section 3.1 below, or delays resulting from Unreasonable County Activity (as defined in Section 7.2 below) (collectively, an "Entitlements Condition Delay"), (ii) if Lessee has satisfied the Entitlements Conditions but has not satisfied the Project Financing Condition, Director determines in Director's reasonable judgment that Lessee has proceeded with best efforts to satisfy the Project Financing Condition, and (iii) Lessee pays to County the sum of Sixty-Six Thousand Dollars \$66,000.00) (the "Option Term Extension Fee"). Director shall have no obligation to extend the Outside Expiration Date in the case of a Lessee Default (as defined in Section 10.12 below) or if Lessee is in material

breach or default of the Existing Lease after notice and the expiration of any cure period applicable under the Existing Lease. If Director does not grant the above-described extension based on Director's determination that Lessee has not used its best efforts to satisfy the Entitlements Conditions or Project Financing Condition, then Lessee shall have the right to appeal such determination to the Board of Supervisors of County.

Notwithstanding the Outside Expiration Date set forth above in this Section 2, 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 and the entitlements for all other similar projects in Marina del Rey on land leased from the County, or (ii) after the issuance of the Entitlements, the continued pendency of an appeal, proceeding or litigation (including all appeals of such litigation) brought by a third party unaffiliated with Lessee that contests the issuance of the Entitlements, then as long as there is not a Lessee Default under this Agreement and Lessee is not in material breach or default of the Existing Lease (after notice and the expiration of any applicable cure period under the Existing Lease), the Outside Expiration Date shall be extended until sixty (60) days following the cessation of such moratorium, temporary restraining order, injunction or other court order, or the denial, dismissal or other resolution in favor of the issuance of the Entitlements, of such appeal, proceeding or litigation that contested the issuance of the Entitlements, as applicable; provided, however, that the Outside Expiration Date shall in no event be extended beyond the second (2nd) anniversary of the date of this Agreement.

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

3.1 Lessee shall have received all discretionary planning and zoning land use entitlements and approvals required to be obtained from governmental authorities (including the County and the California Coastal Commission), for the construction of the Redevelopment Work (as defined in Section 5.1 of the form of Restated Lease) on the Premises (collectively, the "Entitlements"); and both (a) the Entitlements shall not be subject to further appeal, and (b) there shall be no proceeding or litigation pending to appeal the issuance of the Entitlements, or to enjoin or restrain the performance of the Redevelopment Work (not including any proceeding or litigation brought by or on behalf of Lessee or any direct or indirect partner, shareholder or member of, or any other person or entity affiliated with, or otherwise directly or indirectly having an ownership interest in, Lessee), or if such a proceeding or litigation has been pending, then a dismissal, decision or judgment shall have been issued in favor of the validity of the Entitlements, which dismissal, decision or judgment shall not be subject to further appeal (collectively, the "Entitlements Condition"); and

3.2 Lessee shall have obtained Project Financing (as defined below) for the Redevelopment Work (the "Project Financing Condition"). For purposes of this Agreement, "Project Financing" means a construction loan from an institutional lender or lenders, at an interest rate or rates and on other terms that are commercially reasonable, in amounts that when combined with Lessee's equity is reasonably expected to provide sufficient funds to complete the Redevelopment Work, all as approved by Director in accordance with the terms and provisions

of Section 12.1 of the form of Restated Lease. If Lessee desires to fund the cost of the Redevelopment Work entirely from Lessee equity, then upon demonstration by Lessee to the reasonable satisfaction of Director of the availability of adequate equity funds, Lessee shall be considered to have satisfied the condition of obtaining Project Financing set forth in this Section 3.2.

4. Exercise of Option. The Option shall be exercisable by Lessee only by Lessee's strict satisfaction on or before the Option Expiration Date of the following terms and conditions (the "Exercise Requirements"): (a) Lessee shall notify County in writing of its exercise of the Option ("Exercise Notice"); (b) Lessee shall accompany the Exercise Notice with (i) Lessee's execution and delivery to County of the Restated Lease with any additional terms provided in this Agreement and any blank or bracketed terms set forth in Exhibit A hereto completed in accordance with the terms and provisions of this Agreement; and (ii) payment of the amount, if any, by which the Security Deposit required under Article 7 of the Restated Lease exceeds the amount of the security deposit then maintained by Lessee with County pursuant to Section 7 of the Existing Lease; (c) as of the date of Lessee's delivery of the Exercise Notice there shall not be a Lessee Default under this Agreement nor shall Lessee be in material breach or default under the Existing Lease after notice from County and the expiration of any applicable cure period set forth in the Existing Lease; (d) the Conditions Satisfaction Date shall have occurred and there shall be no change in circumstances after the Conditions Satisfaction Date that causes the Option Conditions to no longer continue to be satisfied; (e) Director shall have approved all plans, specifications and other materials for the Redevelopment Work required to be submitted to Director pursuant to Section 7.3 of this Agreement; and (f) Lessee shall deliver to the Director an amendment to the existing Islands Restaurant lease that modifies the rent payable by the sublessee under the Islands Restaurant lease in a manner reasonably acceptable to Director. Lessee shall have the right to make its exercise of the Option conditioned upon the delivery by County of leasehold title to the Parcel LLS Premises in the same condition as title existed to the Parcel LLS Premises on the date of this Agreement, except for any new easements or matters that do not (A) materially adversely affect Tenant's rights or obligations under this Lease or (B) materially increase the cost of the Redevelopment Work to be constructed by Lessee on the Parcel LLS Premises or the operation or maintenance of the Parcel LLS Premises.

Upon Lessee's proper and timely exercise of the Option, County shall execute and deliver the Restated Lease as soon as reasonably possible thereafter, but, in any event not later than forty-five (45) days following the date of Lessee's exercise of the Option. The Effective Date of the Restated Lease (as defined in the form of Restated Lease) shall be the date the Restated Lease is executed and delivered by County, which date shall be inserted into page 1 of the Restated Lease concurrent with County's execution and delivery thereof. If Lessee's Project Financing is in a position to close within the above forty-five (45) day period County agrees to cooperate with Lessee to effectuate a concurrent closing of the Project Financing and County's delivery of the Restated Lease such that the Effective Date of the Restated Lease is the same as the date of the close of Lessee's Project Financing; provided, however, in no event shall such agreement to cooperate be interpreted to require County to delay the execution and delivery of the Restated Lease beyond such forty-five (45) day period; and provided, further, that County shall not be required to execute and deliver the Restated Lease unless within such forty-five (45) day period Lessee continues to satisfy the Option Conditions and Lessee's Project Financing is in a position to close on or before the execution and delivery by County of the Restated Lease. Notwithstanding the foregoing, Director shall have the authority in the exercise of Director's

good faith judgment, but not the obligation, to extend the forty-five (45) day period in which Lessee is required to close Lessee's Project Financing for up to an additional thirty (30) days.

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

5. Option Fee/Extension Fee.

5.1 Option Fee. In consideration of County's grant of the Option to Lessee, Lessee shall pay to County concurrent with Lessee's execution of this Agreement the sum of One Hundred Thousand Dollars (\$100,000.00) (the "Option Fee"). The Option Fee shall be non-refundable, but shall be applied against the Extension Fee described below if Lessee exercises the Option. The previous "Option Fee" and "Supplemental Fee" paid by Lessee pursuant to the Prior Option Agreement shall remain non-refundable and shall not be applied against the Option Fee or the Extension Fee under this Agreement.

5.2 Extension Fee. If Lessee exercises the Option, Lessee shall pay County an extension fee in the amount of One Hundred Thousand Dollars (\$100,000.00) (the "Extension Fee") to compensate County for the value of the lease extension set forth in the Restated Lease. The Option Fee shall be applied against the Extension Fee such that no additional amount shall be required to be paid for the Extension Fee as a condition to, or in connection with, Lessee's exercise of the Option

6. Entitlements and Plan Preparation During Option Term.

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

6.2 County Cooperation. In its proprietary capacity, the Department of Beaches and Harbors of the County of Los Angeles (the "Department") shall cooperate with and assist Lessee, to the extent reasonably requested by Lessee, in Lessee's efforts to obtain the Entitlements. Such cooperative efforts may include the Department's joinder in any application for the Entitlements, where joinder therein by the Department is required or helpful; provided, however, that Lessee shall reimburse County for the Actual Costs (as defined in the form of Restated Lease) incurred by the Department in connection with such joinder or cooperative efforts. Notwithstanding any contrary provision of this Agreement, Lessee and County

acknowledge that the approvals given by County under this Agreement and/or the Restated Lease shall be approvals pursuant to its authority under Section 25536 or 25907 of the California Government Code and given in its proprietary capacity; that approvals given under this Agreement and/or the Restated Lease in no way release Lessee from obtaining, at Lessee's expense, all permits, licenses and other approvals required by law for the construction of the Redevelopment Work and operation and other use of the Premises and Improvements; and that the Department's duty to cooperate and County's approvals under this Agreement and/or the Restated Lease do not in any way modify or limit the exercise of County's governmental functions or decisions as distinct from its proprietary functions pursuant to this Agreement and/or the Restated Lease.

For the purposes of this Agreement, "Unreasonable County Activity" means any of the following actions (or inactions) that occur after the date of this Agreement and prior to the expiration of the Option Term: (i) the Department's failure to provide required County joinder, if any, as fee title owner of the Premises, in Lessee's submittal to the applicable governmental agency of the Final Plans and Specifications (as defined in Section 5.3 of the Restated Lease) 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 6.3 below, except in the case (if any) where a failure of the Department to notify Lessee of its approval or disapproval of a matter constitutes County's deemed approval of such matter, or constitutes County's deemed disapproval of such matter and County's disapproval of such matter is authorized under the circumstances. Nothing contained in this Section 6.2 or the other provisions of this Agreement shall be construed as obliging the Department or the County to support proposals, issue permits, or otherwise act in a manner inconsistent with County's actions under its regulatory powers. It shall not be Unreasonable County Activity if County fails to accelerate the County's customary regulatory permit or approval process. No action or inaction shall constitute Unreasonable County Activity unless and until all of the following procedures and requirements have been satisfied:

(a) Within a reasonable time under the circumstances, Lessee must notify Director in writing of the specific conduct comprising the alleged Unreasonable County Activity, and the next opportunity, if any, for County to rectify such alleged conduct. If Lessee fails to notify Director in writing as specified in the immediately preceding sentence within five (5) days following Lessee's discovery of the alleged Unreasonable County Activity, then notwithstanding any contrary provision of this Section 6.2, in no event shall Lessee be entitled to any extension of the Option Term for any period of the delay under this Section 6.2 that occurred prior to the date of Lessee's notice described in this paragraph (a).

(b) Within seven (7) days following receipt of the notice alleging Unreasonable County Activity, Director shall meet with Lessee or its authorized representative in order to determine whether Unreasonable County Activity has occurred and, if so, how such Unreasonable County Activity can be rectified and the duration of the delay caused by such Unreasonable County Activity. If Director determines that Unreasonable County Activity has

occurred and that County can and will take rectifying action, then the amount of delay under this Section 6.2 for the Unreasonable County Activity shall equal the actual amount of delay in the receipt of the Entitlements directly caused by the Unreasonable County Activity. If Director determines that Unreasonable County Activity has occurred, but that County cannot take rectifying action (or if the proposed rectifying action will not produce the results desired by Lessee), then Lessee and Director shall establish the length of the delay in the receipt of the Entitlements likely to be caused by the Unreasonable County Activity.

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

6.3 Plans and Specifications for Redevelopment Work. The Redevelopment Work shall be constructed by Lessee in accordance with and subject to the terms and provisions of Article 5 of the Restated Lease. The requirements of Article 5 of the Restated Lease include, without limitation, the obligation of Lessee to prepare and submit to the Director for the Director's approval certain plans, specifications, construction cost estimates and other materials pertaining to the Redevelopment Work, as set forth in more detail in Section 5.3 of the Restated Lease. The procedure for the preparation, submittal and approval of the plans, specifications, construction cost estimates and other materials shall generally proceed in accordance with the terms and provisions of the Restated Lease, except that during the period commencing on the date of this Agreement and expiring on the earlier of Lessee's exercise of the Option or the Option Expiration Date, Lessee shall prepare and submit to Director for Director's approval, any portions of the plans, specifications and other materials described in Section 5.3 of the form of Restated Lease that are required to be submitted to governmental authorities (including the County, the Design Control Board and the California Coastal Commission) in connection with Lessee's 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 Restated Lease, as applicable. The standards and time periods for Director's review and approval of the materials submitted by Lessee pursuant to this Section 6.3 shall be in accordance with the terms and provisions of Section 5.3 of the form of Restated Lease, which terms and provisions are hereby incorporated into this Agreement by reference. Such plans, specifications and other materials shall be prepared and submitted to Director by Lessee in accordance with a schedule which shall facilitate Lessee's satisfaction of all conditions precedent to the exercise of the Option on or before the Option Expiration Date. In addition to the plans, specifications and materials required to be submitted by Lessee to Director pursuant to this Section 6.3, Lessee shall have the right, at its election, but not the obligation, to deliver to Director, for Director's approval, additional plans, specifications and materials pertaining to the Redevelopment Work. Director shall notify Lessee of its approval or disapproval of such additional plans, specifications and materials within the time frames and in accordance with the requirements of Section 5.3 of the form of Restated Lease. Notwithstanding the foregoing, County acknowledges that prior to the date of this Agreement Director has reviewed and approved the schematic plans and narrative description of the Redevelopment Work required under Subsection 5.3.1 of the Restated Lease. Such approved schematic plans and narrative description of the Redevelopment Work are set forth or referenced in the Redevelopment Plan attached as Exhibit B to the Restated Lease.

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

(i) amend and restate Sections 11 through 15 of the Existing Lease in full in accordance with all of the terms and provisions of Sections 4.1 through 4.5 of the Restated Lease, except for the following modifications:

(A) the second, third and fourth paragraphs of Subsection 4.2.1 of the Restated Lease shall be deleted and replaced with the following: "During the period from the Effective Amendment Date through the first December 31 day following the third (3rd) anniversary of the Effective Amendment Date, the Annual Minimum Rent shall be equal to the greater of (a) seventy-five percent (75%) of the average total annual square foot rental and percentage rentals which were payable by Lessee under this Lease during the three (3) year period immediately preceding the Effective Amendment Date, or (b) \$172,500. As of the date 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 Sections 4.3 and 4.4 below.";

(B) the second and third paragraphs of Subsection 4.2.2 of the Restated Lease shall be deleted and replaced with the following: "Effective on and continuing after the Effective Amendment Date, "Percentage Rent" shall mean sixteen percent (16%) of all Gross Receipts from the Premises;

(C) Subsection 4.2.2.3 and all references in the Restated Lease to "Gross Sales" shall be deleted;

(D) Subsection 4.2.3 of the Restated Lease shall be deleted;

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

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

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

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

(vi) amend and restate Section 22 of the Existing Lease in full in accordance with Article 11 (excepting Subsections 11.2.4 and 11.2.5) and Article 12 (excepting Sections 12.3.6 and 12.12) of the form of Restated Lease;

(vii) amend Section 26 of the Existing Lease to adjust the amount and scope of commercial general liability, automobile liability, garagekeeper's legal liability, workers compensation and employer's liability insurance coverage required to be carried by Lessee to equal the amounts and coverages set forth in subsections 9.1.1, 9.1.2 and 9.1.3 of the Restated Lease, to add to Section 26 of the Existing Lease the provisions of Subsection 9.1.6 of the form of Restated Lease, and to add to Section 26 of the Existing Lease the provisions of Section 9.6 of the Restated Lease;

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

(ix) add Sections 4.6 through 4.8 of the Restated Lease to the Existing Lease;

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

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

For purposes of the Non-Exercise Amendment, all references in the Restated Lease to the "Effective Date" shall mean and refer to the Effective Amendment Date set forth above.

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

8.1 Changes of Ownership and Financing Events. Except as otherwise provided in this Section 8.1, each time during the period during which this Section 8 is in effect Lessee proposes either (a) a Change of Ownership (that is not an Excluded Transfer) or (b) a

Financing Event, County shall be paid (1) an Administrative Charge equal to the Actual Cost incurred by County in connection with its review and processing of said Change of Ownership or Financing Event ("Administrative Charge"), and (2) a Net Proceeds Share, in the event such Change of Ownership or Financing Event is consummated. "Net Proceeds Share" shall mean the applicable amount determined pursuant to Section 8.3 below. Changes of Ownership and Financing Events are further subject to County approval as and to the extent required under the Existing Lease.

8.1.1 Change of Ownership. "Change of Ownership" shall mean (a) any transfer by Lessee of a five percent (5%) or greater direct ownership interest in the Existing Lease, (b) the execution by Lessee of a Major Sublease or the transfer by the Major Sublessee under a Major Sublease of a five percent (5%) or greater direct ownership interest in such Major Sublease, (c) any transaction or series of related transactions not described in subsections 8.1.1(a) or (b) which constitute an Aggregate Transfer of fifty percent (50%) or more of the beneficial interests in Lessee or a Major Sublessee, or (d) a Change of Control (as defined below) of Lessee or a Major Sublessee. 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%).

8.1.2 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:

8.1.2.1 a transfer by any direct or indirect partner, shareholder or member of Lessee (or of a limited partnership, corporation or limited liability company that is a direct or indirect owner in Lessee's ownership structure) as of the date of this Agreement, to any other direct or indirect partner, shareholder or member of Lessee (or of a limited partnership, corporation or limited liability company that is a direct or indirect owner in Lessee's ownership structure) as of the date of this Agreement, including in each case to or from a trust for the benefit of the immediate family (as defined in Subsection 8.1.2.3 below) of any direct or indirect partner, shareholder or member of Lessee who is an individual;

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

8.1.2.3 a transfer of ownership interests in Lessee or in constituent entities of Lessee (i) to a member of the immediate family of the transferor (which shall be limited to the transferor's spouse, children, parents, siblings and grandchildren), (ii) to a trust for the benefit of a member of the immediate family of the transferor, or (iii) from such a trust or any trust that is an owner in a constituent entity of Lessee as of the date of this Agreement, to the settlor or beneficiaries of such trust or to one or more other trusts created by or for the benefit of any of the

foregoing persons, whether any such transfer described in this Subsection 8.1.2.3 is the result of gift, devise, intestate succession or operation of law;

8.1.2.4 a transfer of a beneficial interest resulting from public trading in the stock or securities of an entity, where such entity is a corporation or other entity whose stock (or securities) is (are) traded publicly on a national stock exchange or traded in the over-the-counter market and whose price is regularly quoted in recognized national quotation services;

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

8.1.2.6 any transfer resulting from a Condemnation by County; or

8.1.2.7 a foreclosure of the "Deed of Trust" referenced in the Lender Consent attached to this Agreement or a voluntary conveyance of Lessee's leasehold interest under the Existing Lease to the Encumbrance Holder (or its affiliate) of such Deed of Trust in lieu of such foreclosure.

8.1.3 Aggregate Transfer. "Aggregate Transfer" shall refer to the total percentage of the shares of stock, partnership interests, membership interests or any other equity interests (which constitute beneficial interests in Lessee or a Major Sublessee, as applicable) transferred or assigned in one transaction or a series of related transactions (other than those enumerated in Subsection 8.1.2) occurring since the later of (a) the date of this Agreement, (b) the execution by Lessee of a Major Sublease, or (c) the most recent Change of Ownership upon which an Administrative Charge was paid to County; provided, however, that there shall be no double counting of successive transfers of the same interest in the case of a transaction or series of related transactions involving successive transfers of the same interest. Isolated and unrelated transfers shall not be treated as a series of related transactions for purposes of the definition of Aggregate Transfer.

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

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

ownership of the beneficial interests in Lessee, the Existing Lease or a Major Sublease, as appropriate, and any transfers thereof. Notwithstanding any contrary provision hereof, no limited partner, member or shareholder having a direct or indirect ownership interest in Lessee or a Major Sublease shall have any liability to County under this Lease.

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

8.2 Calculation and Payment. A deposit of Fifteen Thousand Dollars (\$15,000) toward the Administrative Charge shall be due and payable upon Lessee's notification to County of the proposed Change of Ownership (other than an Excluded Transfer) or Financing Event and request for County's approval thereof. If the transaction is approved, the balance of the Administrative Charge, if any, and the Net Proceeds Share shall be due and payable concurrently with the consummation of the transaction constituting the Change of Ownership (other than an Excluded Transfer) or Financing Event giving rise to the obligation to pay such fee, regardless of whether or not money is transferred by the parties in connection with such consummation. If County disapproves the proposed transaction then, within thirty (30) days after notice of its disapproval, County shall deliver to Lessee a written notice setting forth the Administrative Charge, together with a refund of the amount, if any, of the deposit in excess of the Administrative Charge otherwise allowable under Section 8.1. In the event that the Administrative Charge exceeds the deposit, then Lessee shall pay County the balance of the Administrative Charge otherwise allowable under Section 8.1 within thirty (30) days after receipt of the notice from County setting forth the Administrative Charge and any supporting documentation reasonably requested by Lessee within five (5) business days after its receipt of such notice. Together with its request for County approval of the proposed transaction, Lessee, a Major Sublessee or the holder of a beneficial interest in the Existing Lease or a Major Sublease, as applicable, shall present to County its calculation of the Net Proceeds Share (if any) anticipated to be derived therefrom, which shall include the adjustment to Improvement Costs, if any, which may result from the payment of such Net Proceeds Share ("Calculation Notice"). Each Calculation Notice shall contain such detail as may be reasonably requested by County to verify the calculation of the Net Proceeds Share. Within thirty (30) days after the receipt of the Calculation Notice and all information or data reasonably necessary for County to verify the calculations within the Calculation Notice, County shall notify the party giving the Calculation Notice as to County's agreement or disagreement with the amount of the Net Proceeds Share set forth therein or the related adjustment of Improvement Costs, if any. If County disagrees with the amounts set forth in the Calculation Notice, County shall provide Lessee with the reason or reasons for such disagreement. Failing mutual agreement within thirty (30) days after the expiration of County's thirty (30) day review period, the dispute shall be resolved by arbitration in accordance with the terms and provisions set forth in Article 16 of the Restated Lease in the manner prescribed therein for the resolution of disputes concerning Fair Market Rental Value. In the event County approves a Change of Ownership or Financing Event but a dispute exists as to the Net Proceeds Share in respect thereof or the related adjustment, if any, in Improvement

Costs, then the transaction may be consummated after County has disapproved Lessee's Calculation Notice; provided, however, that (i) Lessee shall remit to County as otherwise required hereunder the undisputed portion of the Net Proceeds Share and (ii) Lessee shall deposit the disputed portion of the Net Proceeds Share into an interest bearing escrow account at the closing of the transaction, which portion shall be distributed in accordance with the arbitration of the dispute pursuant to the terms and provisions set forth in Article 16 of the Restated Lease, in the manner prescribed therein for the resolution of disputes concerning Fair Market Rental Value.

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

8.2.2 Purchase Money Notes. If the transferor of an interest accepts a note made by the transferee of such interest in payment of all or a portion of the acquisition cost (a "Purchase Money Note"), such note shall be valued at its face amount; provided that if the interest rate on such Purchase Money Note is in excess of a market rate, then the value of such note shall be increased to reflect such above-market rate. Any disputes between County and Lessee as to whether the interest rate on a Purchase Money Note is in excess of a market rate or with respect to the valuation of a Purchase Money Note with an above-market rate of interest, shall be settled by arbitration pursuant to the terms and provisions set forth in Article 16 of the Restated Lease.

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

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



"Gross Transfer Proceeds" shall mean an amount equal to the gross sale or transfer proceeds and other consideration given for the interests transferred (but in the case of a transfer to a party affiliated with or otherwise related to the transferor which constitutes a Change of Ownership that is not an Excluded Transfer, such consideration shall in no event be deemed to be less than the fair value of the interests transferred; if Lessee and County are unable to agree upon such fair value, then the matter shall be determined pursuant to Article 16).

With respect to a Financing Event, the "Net Proceeds Share" shall be the amount (if any) by which (I) twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event exceeds (II) the Administrative Charge paid by Lessee to County in connection with the transaction. Notwithstanding the foregoing, in connection with any Financing Event used to fund the cost of the acquisition of an Ownership Interest in Lessee that constitutes an Excluded Transfer, if such Financing Event is secured by the Ownership Interest that is transferred, then the Net Refinancing Proceeds from such Financing Event shall not include the portion of the proceeds of such Financing Event used to fund the acquisition cost of such Ownership Interest.

Notwithstanding any contrary provision of this Section 8.3, in the calculation of Net Transfer Proceeds and Net Refinancing Proceeds derived from a Change of Ownership or Financing Event, as applicable, pursuant to the remaining provisions of Section 5.3 below, there shall be no duplication of any amounts to be subtracted from Gross Transfer Proceeds or the gross principal amount of any Financing Event (as applicable), even if a particular amount qualifies for subtraction under more than one category.

8.3.1 Transaction by Existing Lessee. In the case of a transfer by or with respect to the existing Lessee that executed this Agreement (as opposed to a transfer by a successor or assignee of Lessee, which is addressed in Subsection 8.3.2 below) constituting a Change of Ownership for which a Net Proceeds Share is payable, "Net Transfer Proceeds" shall mean the Gross Transfer Proceeds from the transfer, less the following costs with respect to Lessee (but not its successors or assignees):

8.3.1.1 The sum of (a) Four Million Dollars (\$4,000,000.00), plus (b) the amount of the Option Fee and any Option Term Extension Fee paid by Lessee under this Agreement, plus (c) actual out-of-pocket costs incurred by Lessee for its third party consultants and attorneys in connection with the negotiation and consummation of this Agreement and the Restated Lease, plus (d) the Actual Costs reimbursed by Lessee to County in connection with the negotiation and consummation of this Agreement and the Restated Lease (the sum of the amounts in (a), (b), (c) and (d) are referred to as the "Base Value"), plus (e) the final actual out-of-pocket design, permitting, entitlement and construction costs paid by Lessee in connection with physical capital Improvements or Alterations to the Premises constructed by Lessee after the date of this Agreement and prior to the date of the transfer, in compliance with the Existing Lease, which costs have been submitted to County within ninety (90) days after the completion of such Improvements (or in the case of phased construction, within ninety (90) days after the completion of the applicable phase of such Improvements), together with a written certification from Lessee and Lessee's construction lender that such costs are accurate, and which costs shall have been approved in writing by Director (the amounts described in this clause (e) are referred to as "Improvement Costs"). Without limitation of the immediately preceding sentence, Improvement Costs shall include all actual out-of-pocket hard and soft

construction costs paid to unaffiliated third parties (except that Lessee shall be entitled to include, to the extent actually incurred, construction management and/or development fees paid to an affiliate as long as the total amount of all construction management, development and similar fees paid to unaffiliated and affiliated parties does not exceed an aggregate of four percent (4%) of the hard construction costs), and actual construction period interest on Lessee's construction loan from an unaffiliated third party lender.

8.3.1.2 Commissions, title and escrow costs, legal fees and expenses, and other bona fide closing costs actually paid to third parties and documented to the satisfaction of Director, which costs were directly attributable to the consummation of the particular transaction giving rise to the obligation to pay County a Net Proceeds Share (collectively, "Documented Transaction Costs").

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

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

8.3.2.1 The greatest of (a) the sum of the Base Value, plus Improvement Costs incurred subsequent to the date of this Agreement but prior to the acquisition of the leasehold interest by such successor, (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired or (c) the original principal amount of any Financing Event or Financing Events (on a non-duplicative basis) after such successor Lessee's acquisition of the leasehold, and with respect to which County was paid a Net Proceeds Share, plus the principal amount of any financing existing as of the date on which such seller acquired the leasehold or subsequently obtained by Lessee, if such financing has not been refinanced, but without duplication;

8.3.2.2 Improvement Costs actually paid by such successor Lessee after such successor Lessee's acquisition of its leasehold interest in the Premises (but not duplicative of the principal amount of any Financing Event described in clause 8.3.2.1(c) above, the proceeds of which were used to fund such Improvement Costs); provided that such costs have been submitted to County, with an appropriate lender and Lessee certification, as provided in Subsection 8.3.1.1; and

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

8.3.3 Transfers of Major Sublessee's Interest. With respect to any Change of Ownership described in Subsection 8.1.1(b), Subsections 8.3.1 and 8.3.2 shall apply, except that any rents or other amounts received by Lessee from the Major Sublessee a percentage of which is passed through to County under any provision of the Existing

Lease (other than payment of Net Proceeds Share) shall be disregarded in the computation of Net Transfer Proceeds.

8.3.4 Other Transfers. With respect to any Change of Ownership that is not an Excluded Transfer and is not described in Subsections 8.3.1 through 8.3.3 (e.g., a transfer of an interest in an entity holding a direct or indirect ownership interest in this Lease or in a Major Sublease), Subsections 8.3.1 and 8.3.2 shall apply to such Change of Ownership, except that in lieu of deducting the Base Value and Improvement Costs in determining Net Transfer Proceeds, the cost to the transferor of the interest being transferred or which was transferred in the past but constitutes a portion of an Aggregate Transfer (which cost shall in no event be deemed to be less than a pro rata share of the Base Value and Improvement Costs (or following a transfer by the existing Lessee that executed this Agreement, such cost shall in no event be deemed to be less than a prorata share of the sum of Subsections 8.3.2.1 plus 8.3.2.2 as of the respective date of the transfer of each interest in the aggregation pool)) shall be deducted. Furthermore, in the event that any such Change of Ownership produces a Net Proceeds Share, the then existing Improvement Costs shall be increased by an appropriate amount to reflect the basis on which the Net Proceeds Share was calculated, and the basis of the interest that was transferred and for which a Net Proceeds Share was paid shall also be increased for subsequent transfers of the same interest, as if realized by Lessee upon a transfer of a comparable interest in the Existing Lease or in a Major Sublease, as applicable.

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

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



8.3.7 Payment. Net Proceeds Share shall be due and payable concurrently with the transfer giving rise to the obligation to pay such share and shall be the joint and several obligation of the transferee and transferor. Net Proceeds Share not paid when due shall be subject to a late fee of six percent (6%) of the amount due, together with interest on such Net Proceeds Share at the Applicable Rate from the date due until paid; provided, however, that in the case of a dispute as to the correct amount of the Net Proceeds Share there shall be no late fee payable as long as Lessee timely pays to County the undisputed portion of the Net Proceeds Share and deposits the disputed portion thereof in an interest bearing escrow account at the closing of the transaction (or delivers to County a letter of credit or other security reasonably acceptable to County in the amount of such disputed portion) to secure payment thereof. In the event that the proceeds of the transaction giving rise to the obligation to pay Net Proceeds Share are comprised, in whole or in part, of assets other than cash, then the cash payment of the Net Proceeds Share shall reflect the fair market value of such non-cash assets as of the date of the Change of Ownership, which shall be set forth in the Calculation Notice. Notwithstanding the foregoing, in the case of a Change of Ownership described in Subsection 8.1.1(b), the Net Proceeds Share shall be payable to County as and when the Net Transfer Proceeds are received, with the Net Proceeds Share being equitably apportioned to the payments derived by Lessee from said Change of Ownership (other than any payments passed through to County under this Lease).

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

8.4 Effect Upon Sections 4.6 through 4.8 of the Restated Lease of Changes of Ownership That Occur During the Option Term. If a Change of Ownership occurs during the Option Term upon which a Net Proceeds Share is payable under this Section 8 and the Gross Transfer Proceeds from such Change of Ownership exceed Four Million Dollars

(\$4,000,000.00), then for purposes of the Restated Lease, the amount set forth in clause (a) of Section 4.8.1.1 of the Restated Lease shall be modified to equal the Gross Transfer Proceeds from such Change of Ownership that occurred during the Option Term.

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

10. Miscellaneous.

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

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

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

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

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

10.6 No Assignment. Lessee shall have no right to assign or transfer its rights or obligations under this Agreement to any other person or entity, without the express written consent of County, which consent may be withheld by County in its sole and absolute discretion. Notwithstanding the foregoing, Lessee shall have the right to assign all of its rights and interest under this Agreement to an assignee that acquires all of Lessee's rights and interest under the Existing Lease pursuant to an assignment of the Existing Lease that is approved by County in accordance with the terms and provisions of the Existing Lease.

10.7 Entire Agreement. This Agreement sets forth the full and complete understanding of the parties relating to the subject matter hereof, and 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 Representation Regarding Existing Encumbrances. Lessee represents and warrants to County that as of the date of this Agreement there are no deeds of trust, mortgages or other security interests that encumber Lessee's interest in the Existing Lease or the Premises other than the "Deed of Trust" referenced in the Lender Consent attached to this Agreement. The grant of the Option set forth herein is contingent upon (a) the accuracy of the foregoing representation and warranty, and (b) the execution by the beneficiary of such Deed of Trust and delivery to County of such executed Lender Consent concurrent with the execution and delivery of this Agreement by Lessee and County.

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



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

APPROVED AS TO FORM:

JOHN F. KRATTLI
COUNTY COUNSEL

By: [Signature]

Deputy

THE COUNTY OF LOS ANGELES

By: [Signature]

Chairman, Board of Supervisors

GOLD COAST WEST, LLC, a Delaware
limited liability company

By: [Signature]

Name: MICHAEL PASMAIG

Title: Managing Partner

ATTEST:

SACHI HAMAI,
Executive Officer of the Board
of Supervisors

By: [Signature]

Deputy



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

77891

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: [Signature]

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

By: [Signature]

Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

28

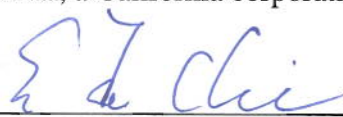
DEC 11 2012

[Signature]
SACHI A. HAMAI
EXECUTIVE OFFICER

Lender Consent

The undersigned Preferred Bank, a California corporation ("**Bank**") represents that it is the current beneficiary under that certain Deed of Trust made by Gold Coast West, LLC ("**Lessee**") for the benefit of Bank, recorded February 12, 2002 as Instrument Number 02-0334629 in the Official Records of Los Angeles County, California (as subsequently modified, the "**Deed of Trust**"). As such Beneficiary, Bank hereby consents to the foregoing Option to Amend Lease Agreement and confirms that the Deed of Trust is subject and subordinate to the certain Lease No. 13508, approved by the Los Angeles County Board of Supervisors (the "**County**") on June 5, 1968, and bearing the date June 5, 1968 (as amended to date, the "**Lease**"), relating to that certain parcel of real property in the Marina del Rey Small Craft Harbor, which is now commonly referred to as Parcel No. 95S, the leasehold interest under which is now held by Lessee, as the Lease may be further amended pursuant to the "Non-Exercise Amendment" as described in the foregoing Option to Amend Lease Agreement on the condition that the certain Amended and Restated Consent, Estoppel and Agreement dated as of November 8, 2011 executed by the County, Bank and Lessee remains in full force as to the Lease, as so amended, except that any covenant in such Amended and Restated Consent, Estoppel and Agreement against amendment or modification of the Lease without the prior consent of the Bank shall not apply to the "Non-Exercise Amendment;" provided, however, Bank does not hereby consent to Lessee's exercise of the "*Option*" or the commencement of the "*Redevelopment Work*" as such terms are defined in the foregoing Option to Amend Lease Agreement, and Lessee's exercise of the Option and commencement of the Redevelopment Work are subject to the prior written approval of Bank, in its sole and absolute discretion,"; provided, further, that, in the event that Bank's loan will be repaid in full concurrently with the closing of the execution and delivery of the Amended and Restated Lease Agreement in connection with the Option exercise transaction, Bank shall not have the right to consent to the exercise of the Option.

PREFERRED BANK, a California corporation

By: 

Its: Authorized Officer

Erika Chi

Senior Vice President

EXHIBIT A

RESTATED LEASE

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

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

RECITALS

WHEREAS, County, as lessee, and Interstate Properties, a limited partnership (“**Original Lessee**”), entered into Lease No. 13508 dated June 5, 1968, as amended (the “**Existing Lease**”) concerning the lease of certain real property in the Marina del Rey Small Craft Harbor now commonly known as Parcel No. 95S and more specifically described on Exhibit A attached hereto and incorporated herein by this reference (the “**Parcel 95S Premises**”);

WHEREAS, the term of the Existing Lease commenced on June 1, 1968 and was scheduled to expire on May 31, 2028 (the “**Existing Expiration Date**”);

WHEREAS, Lessee is the current successor-in-interest to the Original Lessee’s right, title and interest as lessee under the Existing Lease;

WHEREAS, County and Lessee have entered into that certain Option to Amend Lease Agreement (Parcels 95S and LLS) dated as of _____, 2012 (the “**Option Agreement**”), pursuant to which County granted Lessee an option (the “**Option**”) to amend and restate the Existing Lease in its entirety, upon the terms and conditions more specifically provided herein, including, without limitation, (i) the addition to the premises under the Existing Lease of that certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel LLS and more specifically described as Parcel LLS on Exhibit A attached hereto (the “**Parcel LLS Premises**”), (ii) the extension of the term of the Existing Lease through May 31, 2056, and (iii) the redevelopment of the Parcel 95S Premises and the development of an entrance gateway treatment and public park on Parcel LLS, all in accordance with the terms and provisions hereof; and

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

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

1. BACKGROUND AND GENERAL.

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

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

1.1.2 “ACTUAL COST” shall mean (i) the reasonable out-of-pocket costs and expenses incurred by County with respect to a particular activity or procedure, including without limitation, expenditures to third party legal counsel, financial consultants and advisors (including the use of County’s environmental consultant), (ii) costs incurred in connection with appraisals, (iii) the reasonable value of services actually provided by County’s in-house counsel, and (iv) the reasonable value of services actually provided by County’s lead lease negotiator/administrator and any other lease auditors and other County administrative staff below the level of deputy director (the administrative level which is two levels below County department head) required by the lead lease negotiator/administrator for technical expertise or assistance. In those instances in which Lessee is obligated to reimburse County for its Actual Costs incurred in performing obligations required to be performed by Lessee under this Lease which Lessee fails to perform within the applicable cure period, if any, provided under this Lease, Actual Costs shall also include a reasonable allocation of County overhead and administrative costs to compensate County for performing such obligations on behalf of Lessee.

1.1.3 “ADA” shall have the meaning set forth in Section 1.2.1.

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

1.1.5 “ADJUSTMENT DATES” shall have the meaning set forth in Section 4.3.

1.1.6 “ADMINISTRATIVE CHARGE” shall have the meaning set forth in Section 4.6.

1.1.7 “AGGREGATE TRANSFER” shall have the meaning set forth in Subsection 4.6.3.

1.1.8 “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 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 REDEVELOPMENT COSTS” shall have the meaning set forth in Section 5.1.

1.1.15 “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.

1.1.16 “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 “CONSTRUCTION PERIOD” shall have the meaning set forth in Subsection 4.2.1.

1.1.31 “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.

1.1.32 “COST” shall have the meaning set forth in Subsection 4.2.2.2(4).

1.1.33 “COUNTY” shall have the meaning set forth in the first paragraph of this Lease.

1.1.34 “COUNTY OPTION” shall have the meaning set forth in Subsection 11.2.4.

1.1.35 “COUNTY OPTION PRICE” shall have the meaning set forth in Subsection 11.2.4.

1.1.36 “COUNTY POOL RATE” shall have the meaning set forth in Subsection 4.4.5 of this Lease.

1.1.37 “COUNTY REMOVAL NOTICE” shall have the meaning set forth in Subsection 2.3.2.

1.1.38 “DATE OF TAKING” shall have the meaning set forth in Subsection 6.1.2.

1.1.39 “DEFAULT TERMINATION” shall have the meaning set forth in Subsection 2.3.2.

1.1.40 “DEMOLITION AND REMOVAL REPORT” shall have the meaning set forth in Subsection 2.3.2.

1.1.41 “DEMOLITION SECURITY” shall have the meaning set forth in Subsection 2.3.2.

1.1.42 “DEPARTMENT” shall mean the Department of Beaches and Harbors of the County of Los Angeles.

1.1.43 “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.

1.1.44 “DISQUALIFICATION JUDGMENT” shall have the meaning set forth in Subsection 16.14.1.

1.1.45 “DOCUMENTED TRANSACTION COSTS” shall have the meaning set forth in Subsection 4.8.1.2.

1.1.46 “EFFECTIVE DATE” shall have the meaning set forth in the first paragraph of this Lease.

1.1.47 “ENCUMBRANCE” shall have the meaning set forth in Subsection 12.1.1.

1.1.48 “ENCUMBRANCE HOLDER” shall have the meaning set forth in Subsection 12.1.1.

1.1.49 “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.

1.1.50 “EQUITY ENCUMBRANCE HOLDER” shall have the meaning set forth in Subsection 12.1.1.

1.1.51 “EQUITY FORECLOSURE TRANSFEREE” shall have the meaning set forth in Subsection 12.2.1.

1.1.52 “ESTIMATED COSTS” shall have the meaning set forth in Subsection 2.3.2.

1.1.53 “EVENTS OF DEFAULT” shall have the meaning set forth in Section 13.1.

1.1.54 “EXCESS PERCENTAGE RENT PAYMENT” shall have the meaning set forth in Subsection 4.2.2.4.

1.1.55 “EXCLUDED CONDITIONS” shall have the meaning set forth in Subsection 1.2.3.

1.1.56 “EXCLUDED DEFAULTS” shall have the meaning set forth in Subsection 12.3.3.

1.1.57 “EXCLUDED TRANSFERS” shall have the meaning set forth in Subsection 4.6.2.

1.1.58 “EXISTING EXPIRATION DATE” shall have the meaning set forth in the first paragraph of the Recitals to this Lease.

1.1.59 “EXISTING LEASE” shall have the meaning set forth in the first paragraph of the Recitals to this Lease.

1.1.60 “EXTENDED TIME” shall have the meaning set forth in Section 15.15.

1.1.61 “FAIR MARKET RENTAL VALUE” shall have the meaning set forth in Subsection 4.4.1.

1.1.62 “FINAL PLANS AND SPECIFICATIONS” shall have the meaning set forth in Subsection 5.3.3.

1.1.63 “FINANCING EVENT” shall have the meaning set forth in Subsection 12.1.1.

1.1.64 “FIRST ADJUSTMENT DATE” shall have the meaning set forth in Subsection 4.2.1.

1.1.65 “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 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 Redevelopment 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 Redevelopment 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, or any person or entity affiliated with Lessee; provided, however, regardless of whether Lessee is a named party in the action, as a condition to this clause (b) Lessee shall diligently pursue the removal of any such restraining order or injunction and shall exhaust all commercially reasonable efforts to appeal such restraining order or injunction.

1.1.66 “FORECLOSURE TRANSFER” shall have the meaning set forth in Subsection 12.2.1.

1.1.67 “FORECLOSURE TRANSFEREE” shall have the meaning set forth in Subsection 12.2.1.

1.1.68 “GROSS ERROR” shall have the meaning set forth in Subsection 16.15.4.

1.1.69 “GROSS RECEIPTS” shall have the meaning set forth in Subsection 4.2.2.2.

1.1.70 “GROSS SALES” shall have the meaning set forth in Subsection 4.2.2.3.

1.1.71 “GROSS TRANSFER PROCEEDS” shall have the meaning set forth in Section 4.8.

1.1.72 “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.

1.1.73 “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.

1.1.74 “IMPROVEMENT COSTS” shall have the meaning set forth in Subsection 4.8.1.1.

1.1.75 “INCOME APPROACH” shall have the meaning set forth in Section 6.5.

1.1.76 “INITIAL CURE PERIOD” shall have the meaning set forth in Subsection 12.4.1(2)(a).

1.1.77 “INITIATING PARTY” shall have the meaning set forth in Section 16 (a).

1.1.78 “INSTITUTIONAL LENDER” shall have the meaning set forth in Subsection 12.3.1.

1.1.79 “INSURANCE RENEGOTIATION DATE” shall have the meaning set forth in Section 9.6.

1.1.80 “ISLANDS RESTAURANT” means the restaurant operated on the Premises immediately prior to the Effective Date under the trade name “Islands Restaurant,” as such restaurant is hereafter modified or altered, including any successor or future restaurant operated in or on any portion of the portion of the Premises on which the existing Islands Restaurant is now or hereafter operated, whether operated under the same or any different trade name.

1.1.81 “ISLANDS RESTAURANT LEASE” means that certain Commercial Lease with an Effective Date of July 16, 2000, between Gold Coast West, a Delaware limited liability company, as landlord, and Islands Restaurants, L.P., a Delaware limited partnership, as tenant.

1.1.82 “ISLANDS RESTAURANT SUBLESSEE” means the Sublessee of the Islands Restaurant.

1.1.83 “LATE FEE” shall have the meaning set forth in Section 4.5.

1.1.84 “LEASE” shall have the meaning set forth in the first paragraph above.

1.1.85 “LEASE YEAR” shall have the meaning set forth in Section 2.1.

1.1.86 “LESSEE” shall have the meaning set forth in the first paragraph of this Lease.

1.1.87 “LESSEE SALE PRICE” shall have the meaning set forth in Subsection 11.2.4.

1.1.88 “MAINTENANCE STANDARD” shall have the meaning set forth in Section 10.1.

1.1.89 “MAJOR SUBLEASE” shall have the meaning set forth in Subsection 11.1.1.

1.1.90 “MAJOR SUBLESSEE” shall have the meaning set forth in Subsection 11.1.1.

1.1.91 “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 (a) changes the total square footage of the Improvements by more than two percent (2%), (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 of the Improvements, or (c) pertains to the Improvements on the Parcel LLS Premises.

1.1.92 “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.

1.1.93 “MONTHLY MINIMUM RENT” shall have the meaning set forth in Subsection 4.2.1.

1.1.94 “NET AWARDS AND PAYMENTS” shall have the meaning set forth in Section 6.7.

1.1.95 “NET PROCEEDS SHARE” shall have the meaning set forth in Section 4.6.

1.1.96 “NET REFINANCING PROCEEDS” shall have the meaning set forth in Subsection 4.8.5.

1.1.97 “NET TRANSFER PROCEEDS” shall have the applicable meaning set forth in Subsection 4.8.1 or 4.8.2.

1.1.98 “NOTICE OF COMPLETION” shall have the meaning set forth in Subsection 5.7.7.

1.1.99 “OPERATING COVENANT EXCEPTIONS” shall have the meaning set forth in Section 3.3.

1.1.100 “OPTION” shall have the meaning set forth in the fourth paragraph of the Recitals to this Lease.

1.1.101 “OPTION AGREEMENT” shall have the meaning set forth in the fourth paragraph of the Recitals to this Lease.

1.1.102 “OPTION FEE” shall have the meaning set forth in Subsection 4.8.1.1.

1.1.103 “ORIGINAL LESSEE” shall have the meaning set forth in the first paragraph of the Recitals to this Lease.

1.1.104 “OWNERSHIP INTERESTS” shall have the meaning set forth in Subsection 12.1.1.

1.1.105 “PARTIAL TAKING” shall have the meaning set forth in Section 6.5.

1.1.106 “PAYMENT BOND” shall have the meaning set forth in Subsection 5.4.3.2.

1.1.107 “PERCENTAGE RENT” shall have the meaning set forth in Subsection 4.2.2.

1.1.108 “PERFORMANCE BOND” shall have the meaning set forth in Subsection 5.4.3.1.

1.1.109 “PERMITTED CAPITAL EXPENDITURES” shall have the meaning set forth in Section 5.13.

1.1.110 “PERMITTED USES” shall have the meaning set forth in Section 3.1.

1.1.111 “PORTION SUBJECT TO DEMOLITION” shall have the meaning set forth in Subsection 2.3.2.

1.1.112 “POST TERM REMOVAL PERIOD” shall have the meaning set forth in Subsection 2.3.2.

1.1.113 “PREMISES” means the Parcel 95S Premises and the Parcel LLS Premises, collectively.

1.1.114 “PRIMARY COVERAGE” shall have the meaning set forth in Subsection 9.1.1.

1.1.115 “PRIME RATE” shall mean the prime or reference rate announced from time to time by Bank of America, N.A. or its 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.

1.1.116 “PROPOSED TRANSFER” shall have the meaning set forth in Subsection 11.2.4.

1.1.117 “PUBLIC WORKS DIRECTOR” shall mean the Director of the Department of Public Works of the County of Los Angeles.

1.1.118 “PURCHASE MONEY NOTE” shall have the meaning set forth in Subsection 4.7.2.

1.1.119 “REDEVELOPMENT PLAN” shall have the meaning set forth in Section 5.1.

1.1.120 “REDEVELOPMENT WORK” shall have the meaning set forth in Section 5.1.

1.1.121 “RENEGOTIATION DATES” shall have the meaning set forth in Section 4.4.

1.1.122 “RENT REDUCTION” shall have the meaning set forth in Subsection 4.2.3.

1.1.123 “RENT REDUCTION PERIOD” shall have the meaning set forth in Subsection 4.2.3.

1.1.124 “REPLY” shall have the meaning set forth in Section 16.5.

1.1.125 “REQUEST FOR ARBITRATION” shall have the meaning set forth in Section 16(a).

1.1.126 “REQUIRED CONSTRUCTION COMMENCEMENT DATE” shall have the meaning set forth in Section 5.1.

1.1.127 “REQUIRED CONSTRUCTION COMPLETION DATE” shall have the meaning set forth in Section 5.1.

1.1.128 “REQUIRED COST AMOUNT” shall have the meaning set forth in Section 5.1.

1.1.129 “RESPONSE” shall have the meaning set forth in Section 16(a).

1.1.130 “RESPONDING PARTY” shall have the meaning set forth in Section 16(a).

1.1.131 “RETAIL BUILDINGS” means the two (2) new retail buildings to be constructed by Lessee as part of the Redevelopment Work.

1.1.132 “RETAIL BUILDINGS COMPLETION DATE” means the date of the substantial completion of the base, shell and core of the Retail Buildings (excluding interior leasehold improvements), including the issuance of a certificate of occupancy (whether temporary or permanent) or other applicable governmental certificate or approval for the base, shell and core of the Retail Buildings.

1.1.133 “REVERSION” shall have the meaning set forth in Section 12.12.

1.1.134 “REVERSION AMENDMENT” shall have the meaning set forth in Section 5.1.

1.1.135 “REVERSION CONDITION” shall have the meaning set forth in Section 12.12.

1.1.136 “SECURITY DEPOSIT” shall have the meaning set forth in Section 7.1.

1.1.137 “SEPARATE DISPUTE” shall have the meaning set forth in Subsection 16.10.1.

1.1.138 “STATE” shall mean the State of California.

1.1.139 “STATEMENT OF POSITION” shall have the meaning set forth in Subsection 16.5(2)(a).

1.1.140 “SUBLEASE” shall have the meaning set forth in Subsection 11.1.1.

1.1.141 “SUBLESSEE” shall have the meaning set forth in Subsection 11.1.1.

1.1.142 “SUBSEQUENT RENOVATION” shall have the meaning set forth in Section 5.11.

1.1.143 “SUBSEQUENT RENOVATION FUND” shall have the meaning set forth in Section 5.12.

1.1.144 “SUBSEQUENT RENOVATION PLAN” shall have the meaning set forth in Section 5.11.

1.1.145 “substantial completion” means the completion of the Redevelopment 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.

1.1.146 “TERM” shall have the meaning set forth in Section 2.1.

1.1.147 “TIME OF THE ESSENCE” shall have the meaning set forth in Section 15.2.

1.1.148 “UMBRELLA COVERAGE” shall have the meaning set forth in Subsection 9.1.1.

1.1.149 “UNINSURED LOSS” shall have the meaning set forth in Section 10.5.

1.1.150 “WRITTEN APPRAISAL EVIDENCE” shall have the meaning set forth in Section 16.7.

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

1.2.1 As-Is. Lessee acknowledges that (1) it is currently in possession of the Parcel 95S Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Parcel 95S Premises since 1968, and (3) the Improvements now existing on the Parcel 95S Premises were constructed by Lessee or its predecessors with contractors selected by them. Except as provided in Subsection 1.2.3, 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 Parcel 95S 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**”) for the Parcel 95S Premises commenced on June 1, 1968. The Term for the Parcel LLS Premises shall commence on the Effective Date set forth herein. Unless terminated sooner in accordance with the provisions of this Lease, the Term shall expire at 11:59 p.m. on May 31, 2056. 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 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) five (5) 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 5.13 of this Lease. 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) with respect to the Parcel 95S Premises, retail, office and restaurant uses, and associated parking; (ii) with respect to the Parcel LLS Premises, a public park; and (iii) such other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the “**Permitted Uses**”). Except as specifically provided herein, the Premises 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;

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 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, 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 for the Islands Restaurant 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 Parcel 95S Premises and Improvements located thereon 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 retail, office and restaurant facilities, and that it will use commercially reasonable efforts so that County may obtain maximum revenue therefrom as contemplated by this Lease. The LLS Premises shall be available for use by the public for public park purposes. In the event of any dispute or controversy relating hereto, this Lease shall be construed with due regard to the aforementioned objectives.

3.4 Days of Operation. The Improvements on the Premises shall be open every day of the year for at least hours commensurate with the hours of operations of other similar retail, office and restaurant facilities in Los Angeles County, California, subject to the Operating Covenant Exceptions and except for such holidays, if any, during which similar businesses in Marina del Rey are customarily closed. The public park on the Parcel LLS Premises shall be open for access and use of the public every day of the year.

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 REDEVELOPMENT WORK]**, which conditions and requirements are attached to this Lease as

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

3.7 Rules and Regulations. Lessee agrees to comply with such other reasonable rules and regulations governing the use and occupancy of the Premises and Improvements as may be promulgated by County from time to time for general applicability on a non-discriminatory basis to other retail, office, restaurant and public park 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 encumbrances, reservations, licenses, easements and rights of way (a) that existed on, to, over or affecting the Parcel 95S Premises as of the date of the Existing Lease, (b) that exist on, to, over or affecting the Parcel LLS Premises as of the Effective Date, (c) that are otherwise referenced in this Lease, or (d) that have been or are hereafter consented to in writing by Lessee or any prior lessee.

Without limiting the foregoing, Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all prior matters of record and the right of County or City existing as of the Effective Date or otherwise disclosed to or known to Lessee, as their interests may appear, to install, construct, maintain, service and operate sanitary sewers, public roads and sidewalks, fire access roads, storm drains, drainage facilities, electric power lines, telephone lines and access and utility easements across, upon or under the Premises, together with the right of County or the City to convey such easements and transfer such rights to others. Notwithstanding the foregoing or anything herein to the contrary, County agrees to cooperate with Lessee, at Lessee's cost, in Lessee's efforts to address title matters, if any, which would prevent Lessee from proceeding with the redevelopment of the Premises in accordance with the Redevelopment Work, as long as such efforts do not materially adversely affect the County (e.g., cooperating with Lessee in the relocation at Lessee's cost of any easements which interfere with the Redevelopment Work, to the extent such relocation is reasonably acceptable to County).

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

4. PAYMENTS TO COUNTY.

4.1 Net Lease. The parties acknowledge that the 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 for the Rent Reduction referenced in Subsection 4.2.3 below). 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 Retail Buildings Completion Date or the Required Construction Completion Date (the

“Construction Period”), the Annual Minimum Rent shall be equal to the greater of (a) seventy-five percent (75%) of the average total annual rent that was payable to County under the Existing Lease (whether payable by Lessee or the Islands Restaurant Sublessee) for each of the three (3) years preceding the Effective Date, or (b) three and one-half percent (3.5%) of Gross Sales (as defined below) from the Islands Restaurant during the last twelve (12) months prior to the commencement of construction of the Redevelopment Work. Lessee shall provide written notice to County of the Retail Buildings Completion Date promptly upon the occurrence thereof.

During the period following the Construction Period and continuing through the December 31 of the calendar year during which the third (3rd) anniversary of the Effective Date occurs, the Annual Minimum Rent shall be equal to One Hundred Seventy-Two Thousand Five Hundred Dollars (\$172,500.00).

As of the date immediately following the periods described in the immediately preceding two paragraphs (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. Lessee shall pay to County during the Term of the Lease the amount by which “Percentage Rent” (as defined below) for each Lease Year exceeds the Annual Minimum Rent for such Lease Year. Percentage Rent shall be paid on a monthly basis within fifteen (15) days after the close of each and every calendar month of the Term, in an amount equal to the amount (if any) by which Percentage Rent for each such month exceeds the Monthly Minimum Rent for such month. The total monthly payments under this Subsection 4.2.2 for each Lease Year shall be reconciled against the total amount by which Percentage Rent for such Lease Year exceeded Annual Minimum Rent for such Lease Year in accordance with Subsection 4.2.2.4 below.

During any portion of the Construction Period that any of the Improvements are occupied and operating, **“Percentage Rent”** shall mean the sum of (a) sixteen percent (16%) of all Gross Receipts (as defined below) from the existing office and retail Improvements located on the Premises prior to the demolition of such Improvements as part of the Redevelopment Work, plus (b) three and one-half percent (3.5%) of all Gross Sales (as defined below) from the Islands Restaurant.

Commencing on and continuing after the expiration of the Construction Period, **“Percentage Rent”** shall mean sixteen percent (16%) of all Gross Receipts from the Premises.

4.2.2.1 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 for such previous month in such form, detail and breakdown by category as reasonably acceptable to Director. Such report shall state the amount of Percentage Rent for such previous month and the amount by which the Percentage Rent for such previous month exceeds the Monthly Minimum Rent that was paid by Lessee for such previous month. Notwithstanding the foregoing, during any portion of the Construction Period

during which the Islands Restaurant is operated, the foregoing report shall include the amount of Gross Sales from the Islands Restaurant for such previous month. Lessee agrees to and shall comply with (and during any portion of the Construction Period during the Islands Restaurant is operated shall cause the Islands Restaurant Sublessee 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.

4.2.2.2 Gross Receipts. Except as herein otherwise provided, the term “**Gross Receipts**” as used in this Lease means all gross revenues derived by Lessee from the Premises, including without limitation, (a) all base or minimum rents, percentage rents and other rents payable by Sublessees to Lessee, (b) all tax, insurance, operating expense, repair and maintenance, common area operation, management fee, or other cost or expense reimbursements or charges payable by Sublessees to Lessee, and (c) all charges, fees, commissions, compensation of other amounts payable by Sublessees to Lessee, whether payable in the form of money or other things of value, calculated in accordance with the accounting method described in the last sentence of Section 14.1. The following additional terms and provision shall be applicable to the calculation of Gross Receipts.

(1) If any Sublessee pays any tax, insurance, operating expense, repair and maintenance, common area operation, management fee or other costs or expenses directly instead of reimbursing Lessee for such items, Gross Receipts shall be increased to include such items paid directly by such Sublessee. For purposes of this subparagraph (1), the reference to “other costs or expenses” in the immediately preceding sentence shall be limited to costs or expenses for services or other matters provided to or incurred for multiple tenants, as opposed to costs or expenses incurred by Tenant in connection with the operation by Tenant of its particular premises.

(2) Gross Receipts are intended to be absolutely gross, and there shall be no deduction from or offset against Gross Receipts for any overhead, management fee, general administrative costs or other costs or expenses incurred by Lessee, including without limitation, the costs and expenses reimbursed by Sublessees.

(3) Gross Receipts shall not include security deposits paid by a Sublessee to Lessee to be held by Lessee as security for a Sublessee’s obligations under its Sublease, except to the extent Lessee allocates or applies any portion of such security deposit to unpaid rent or other amounts payable 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 shall not include payments received by Lessee from a Sublessee for the Cost of submetered electricity consumed in such Sublessee’s individual space, 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 the occupancy of its space; (B) the reimbursed sum is in an amount equal to the Cost of the electricity for such Sublessee’s space; and (C) the

amount received is actually credited against the cost of the electricity for such Sublessee's space. For the purpose of this paragraph (4), the "**Cost**" of a electricity consumed in a Sublessee's space 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 the submetered consumption of electricity in such Sublessee's space, 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 4 shall also be applicable to other submetered utility charges for a Sublessee's space, such as water and gas, to the extent that it is customary for Sublessees to be directly responsible for the payment to the utility provider for such other utility charges.

4.2.2.3 Gross Sales. For purposes of the calculation of Percentage Rent during the Construction Period, "**Gross Sales**" from the Islands Restaurant shall mean "gross receipts" as defined in Article 12.A of the Islands Restaurant Lease, without amendment.

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

4.2.3 Rent Reduction. In consideration of the costs incurred by Lessee for the construction of the park Improvements on Parcel LLS, County grants Lessee the right to reduce the Annual Rent payable by Lessee under this Lease for the seven (7) year period following the Effective Date of this Lease (the "**Rent Reduction Period**") by an amount equal to \$4,166.67 per month (i.e., \$50,000 per year) during the Rent Reduction Period (the "**Rent Reduction**").

Each monthly Rent Reduction amount may be offset against the Monthly Minimum Rent otherwise payable for such month, and for purposes of calculating the amount of monthly or annual Percentage Rent payable by Lessee in excess of Monthly Minimum Rent or Annual Minimum Rent (as applicable) during the Rent Reduction Period, the full Monthly Minimum Rent or Annual Minimum Rent (as applicable) shall be considered to have been paid by Lessee without consideration of the Rent Reduction.

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 greater of (a) the Annual Minimum Rent in effect immediately prior to the then-applicable Adjustment Date, or (b) \$172,500.00. For purposes of calculating the stated amount of Annual Minimum Rent payable on and after each Adjustment Date, no consideration shall be given to any reduction in the Annual Minimum Rent or Annual Rent that was payable during the preceding three (3) year period as a result of the application of the Rent Reduction pursuant to Subsection 4.2.3 above.

4.4 Renegotiation of Annual Minimum and Percentage Rents. Effective as of the first January 1 following the tenth (10th) anniversary of the Effective Date, and the January 1 following each subsequent tenth (10th) anniversary 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 a percentage of Gross Receipts in accordance with 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 the percentage of Gross Receipts for Percentage Rent ever be reduced below sixteen percent (16%).

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

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

"**Gross Transfer Proceeds**" shall mean an amount equal to the gross sale or transfer proceeds and other consideration given for the interests transferred (but in the case of a transfer to a party affiliated with or otherwise related to the transferor which constitutes a Change of Ownership that is not an Excluded Transfer, such consideration shall in no event be deemed to be less than the fair value of the interests transferred; if Lessee and County are unable to agree upon such fair value, then the matter shall be determined pursuant to Article 16).

With respect to a Financing Event, the "Net Proceeds Share" shall be the amount (if any) by which (I) twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event exceeds (II) the Administrative Charge paid by Lessee to County in connection with the transaction. Notwithstanding the foregoing, in connection with any Financing Event used to fund the cost of the acquisition of an Ownership Interest in Lessee that constitutes an Excluded Transfer, if such Financing Event is secured by the Ownership Interest that is transferred, then the Net Refinancing Proceeds from such Financing Event shall not include the portion of the proceeds of such Financing Event used to fund the acquisition cost of such Ownership Interest.

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

4.8.1 Transaction by Original Lessee. 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) Four Million Dollars (\$4,000,000.00), plus (b) the amount of the “Option Fee” and any “Option Term Extension Fee” paid by Lessee under the Option Agreement, plus (c) the actual out-of-pocket costs incurred by Lessee for its third party consultants and attorneys in connection with the negotiation and consummation of the Option Agreement and this Lease, plus (d) the Actual Costs reimbursed by Lessee to County in connection with the negotiation and consummation of the Option Agreement and this Lease (the sum of the amounts in (a), (b), (c) and (d) are referred to as the “**Base Value**”), plus (e) the final actual out-of-pocket design, engineering, permitting, entitlement and construction costs paid by Lessee in connection with (I) the Redevelopment 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 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, 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 perform certain redevelopment and renovation work with respect to the Premises set forth in the Redevelopment Plan attached to this Lease as Exhibit B (the “**Redevelopment Plan**”), including without limitation, (a) demolition of the existing office and retail structures existing on the Parcel 95S Premises as of the Effective Date, except for the building in which the Islands Restaurant is located; (b) construction of two (2) new retail buildings of a total of approximately 16,719 gross square feet on the Parcel 95S Premises, consisting of one building of approximately 5,744 gross square feet and one building of approximately 10,975 gross square feet; (c) rehabilitation of the existing building on the Parcel 95S Premises in which the Islands Restaurant is located; (d) construction of an entrance gateway treatment and public park on the Parcel LLS Premises; and (e) renovation of one hundred thirty (130) existing surface parking spaces on the Parcel 95S Premises (collectively, the “**Redevelopment Work**”). The Redevelopment Work shall be performed in accordance with the Redevelopment Plan and the Final Plans and Specifications for the Redevelopment Work (as established under the 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, including the profit, overhead and conditions in reasonable market standard amounts paid to the non-Lessee affiliated general contractor that is responsible for the construction of the Redevelopment Work. Applicable Redevelopment Costs shall not include any soft costs, including without limitation: (a) architectural, design and engineering fees; (b) governmental permit fees; (c) project oversight and management fees; (d) costs for furniture, fixtures and equipment; (e) accounting, legal and insurance costs incurred in connection with the Redevelopment Work; or (f) construction loan

fees, costs or interest. The hard construction costs for the Redevelopment Work may include up to (but not greater than) \$75.00 per gross square foot of the Improvements for hard construction costs incurred by Lessee for new tenant improvements to the Sublessee space in the new buildings and the Islands Restaurant. The Applicable Redevelopment Costs shall not include the Option Fee or Option Term 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 Redevelopment Work means \$5,296,300, 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 \$5,296,300. For purposes hereof, the term “**Required Cost Adjustment Date**” shall mean the month during which the construction of the Redevelopment Work is commenced. The initial Required Cost Amount of \$5,296,000 shall be increased as of the Required Cost Adjustment Date by the same percentage increase in the Consumer Price Index during the period from (I) the month of January, 2012 until (II) the month of the Required Cost Adjustment Date.

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 cause (1) the commencement of construction of the Redevelopment Work to occur on or before the date (the “**Required Construction Commencement Date**”) which is one (1) year 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 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 shall have the right to extend the Required Construction Commencement Date for one period of six (6) months by written notice to Director not later than ninety (90) days prior to the then-existing Required Construction Commencement Date and the concurrent delivery to County with such written notice of an extension fee equal to Sixty-Six Thousand Dollars (\$66,000.00). If the Required Construction Commencement Date is extended pursuant to the immediately preceding sentence, then the Required Construction Completion Date shall also be extended for a six (6) month period. If the Required Construction Commencement Date and Required Construction Completion Date are not extended pursuant to the foregoing provisions of this paragraph, then Lessee shall have a separate right to extend the Required Construction Completion Date by written notice to Director not later than ninety (90) days prior to the then-existing Required Construction Completion Date and the concurrent delivery to County with such written notice of an extension fee equal to Sixty-Six Thousand Dollars (\$66,000.00). Neither the Required Construction Commencement Date nor the Required Construction Completion Date shall be extended for more than six (6) months pursuant to this paragraph.

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 the provisions of this Section 5.1 or Section 5.6 below, 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 by 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 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 the provisions of this Section 5.1 or Section 5.6 below, if applicable) by more than six (6) months.

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 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 Redevelopment 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 Redevelopment 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 Redevelopment Work pursuant to the Option Agreement). All Alterations must be consistent with the Permitted Uses set forth in Article 3 of this Lease.

5.3.1 Schematics and Narrative. Lessee shall submit to 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
RESTATEED 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, 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 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. With respect to the Redevelopment Work, unless the construction schedule for the Redevelopment 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 Redevelopment 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 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 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 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 for more than an aggregate of one year due to Force Majeure. 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 Subsequent Renovation, the definition of Force Majeure shall also include delays in the commencement and completion of the Redevelopment 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 Redevelopment 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 Redevelopment 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 Redevelopment 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 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 Renovation 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 Two Hundred Thousand Dollars (\$200,000), 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 Two Hundred Thousand Dollars (\$200,000)); (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 Redevelopment 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 December 31, 2036; provided, however that Lessee shall not commence the Subsequent Renovation prior to January 1, 2032. Lessee shall substantially complete the Subsequent Renovation by not later than December 31, 2036. 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 comparable retail, office, restaurant and/or public park projects (as applicable) constructed or renovated during the preceding five (5) years (or then currently being constructed or renovated) on the West side of Los Angeles.

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 the 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 Majeure 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 first January 15 following the earlier of the Retail Buildings Completion Date or the Required Construction Completion Date, 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 each January 15 of the period during which the Subsequent Renovation Fund is required to be maintained by Lessee hereunder, Lessee shall make an annual deposit to the Subsequent Renovation Fund in an amount equal to one and one-half percent (1.5%) of total Gross Receipts for the previous calendar year. 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. On or before January 15 of each year (and at any other time within thirty (30) days prior written notice from Director to Lessee) Lessee shall deliver to Director evidence reasonably satisfactory to Director of the account in which the

Subsequent Renovation Fund exists and a report that details all deposits to, earnings on, withdrawals from and the balance of the Subsequent Renovation Fund. In lieu of annual 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 Retail Buildings Completion 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 one and one-half percent (1.5%) of total Gross Receipts for the previous month. 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 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 Subsequent Renovation. In addition, the Capital Improvement Fund shall not be used for building additions, new project amenities (e.g., barbecues 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 a separate 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's Encumbrance Holder shall provide funds) pursuant to this Section 5.13. The amounts to be added to the Capital Improvement Fund shall be inclusive of amounts required to be deposited with and held by an Encumbrance Holder, provided that the Encumbrance Holder acknowledges that such amounts are subject to, and administered in accordance with, the requirements of this Section 5.13. On or before January 15 and July 15 of each year (and at any other time within thirty (30) days prior written notice from Director to Lessee) Lessee shall deliver to Director evidence reasonably satisfactory to Director of the account in which the Capital Improvement Fund exists and a report that details all deposits to, earnings on, withdrawals from and the balance of the Capital Improvement Fund.

No disbursements shall be made from the Capital Improvement Fund until after the tenth (10th) anniversary of the Retail Buildings Completion Date. In addition, no disbursements shall be made from the Capital Improvement Fund after the tenth (10th) anniversary of the Retail Buildings Completion 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 ten (10) year period. Disbursements shall be made from the Capital Improvement Fund for costs reasonably approved by Director which have been incurred after the tenth (10th) anniversary of the Retail Buildings Completion 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.

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).

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 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 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 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.

9.2 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), in conformance with the Minimum Standards regarding the use and occupancy of commercial 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 and/or public park projects (as applicable) 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) 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 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 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 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, 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) 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.

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 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 its contractors on the Premises pursuant to this Section 10.9.

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 Non-Disturbance Agreements. Upon written request from Lessee, County agrees to execute and deliver a non-disturbance and attornment agreement in commercially reasonable form with respect to any Sublease approved by County that (a) is with a Sublessee that is a national or regional retailer or restaurant chain, or (b) pertains to more than 5,000 rentable square feet of space in the Improvements.

11.1.4 Major Sublease. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable retail, office and restaurant 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 Retail Buildings Completion Date, County shall have the right to withhold its consent to any assignment or Major Sublease in its sole and absolute discretion. After the Retail Buildings Completion Date, County shall not unreasonably withhold or delay its consent to a proposed assignment or Major Sublease. 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 Lessee proposes to assign its interest in this Lease, proposes to enter into any Major Sublease affecting the Premises or proposes to transfer a Controlling Interest in Lessee, in each case excluding any Excluded Transfer (with any such proposed transaction herein referred to as a **"Proposed Transfer"**), it shall provide County with written notice of such desire, which notice shall include the sale price (**"Lessee Sale Price"**) at which it is willing to consummate the Proposed Transfer. For purposes hereof, a **"Controlling Interest"** in Lessee shall mean fifty percent (50%) or more of the direct or indirect beneficial interest in Lessee. Within thirty (30) days thereafter, County shall provide Lessee with written notification as to whether it has elected to acquire an option to purchase the interest subject to the Proposed Transfer. During said thirty (30) day period, Lessee may market the interest subject to the Proposed Transfer, provided that such interest is offered subject to County's rights as provided in this Subsection 11.2.4. In the event that, prior to the expiration of said thirty (30) day period, County has given notice to Lessee that it has elected to acquire said option, Lessee shall deliver to County an assignable option to purchase the interest subject to the Proposed Transfer (**"County Option"**) at the Lessee Sale Price. Such County Option shall have a term of five (5) calendar months. During the term of the County Option, Lessee shall make the Premises and its books and records reasonably available for inspection by County and third parties as reasonably requested by County. At Lessee's request, any third party granted access to the Premises or Lessee's books and records pursuant to this Subsection 11.2.4 shall be required to execute a right-of-entry and confidentiality agreement on commercially reasonable terms. In the event that County causes Lessee to issue the County Option and subsequently declines to purchase the interest subject to the Proposed Transfer at the Lessee Sale Price, County shall pay to Lessee at the expiration of the County Option period (or, at County's election, credit to Lessee against the next applicable installment(s) of Annual Minimum Rent and Percentage Rent), a sum (the **"County Option Price"**) which represents (i) three percent (3%) of the Lessee Sale Price, plus (ii) seven percent (7%) interest per annum on said three percent (3%) of the Lessee Sale Price, from the date Lessee received notice of County's election to receive the County Option through the date on which the County Option Price, together with interest thereon, is paid or credited in full. If County either (a) fails to elect to cause Lessee to issue the County Option within said thirty (30) day period, or (b) gives notice that it has elected not to acquire the interest subject to the Proposed Transfer, then during the nine (9) month period following the later of (a) or (b), Lessee shall be entitled to enter into an agreement to consummate the Proposed Transfer with a third party (subject to County's approval rights as otherwise set forth in this Lease) so long as (1) the actual price for the Proposed

Transfer is equal to or greater than the Lessee Sale Price last offered to County and upon no more favorable material terms to the assignee and (2) the transfer is consummated not later than twelve (12) months after the later of (a) or (b) (which twelve (12) month period shall be extended to the extent the closing is delayed due to a delay by County in approving the transaction within sixty (60) days after County has received a notice from Lessee requesting County's approval of such transaction and all information required by County under this Lease to permit County to evaluate the transaction). In the event of a proposed Major Sublease, County's election shall pertain to such portion of the Premises subject to the proposed Major Sublease or assignment and, in the event that County elects to acquire such portion of Lessee's interest in the Premises, Lessee's Annual Minimum Rent shall be proportionally reduced and Lessee's obligation to pay Percentage Rent shall pertain only to the amounts derived from the portion of the Premises retained by Lessee. In the event that County elects to recapture all or any portion of the Premises as provided herein, Lessee agrees to execute promptly a termination agreement and such other documentation as may be reasonably necessary to evidence the termination of this Lease, to set a termination date and to prorate rent and other charges with respect to the termination. County's rights pursuant to this Subsection 11.2.4 shall not apply to (I) Financing Events, or (II) those events identified in Subsection 4.6.2 of this Lease.

11.2.5 County Credits Toward Purchase Price. In the event that County or its assignee elects to exercise the County Option, it shall receive the following credits toward the Lessee Sale Price: (1) the Net Proceeds Share which would be payable to County in the event that a third party were to purchase the interest offered at the Lessee Sale Price and (2) an amount which represents unpaid Annual Minimum Rent, Percentage Rent, and all other amounts payable under the Lease, if any (including a provisional credit in an amount reasonably acceptable to County for any amounts that may arise from an audit by County, but that have not yet been determined as of that date), with late fees and interest as provided herein, from the end of the period most recently subject to County audit through the date of the purchase of the interest by County. In the case of any unpaid rental amounts that may be found to be owing to County in connection with any uncompleted audit by County, in lieu of a provisional credit for such amounts, Lessee may provide County with a letter of credit or other security satisfactory to County to secure the payment of such unpaid amounts when finally determined by County. During the term of the County Option, Lessee shall cause to be available to County all books and records reasonably necessary in order to determine the amount of such unpaid Annual Minimum Rent, Percentage Rent, and other amounts payable under the Lease. In the event that County or its assignee exercises the County Option, but the transaction fails to close due to a failure of the parties to agree upon an appropriate allowance for such unpaid Annual Minimum Rent, Percentage Rent, and other amounts or appropriate security for the payment thereof, then County shall have no obligation to pay or credit to Lessee the County Option Price.

11.3 Terms Binding Upon Successors, Assigns and Sublessees. Except as otherwise specifically provided for herein, each and all of the provisions, agreements, terms, covenants, and conditions herein contained to be performed, fulfilled, observed, and kept by Lessee hereunder shall be binding upon the heirs, executors, administrators, successors, and assigns of Lessee, and all rights, privileges and benefits arising under this Lease in favor of Lessee shall be available in favor of its heirs, executors, administrators, successors, and assigns. Notwithstanding the foregoing, no assignment or subletting by or through Lessee in violation of the provisions of this Lease shall vest any rights in any such assignee or Sublessee. Any approved assignment of this

Lease shall release the assignor of all liability arising due to actions or omissions on or after the effective date of such assignment, provided the assignee assumes all of such liability, including without limitation the obligation of assignee to cure any defaults and delinquencies under this Lease and to pay County Percentage Rent and any other amounts attributable to the period prior to the assignment, but not discovered by County or the assignee until after the assignment; provided, further, the assignor shall not be relieved of any liability for the payment of the Administrative Charge or the required portion of any Net Proceeds Share or Net Refinancing Proceeds which arise upon such assignment as provided herein.

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 it receives such transfer is released under subsection 12.3.1 below, and (ii) such transferee (other than a transferee of Ownership Interests) shall expressly agree in writing to assume and to perform all of the obligations under this Lease, other than Excluded Defaults (as defined below). For clarification purposes, the right to a single transfer under this Section shall apply to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder, so that there may be more than one "single transfer" under this Section.

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

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

12.3.2 Any other Foreclosure Transferee (i.e., other than an Institutional Lender as provided in Subsection 12.3.1 above) shall, upon becoming a Foreclosure Transferee (other than an Equity Foreclosure Transferee), become liable to perform the full obligations of Lessee under this Lease (other than Excluded Defaults), subject to possible release of liability upon a subsequent transfer pursuant to Section 11.3 above.

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

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

12.3.5 No Foreclosure Transfer, and no single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to subsection 12.2.3, shall trigger

(i) any obligation to pay an Administrative Charge nor any Net Proceeds Share, (ii) any acceleration of any financial obligation of Lessee under this Lease, (iii) any recapture right on the part of County, or (iv) any termination right under this Lease. Any Foreclosure Transfer, and any single subsequent transfer by an Encumbrance Holder following a Foreclosure Transfer pursuant to Subsection 12.2.3, shall be deemed to be excluded from the definition of "Change of Ownership" for all purposes of this Lease. For clarification purposes, the "single subsequent transfer" referred to above applies to each Foreclosure Transfer in which the Foreclosure Transferee is an Encumbrance Holder (as more fully explained in Subsection 12.2.3), so that there may be more than one "single subsequent transfer" benefited by this Section.

12.3.6 In the event that an Institutional Lender becomes a Foreclosure Transferee, all obligations with respect to the construction and Redevelopment 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 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 Existing Lease).

13. DEFAULT.

13.1 Events of Default. The following are deemed to be “**Events of Default**” hereunder:

13.1.1 Monetary Defaults. The failure of Lessee to pay the rentals due, or make any other monetary payments required under this Lease (including, without limitation, deposits to the Subsequent Renovation Fund and/or Capital Improvement Fund), within ten (10) days after written notice that said payments are overdue. Lessee may cure such nonpayment by paying the amount overdue, with interest thereon and the applicable Late Fee, within such ten (10) day period.

13.1.2 Maintenance of Security Deposit. The failure of Lessee to maintain and/or replenish the Security Deposit required pursuant to Article 7 of this Lease if not cured within ten (10) days after written notice of such failure.

13.1.3 Failure to Perform Other Obligations. The failure of Lessee to keep, perform, and observe any and all other promises, covenants, conditions and agreements set forth in this Lease, including without limitation the obligation to maintain adequate accounting and financial records, within thirty five (35) days after written notice of Lessee’s failure to perform from Director; provided, however, that where Lessee’s performance of such covenant, condition or agreement is not reasonably susceptible of completion within such thirty five (35) day period and Lessee has in good faith commenced and is continuing to perform the acts necessary to perform such covenant, condition or agreement within such thirty five (35) day period, County will not exercise any remedy available to it hereunder for so long as Lessee uses reasonable due diligence in continuing to pursue to completion the performance such covenant, condition or agreement and so completes performance within a reasonable time. Notwithstanding any contrary provision of this Section 13.1.3, the proviso set forth in the immediately preceding sentence providing for an extension of the cure period beyond thirty five (35) days shall not be applicable to any failure of Lessee to comply with the 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 an individual Sublessee of retail, office or restaurant space on the Premises 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 applicable space from the Sublessee and diligently proceeds to re-sublease such space to another Sublessee as soon as reasonably possible on terms acceptable to a prudent business person under then current market circumstances; provided, further, that, except as provided below, the applicable space must be (i) re-leased no later than one hundred eighty (180) days following the date that possession of such space was recovered from the Sublessee and (ii) re-opened for business to the public within sixty (60) days thereafter. Such sixty (60) day time period may be extended due to delays which are not the fault of Lessee, such as permit and tenant improvement

construction delays. 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 a Sublessee as long as (i) Lessee diligently attempts to re-sublease and re-open such Sublessee's space as soon as reasonably possible after Lessee obtains possession of the Sublessee's space, and (ii) if the Sublessee's space is not re-subleased by the end of the one hundred eighty (180) day period set forth above in this Subsection 13.1.4 (the "**Re-sublease Date**") or not re-opened by the end of the sixty (60) day period set forth above in this Subsection 13.1.4 (as such period may be extended as provided above) (the "**Re-opening Date**"), then, solely for the purpose of determining the Annual Minimum Rent on an Adjustment Date (x) if the Sublessee's space is not re-subleased by the Re-sublease Date, for the period of time from sixty (60) days following the Re-sublease Date until such date that the subject portion of the Premises is re-opened for business, Lessee's total Annual Rent shall be deemed to include imputed Percentage Rent for the space based upon an imputed Gross Receipts for the space equal to the actual Gross Receipts for the space during the one year period prior to the closure of such space (or, in the case of the Islands Restaurant during the Construction Period, an imputed Gross Sales for the Islands Restaurant during the one year period prior to the commencement of the Redevelopment Work) (the "**Imputed Rent**") or (y) if the Sublessee's space is re-subleased by the Re-sublease Date, but is not re-opened by the Re-opening Date, for the period of time from the Re-opening Date until such date that the subject portion of the Premises is actually re-opened for business, Lessee's total Annual Rent shall be deemed to include Imputed Rent; provided, however, notwithstanding the foregoing, Imputed Rent shall not be included in the calculation of Annual Minimum Rent on an Adjustment Date during the period of time that rent is being paid by Sublessees leasing 85% or more of the leaseable space of the Improvements, and, further, Imputed Rent shall only be included with respect to such portion of the leaseable space of the Improvements that would result in the combination of rent paid plus Imputed Rent being payable from 85% of the leaseable space of the Improvements.

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 (or Gross Sales, as applicable) 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 (or Gross Sales, as applicable) are reported monthly on a cash basis with full reconciliation to accrual treatment on the annual statement of Gross Receipts (or Gross Sales, as applicable), 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 (or Gross Sales, as applicable) 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 (or Gross Sales, as applicable) 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 commercial real estate 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 Gross Receipts (or Gross Sales from the Islands Restaurant, as applicable). 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. During any period during which Percentage Rent is calculated based on Gross Sales from the Islands Restaurant, Lessee shall cause the Islands Restaurant Sublessee 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 Sales from the Islands Restaurant. 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 the Islands Restaurant Sublessee (including any 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 (or Gross Sales, as applicable), 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 (or Gross Sales, as applicable) levels on or from the Premises,

the past or present level of Gross Receipts (or Gross Sales, as applicable) for comparable space 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 Parcel 95S Premises and that Lessee or its predecessor-in-interest has continuously occupied and/or managed and operated the Parcel 95S Premises since 1968. Lessee accepts the Premises in their present condition notwithstanding the fact that there may be certain defects in the Premises, whether or not known to either party to this Lease, at the time of the execution of this Lease by Lessee and Lessee hereby represents that it has performed all investigations necessary, including without limitation soils and engineering inspections, in connection with its acceptance of the Premises "AS IS".

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

15.4.1.3 Lessee hereby waives, withdraws, releases, and relinquishes any and all claims, suits, causes of action (other than a right to terminate as otherwise provided in this Lease), rights of rescission, or charges against County, its officers, agents, employees or volunteers which Lessee now has or may have or asserts in the

future which are based upon any defects in the physical condition of the Premises and the soil thereon and thereunder, regardless of whether or not said conditions were known at the time of the execution of this instrument. 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 Parcel 95S 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 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: Gold Coast West, LLC
9200 Sunset Blvd., Suite 805
Los Angeles, California 90069
Attn: Michael Pashaie
Phone: 310/858-6797
Fax: 310/858-6862

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.

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, Board of Supervisors

GOLD COAST WEST, LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

ATTEST:

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

By: _____
Deputy

APPROVED AS TO FORM:

JOHN F. KRATTLI
ACTING COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

[To be added]

EXHIBIT B
REDEVELOPMENT PLAN

[To be added]

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]

AMENDED AND RESTATED LEASE AGREEMENT

by and between

COUNTY OF LOS ANGELES

and

GOLD COAST WEST, LLC

(Parcels 95S and LLS -- Lease No. _____)

Dated as of _____, _____

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