

AMENDMENT NO. 5 TO LEASE NO. 6416
PARCEL NO. 12, MARINA DEL REY

THIS AMENDMENT TO LEASE made this 28th day of June,
1968,

BY AND BETWEEN

COUNTY OF LOS ANGELES, hereinafter
referred to as "County,"

AND

DEAUVILLE MARINA DEVELOPMENT
COMPANY, a limited partnership,
hereinafter referred to as "Lessee,"

WITNESSETH:

WHEREAS, the parties hereto or their predecessors in interest have, on the twenty-first day of December, 1962, entered into a lease under which Lessee leased from County that certain real property in the Marina del Rey Small Craft Harbor known as Parcel No. 12; and

WHEREAS, said lease contains a provision whereby the Lessee agreed to pay as rent a certain percentage of his gross receipts from various activities conducted on the demised premises; and

WHEREAS, the lease provided twenty-three categories of business activities on account of which a percentage of the gross receipts was required to be paid as rent; and

WHEREAS, the percentage was different for each category; and

WHEREAS, it is the desire of the parties hereto to revise the percentages payable for certain categories of business activities in order to increase the revenue to be derived by the County from the operation of the leaseholds and in order to enable the Lessee to attract onto his demised premises certain types of businesses which at present are not able to operate on the demised premises because of the rent currently being charged; and

WHEREAS, it is also the desire of the parties hereto to clarify certain language in the lease pertaining to percentage rentals; and

WHEREAS, it is the desire of the parties hereto to amend said lease in order to alter certain technical language in the lease for the purpose of making said document more protective to County and Lessee;

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties hereto, it is hereby agreed as follows:

1. Section 11 (Gross Receipts) is amended by changing the first subparagraph to read as follows:

"The term 'gross receipts' as used in this lease is defined to be all money, cash, receipts, assets, property or other things of value, including but not limited to, gross charges, sales, rentals, fees and commissions made or earned, and all gross sums received or earned by Lessee and all his assignees, sublessees, licensees, permittees or concessionaires, whether collected or accrued, from any business, use or occupation, or any combination thereof, originating, transacted or performed, in whole or in part, on the premises, including but not limited to, rental, the rendition or supplying of services, and the sale of goods, wares or merchandise; less sales and excise taxes applicable thereto, required to be collected by Lessee, his assignees, sublessees, licensees and permittees in connection with the rendering or supplying of services or goods, wares or merchandise. Gross receipts shall not include fees, charges or rentals paid to a Lessee by a sublessee where the gross receipts of such sublessee are reported and subject to the percentage rental schedule set forth in Section 13."

2. Section 13 (Percentage Rentals) is hereby deleted in its entirety and the following substituted therefor:

"The square foot rental agreed upon in Section 12 is a minimum rental, payable in lawful money of the United States. The money received as square foot rental for any calendar month shall be applied to the payment of the

percentage rental for said calendar month as provided for in this Section 13.

"Within fifteen (15) days after the close of each and every calendar month of the term hereof, Lessee shall pay to County a sum in like money, less the amount of the monthly installment of annual square foot rental previously paid for said calendar month under Section 12, equal to the total of the following for said previous calendar month:

"(a) TWENTY Per Cent (20%) of gross receipts from the rental or other fees charged for the use of boat slips, anchorages, moorings, dockside gear lockers or storage space, and such other facilities and services ancillary thereto as are provided in common to all tenants;

"(b) TEN Per Cent (10%) of gross receipts from the dry storage, launching, or retrieving of small boats, and from rental of landside gear lockers or storage space;

"(c) SEVEN AND ONE-HALF Per Cent ($7\frac{1}{2}\%$) of gross receipts from fees, charges or rental for occupancy of structures including apartment units, hotel or motel accommodations, house trailers and offices or similar space utilized for banking, financial, or investment activities; internal clerical or administrative activities of business enterprises; real estate and insurance brokerage; or the rendering of legal, medical, engineering, or similar professional services; but excepting stores, shops or other commercial establishments the gross receipts pertaining to which are subject to percentage rentals and specifically required or authorized to be reported under any other subparagraphs of this section.

"(d) ONE Per Cent (1%) of gross receipts from the sale of new or used boats, boat trailers, house trailers and trailer cabanas; said gross receipts shall include all credits given for used items taken in trade as part payment for new items, as reflected in the bills of sale, but the trade-in allowance for used item taken in trade may be deducted from the subsequent sale price of said used item if said used item is sold within 120 days of the date of the bill of sale which established said trade-in allowance.

"(e) FIVE Per Cent (5%) of gross receipts from boat brokerage and from marine insurance commissions where the sale of insurance is conducted in conjunction with boat sales and/or boat brokerage.

"(f) TWENTY Per Cent (20%) of any commissions or fees collected from itinerant vendors or from service enterprises based outside the demised premises;

"(g) TWENTY Per Cent (20%) of gross receipts from rentals or other fees charged for use of trailer-cabana sites and such other facilities and services ancillary thereto as are provided in common to all tenants;

"(h) TWENTY-FIVE Per Cent (25%) of any commissions or other compensation paid to Lessee for the right to install coin-operated vending or service machines or devices, including pay telephones, or FIVE Per Cent (5%) of the gross receipts of any such coin-operated machines or devices owned, rented, or leased by Lessee or his sublessee;

"(i) TEN Per Cent (10%) of gross receipts from the operation of a bar, tavern, cocktail lounge or other such facility engaged primarily in the

on-premises sale of alcoholic beverages, except that gross receipts from such facilities as are established and operated in conjunction with a restaurant or similar food service facility on the same premises may be reported under subsection (j);

"(j) THREE Per Cent (3%) of gross receipts from the operation of food service facilities, including bar or cocktail lounge in conjunction with restaurant or similar facility when food service is the primary purpose;

"(k) ONE AND ONE-HALF Cents (\$0.015) per each gallon of gasoline, diesel fuel or mixed fuel sold or SIX Per Cent (6%) of gross receipts of such sales, whichever is the greater;

"(l) FIVE Per Cent (5%) of gross receipts from sales by a fuel sales facility of petroleum or fuel products other than those covered by subsection (k) above;

"(m) FIFTEEN Per Cent (15%) of gross receipts from club dues, initiation fees, and assessments, except that separate assessments for capital improvements are exempted;

"(n) TWENTY Per Cent (20%) of gross receipts from parking fees;

"(o) TEN Per Cent (10%) of gross receipts from the rental of boats, outboard motors, fishing tackle, and other recreation equipment and from the sale of live bait;

"(p) THREE Per Cent (3%) of gross receipts from boat haulout, repair, painting, and similar activities;

"(q) FIVE Per Cent (5%) of gross receipts from fees, charges or rentals from the leasing or charter of boats for a term of six (6) months or more;

"(r) SIX Per Cent (6%) of gross receipts from the operation of sportfishing boats;

"(s) ONE Per Cent (1%) of gross receipts from the sale of miscellaneous goods and services;

"(t) FIVE Per Cent (5%) of gross receipts from any and all other activities approved by Director which are not provided for in the preceding subparagraphs.

"If the total of the percentage rentals agreed to be paid by Lessee, when computed on an annual basis for any calendar year, is less than the sum of all rental payments actually made by Lessee for said calendar year, Lessee shall be allowed credit for any amount by which the payments actually made exceed the greater of (1) the sum of the square foot rentals for the calendar year, or (2) the sum of percentage rentals agreed to be paid, computed on an annual basis for the calendar year.

"If any of the items, services, goods or facilities mentioned in subparagraphs (a) through (t) of this paragraph be provided by Lessee or its sublessees, assignees, licensees, concessionaires or permittees, without the usual charges therefor according to the price list or schedule provided for in Section 16, or if said usual charge be not collected in full, the proper amount thereof shall nevertheless be included in the gross receipts reported by Lessee and its sublessees, assignees, licensees, concessionaires and permittees, and the applicable percentage thereof paid to County."

3. The effective date of this amendment to lease shall be the first day of the month following execution of the amendment by the Chairman of the Board of Supervisors.

4. Any and all other terms and conditions contained in the lease shall remain in full force and effect and are hereby reaffirmed.

IN WITNESS WHEREOF, the COUNTY OF LOS ANGELES, by order of its Board of Supervisors, has caused this amendment to lease to be executed on its behalf by the Chairman of said Board and attested by the Clerk thereof, and the Lessee has executed this amendment to lease, or caused it to be duly executed.

DEAUVILLE MARINA DEVELOPMENT COMPANY,
a limited partnership

By *A C Black*

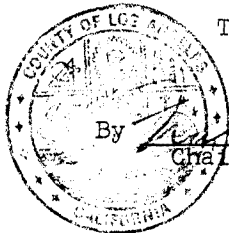
By *[Signature]*

General Partner

ATTEST:

JAMES S. MIZE, Clerk of the
Board of Supervisors

By *Wanda Bernstein*
Deputy



THE COUNTY OF LOS ANGELES

By *Frank T. Bourlli*
Chairman, Board of Supervisors

APPROVED AS TO FORM:

JOHN D. MAHARG
County Counsel

By *[Signature]*
Deputy

APPROVED BY
BOARD OF SUPERVISORS

NOV 11 1966

[Signature]
James S. Mize,
Clerk of the Board