

AMENDMENT NO. 3 TO LEASE NO. 10665
PARCEL NO. 33R - MARINA DEL REY

RENEGOTIATION OF RENT

THIS AMENDMENT TO LEASE made and entered into this 17th day
of FEB., 1987.

BY AND BETWEEN

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

AND

MARINA INVESTMENT COMPANY,
a joint venture hereinafter
referred to as "Lessee",

W I T N E S S E T H

WHEREAS, on May 4, 1966, Lessee and County entered into a lease and agreement under the terms of which County leased to Lessee that certain real property located in the Marina del Rey Small Craft Harbor, County of Los Angeles, State of California, now commonly known as Parcel 33R, which leasehold premises are more particularly and legally described in Exhibit "A" attached to and incorporated in said lease No. 10665, as amended; and

WHEREAS, Section 15 of said lease provides that the square foot and percentage rents shall be renegotiated at the end of the first ten (10) years of the term and at the end of each ten (10) year period thereafter in accordance with the standards of fair market value; and

WHEREAS, said Section 15 further provides that such readjustment shall be accomplished by agreement of the parties, and in the event such agreement cannot be reached, the readjustment

shall be determined by a board of three (3) real estate appraisers in the manner set forth at length in said Section 15; and

WHEREAS, the parties have arrived at an agreement upon the readjustment of the rents without the necessity of arbitration by real estate appraisers;

NOW, THEREFORE, in consideration of the mutual agreements, covenants and conditions contained herein, the parties, and each of them agree as follows:

1. The following paragraph is substituted for the first paragraph of Section 12 (SQUARE FOOT RENTALS).

"The annual square foot rental for the whole of the demised premises shall be 1.019 per square foot of land and water area as to to 108,012 square feet. The total annual rental for the entire leasehold shall be One Hundred Ten Thousand dollars (\$110,000). The above rental shall remain in full force and effect until the next renegotiation period provided for in Section 15 of the lease."

2. Section 13 (PERCENTAGE RENTALS) of said lease is deleted in its entirety and the following substituted therefor:

Gross receipts from each transaction, sale or activity of Lessee and/or sublessee, shall be reported under one or more of the following percentage categories, as applicable. It is understood that Section 3 of this lease provides for all the purposes or uses of the demised premises and that the percentage categories listed hereafter are not all applicable to this lease and are in no way intended to expand the purposes and uses provided for by Section 3. The Director, by policy statement and with the approval of the Lessee, Auditor-Controller and County Counsel, may further interpret the percentage categories as set forth in this Section 13, with such determination and interpretation to be a guideline in determining the appropriate categories.

Within fifteen (15) days after the close of each and every calendar month of the term hereof, Lessee shall file a report of gross receipts and pay to County a sum equal to the total of the following percentages for said previous month, less the amount of monthly installment of minimum rent paid for said previous month as provided for in Section 12:

a. Twenty-five percent (25%) of gross receipts from the rental or other fees charged for the use of boat slips, anchorages, moorings, dockside gear lockers, dockside storage space, and such other facilities and services ancillary thereto as are provided in common to all tenants;

b. Ten percent (10%) of gross receipts from the rental or other fees charged for the use of dry storage facilities, landside gear lockers, landside storage space, boats, motors, tackle, recreational equipment, tools, equipment, launch and retrieving of small boats and from the sale of live bait;

c. Ten and one half percent (10½%) of gross receipts or other fees charged for the occupancy of structures and other facilities including but not limited to

- 1) apartments;
- 2) hotel and/or motel accommodations;
- 3) house trailers;
- 4) meeting rooms;
- 5) rental of land and/or water or facilities for activities not otherwise provided for in this section such as but not limited to television and/or motion pictures;
- 6) parking fees or charges except where such parking fees or charges are collected in conjunction with an activity, the gross receipts from which are required to be reported in a percentage category greater than ten and one half percent (10½); and
- 7) offices utilized for banking, financial or investment activities, internal clerical or administrative activities or business enterprises, real estate and insurance brokerage, legal, medical, engineering, travel agencies, or

similar professional services but not to include, however, stores, shops or other commercial establishments, the gross receipts pertaining to which are subject to percentage rentals and specifically required to be reported under other subsections of this Section;

d. One percent (1%) of gross receipts from the sale of new or used boats, boat trailers, house trailers and trailer cabanas including credits for used item(s) taken in trade as part payment for new item(s), as reflected in the bill of sale. However, the trade-in allowance for such used item(s) taken in trade may be deducted from the sale price of said used item(s), provided said used item is sold within one hundred twenty (120) days of the date of the bill of sale which established said trade-in allowance:

e. Ten percent (10%) of commissions or other fees earned from boat brokerage, car rental agencies, marine insurance commissions where the sale of insurance is conducted in conjunction with boat sales and/or boat brokerage, telephone service charges, laundry and dry cleaning commissions and other similar activities where earnings are normally on a commission basis when said activity is approved in advance by Director;

f. Five percent (5%) of gross receipts received by Lessee or sublessee or twenty percent (20%) of any commissions or

fees collected by Lessee from service enterprises and as further defined in Policy Statement No. 21 issued by Director;

g. Six percent (6%) of gross receipts received by Lessee or sublessee or twenty percent (20%) of any commissions or fees collected from commercial boating activities including, but not limited to, charter boat, bareboat charters and sport-fishing boats as further defined in Policy Statement No. 21 issued by Director;

h. Five percent (5%) of gross receipts received by Lessee or sublessee or twenty-five percent (25%) of any commissions or other fees collected for the installation and/or operation of coin-operated vending or service machines including pay telephones;

i. Ten percent (10%) of gross receipts from the operation of a bar, tavern, cocktail lounge, discotheque, night club or other facilities engaged primarily in the on-premises sale of alcoholic beverages except as provided for in subsection j. below;

j. Three percent (3%) of gross receipts from the operation of restaurants, restaurant/cocktail lounge combination, coffee shops, beach and theater food facilities, excluding gross receipts from the sale of alcoholic beverages which shall be reported at five percent (5%) of gross receipts. Gross receipts

from facilities established, and operated as a take out food operation shall be reported under subsection s. below;

k. One and one-half cents (\$0.015) per gallon of gasoline, diesel fuel or mixed fuel sold or six percent (6%) of gross receipts of such sales, whichever is the greater;

l. Five percent (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 percent (15%) of gross receipts from club dues, initiation fees, and assessments, except that separate assessments for capital improvements are exempted; provided that to qualify for such an exemption Lessee must comply with the "Criteria for Eligibility for Exemption of Special Assessments from Gross Receipts" issued by the Director;

n. Five percent (5%) of gross receipts or other fees charged from the operation of sightseeing boats, tour boats or water taxis;

o. Two percent (2%) of gross receipts from the operation of a cable television facility under a franchise granted by the County of Los Angeles;

p. Three percent (3%) of gross receipts or other fees charged by authorized boat repair yards, including repair, painting, tugboat, salvage and boat pump-out services and similar activities, except that where parts and materials are separately invoiced, they may be reported under subsection s. below;

q. Five percent (5%) of gross receipts of cover charges or other fees charged for admission to facilities featuring entertainment, excluding movie theaters whose gross receipts shall be reportable under subsection s. below;

r. Twenty percent (20%) of gross receipts from parking fees except as provided for in subsection c. above;

s. Five percent (5%) of gross receipts from the sale of miscellaneous goods and services not specifically provided for elsewhere in this Section and as further defined in Policy Statement No. 21 issued by the Director.

If rent payments actually made by a Lessee exceed the total percentage rentals when computed on an annual basis for any calendar year, Lessee shall be allowed credit for the amount by which the rental payments exceed the sum of the percentage rentals when computed on an annual basis for the calendar year, provided, however, that the total rental paid shall be no less than the annual rental provided for in Section 12.

Where a sublessee, licensee, or permittee is conducting a business or engaged in any use or occupation or any combination thereof on Lessee's leasehold except for those uses or occupations delineated under Item 7) of subsection c. above, Lessee shall report whichever of the following results in the greater percentage rental:

- 1) The gross receipts of each sublessee under one or more of the appropriate subsections of this Section; or
- 2) Lessee's receipts from each sublessee under subsection c. above.

Interest, service, or late charges collected in conjunction with a transaction, sale, or activity of Lessee or sublessee shall be reported in the same percentage category as the transaction, sale or activity is reported.

Furthermore, where the Director and the Lessee and/or sublessee find that a percentage of gross receipts is not suitable or applicable for a particular activity, the Director may establish a minimum monthly rental or fee for that activity. Said rental or fee shall be set by the Director and be reasonable in accordance with the revenue generated by the Lessee and/or sublessee.

5. The following paragraphs are substituted for Section 15 (GENERAL RENT RENEGOTIATION AND ARBITRATION).

"Except as provided in Section 14, the square foot and percentage rentals hereinbefore provided for shall apply and be in effect for the first ten (10) years of the term hereof. At the end of said period, and at the end of every ten (10) year period thereafter, the said rentals shall be readjusted as provided hereinafter.

"Such rentals shall be readjusted by Lessee and County, in accordance with standards of and for fair rental value hereinafter set forth, at some time not more than nine (9) months and not less than six (6) months before the beginning of each such period. In the event Lessee and County cannot agree upon the readjustment of rentals, the same shall be determined by a board of three (3) real estate appraisers, one of whom shall be appointed by County, one by Lessee, and the third by the two (2) appraisers so appointed.

"If the rentals have not been readjusted by mutual agreement within the three-month period above prescribed, County shall give to Lessee a written notice demanding submission of any unresolved issues to said board of real estate appraisers and nominating the person to act as real estate appraiser on behalf of County. Within fifteen (15) days from the service of such notice, Lessee shall appoint its real estate

appraiser and notify County of such appointment. If either party shall not have notified the other in writing of the appointment of its real estate appraiser, the Presiding Judge of the Superior Court of the State of California, in and for the County of Los Angeles, shall upon request of either party, appoint the real estate appraiser for the party so in default. If the two (2) real estate appraisers so chosen shall be unable to agree upon the third real estate appraiser within ten (10) days after the appointment of the second real estate appraiser, the third real estate appraiser shall be appointed by the Presiding Judge of said Superior Court upon request of either party. Any vacancy on the board of real estate appraisers shall be filled by the party who or which made the original appointment to the vacant place. If not so filled within ten (10) days from the commencement of said vacancy, the vacant position shall be filled by the said Presiding Judge upon request of either party.

"The board of real estate appraisers shall, immediately upon the appointment of its members, enter upon the discharge of its duties and determine the amount of readjusted rentals and notify the parties thereof in writing within sixty (60) days after its appointment. A majority of the real estate appraisers who agree thereto may readjust such rentals, such readjustment to be based upon a determination of the fair rental value of this lease, taking into consideration the uses permitted thereunder and all of its terms, conditions

and restrictions, franchise value, earning power, and all of the factors and data relating to such value required or proper to be considered in determining the fair rental value for the use of Parcel 33 under the laws of eminent domain in the State of California; also provided that at all times during the term of this lease the total of such rentals shall be in such amount that the property hereby demised shall produce at least its proportionate share of the revenue required by Government Code Section 26360 and the revenue required to meet the obligations of County under that certain Revenue Bond Resolution of the County Board of Supervisors referred to in Section 46; and, notwithstanding the renegotiation and arbitration provisions of this Section 15, the minimum rental under this lease shall never be lower than the product of thirteen and 91/100 (\$0.1391) multiplied by the square feet of the leased land and water area. In the event said real estate appraisers fail to determine and give notice of the amounts of readjusted rentals within sixty (60) days, a new board of real estate appraisers comprised of three new real estate appraisers shall be appointed in the manner hereinbefore prescribed.

"If for any reason said readjusted rentals shall not be finally determined until after the beginning of any period for which the same must be readjusted, Lessee shall continue to pay rentals at the former rate as a credit against the amount of the readjusted rentals when finally determined;

provided, however, that the amount fixed as the readjusted rentals shall accrue from the beginning of said period and proper adjustment shall be made for payments made by Lessee at the former rates during said interim. The costs and expenses of each of the two (2) real estate appraisers appointed by the parties shall be borne by the party so appointing. Costs and expenses of the third real estate appraiser shall be equally divided between the parties.

"Any difference between the amount fixed as the readjusted rental and the actual rental paid that may accrue from the effective date for commencement of the readjusted rental and a post-commencement determination on the readjusted rental, whether by mutual agreement or arbitration, shall be due and payable by Lessee, in the event the readjusted rental exceeds the actual rental paid, or shall be either credited against past and/or future rental owed or paid at the option of County, in the event the actual rental paid exceeds the readjusted rental, within twenty calendar days of the date the readjusted rental is either determined by mutual agreement or arbitration, commencing with the next calendar day following the applicable date of determination. In the case of the readjustment of the rental by mutual agreement the date of determination shall be the effective date of a lease amendment confirming the parties agreement on the readjusted rental to be paid for the period of time for which the readjustment has been made and such amendment is duly

approved and executed by all required parties, including the County Board of Supervisors. In the case of readjustment of the rental by arbitration the date of determination shall be the date the arbitration decision becomes final based upon whether County and/or Lessee seek judicial review of the decision that has been made by petition to a court of competent jurisdiction to vacate or correct the arbitration decision. In the event no such petition is filed, the decision shall become final on the next calendar day following the expiration of the statute of limitations for seeking judicial review of an arbitration decision by petition to vacate or correct the decision as set forth in section 1288 of the Code of Civil Procedure of California or any successor statute amending this provision of the law. However, in the event such a petition is filed, the decision shall become final on the day following the date of final judgment by a court of competent jurisdiction that denies the petition to vacate or in the case of a petition to correct grants and/or denies the correction(s) requested.

"In the event that (a) the parties are unable to negotiate adjusted square foot and percentage rentals in the manner contemplated by the first and second paragraphs of this Section 15 and the matter proceeds to arbitration, (b) such arbitration results in a determination that such rentals should be greater than the highest rentals offered by Lessee during the three-month negotiation period contemplated by the

second paragraph of this Section 15, and (c) the determination of adjusted rentals by arbitration is not made until a date after April 1 of the applicable rent adjustment year (the "Adjustment Year") due to Lessee's failure to perform its arbitration obligations in a timely manner, then on the date the readjusted rentals are due pursuant to the sixth paragraph of this Section 15, Lessee also shall pay County interest on the amount by which the adjusted rentals as determined by arbitration exceed the highest rentals offered by Lessee during the three-month negotiation period at a fixed annual rate equal to the Federal Discount Rate (i.e., the rate established by the Federal Reserve Bank of San Francisco on advances to member banks under Section 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended) on April 1 of the adjustment year plus three percent calculated from April 1 of the Adjustment Year to the actual date the rental is paid. Notwithstanding the foregoing, if County does not initiate the square foot and percentage rental renegotiation process by July 1 of the year preceding the Adjustment Year, or County does not timely perform its arbitration obligations, then the April 1 dates specified in the immediately preceding sentence each shall be postponed by one day for each day after July 1 County delays commencement of the rental renegotiation process or for each day County fails to perform its arbitration obligations, as the case may be.

"In the event that (a) the parties are unable to negotiate adjusted square foot and percentage rentals in the manner contemplated by the first and second paragraphs of this Section 15 and the matter proceeds to arbitration, (b) such arbitration results in a determination that such rentals should be less than the rentals then in effect, (c) Lessee pays the rentals then in effect during the arbitration proceedings, and (d) the determination of adjusted rentals by arbitration is not made until a date after April 1 of the applicable Adjustment Year due to County's failure to perform its arbitration obligations in a timely manner, then on the date Lessee is entitled to a rental credit pursuant to the sixth paragraph of this Section 15, County also shall pay Lessee interest on the amount by which the rentals Lessee paid during the arbitration proceedings exceed the adjusted rentals as determined by arbitration at a fixed annual rate equal to the Federal Discount Rate (i.e., the rate established by the Federal Reserve Bank of San Francisco on advances to member banks under Section 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended) plus three percent calculated from April 1 of the Adjustment Year to the actual date the credit is given. Notwithstanding the foregoing, if Lessee does not timely perform its arbitration obligations then the April dates specified in the immediately preceding sentence each shall be postponed by one day for each day Lessee fails to perform its arbitration obligations.

"It is recognized and agreed by Lessee, as well as by County, that the provisions of this section of the lease relating to the submission of the rental dispute to a board of real estate appraisers constitutes a written agreement to submit the rental dispute to arbitration; the determination is to be made in accordance with the process prescribed in chapter 3, title 9, part 3 of the California Code of Civil Procedure, commencing with section 1282, or any successor statute amending this provision of the law; the members of the board shall be acting as arbitrators and not as appraisers in making this determination; the members of the board shall be entitled to the same protection for resultant liability in making this decision that is afforded to any other person acting as an arbitrator under the doctrine of arbitral immunity as that doctrine is defined by the common law or the statutory enactments of the California Legislature; the neutral arbitrator shall be appointed by the court in accordance with the procedure prescribed by section 1281.6 of the Code of Civil Procedure or any successor statute amending this provision of law, in the absence of a timely mutual agreement on the neutral arbitrator by the two party arbitrators; and the Los Angeles County Trial Panel of Retired Judges and Commissioners shall constitute an independent source of qualified persons from which the court may nominate and appoint a neutral arbitrator under the authorization for the nomination and appointment to be made by the court from lists of persons supplied by a governmental agency or a

private disinterested association concerned with arbitration contained in section 1281.6 of the Code of Civil Procedure or any successor statute amending this provision of the law."

6. The following paragraph is substituted for the second paragraph of Section 26 (INDEMNITY CLAUSE AND CASUALTY INSURANCE).

"Lessee shall maintain in full force and effect during the term of this lease, comprehensive general liability insurance with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage liability. The County and the Board of Supervisors, its officers, agents and employees shall be named as additional insureds under such liability insurance policy or policies."

7. The effective date of this amendment shall be May 4, 1986.

8. All other terms shall remain in full force and effect and are reaffirmed.

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IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this amendment to lease to be subscribed by the Chairman of said Board and attested by the Executive Officer-Clerk thereof, and the Lessee has executed the same the day, month and year first hereinabove written.

MARINA INVESTMENT COMPANY

By _____

By _____

STATE OF CALIFORNIA)
) S.S.
COUNTY OF LOS ANGELES)

On this ____ day of _____, in the year ____ before me, _____, and _____ personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons, who executed the within instrument and acknowledged to me that they executed it.

(SEAL) WITNESS my hand
and official seal

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

NOTARY PUBLIC IN AND FOR SAID
COUNTY AND STATE

ATTEST:

16

FEB 17 1987

LARRY J. MONTEILH
Executive Officer-Clerk
of the
Board of Supervisors

Larry J. Montelh

LARRY J. MONTEILH
EXECUTIVE OFFICER

By *Angie Hope*
Deputy



APPROVED AS TO FORM

DEWITT W. CLINTON
County Counsel

By ORIGINAL SIGNED
Deputy

COUNTY OF LOS ANGELES

Michael D. Antonovich
Chairman, Board of Supervisors

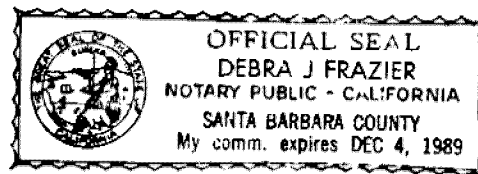
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STATE OF CALIFORNIA)
) S.S.
COUNTY OF SANTA BARBARA)

On this 11th day of January, in the year 1987, before me, the undersigned, a Notary Public in and for said state, personally appeared Louis A. Rezzonico, Jr., General Partner, personally known to me to be the person that executed this instrument, on behalf of Marina Investment Company and acknowledged to me that the partnership executed it.

(SEAL) WITNESS my hand and official seal.

Debra J. Frazier
NOTARY PUBLIC IN AND FOR
SAID STATE



STATE OF CALIFORNIA)
) S.S.
COUNTY OF SANTA BARBARA)

On this the 11th day of January 1987, before me, the undersigned, a Notary Public in and for said state, personally appeared Eva Rezzonico Amsel, personally known to me to be the person who executed the within instrument as the General Partner of the partnership that executed the within instrument on behalf of Marina Investment Company, the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same as such partner and that such partnership executed the same.

(SEAL) WITNESS my hand and official seal.

Debra J. Frazier
NOTARY PUBLIC IN AND FOR
SAID STATE

