AMENDMENT NO. 2 TO AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 102S – MARINA DEL REY
(LEASE NO. 3823)

THIS AMENDMENT TO LEASE ("Amendment No. 2" or "Amendment") is made and entered into this 17th day of March, 2025 (the "Effective Date").

BY AND BETWEEN **COUNTY OF LOS ANGELES, hereinafter referred to as "County",**

AND

EQR-MARINA DEL REY-I LIMITED PARTNERSHIP, a Delaware limited partnership, collectively as an undivided tenant-in-common, together with EQR-MARINA DEL RAY-II LIMITED PARTNERSHIP, a Delaware limited partnership, collectively as an undivided tenant-in-common, both are the successors of
ARCHSTONE-SMITH OPERATING TRUST a Maryland real estate investment trust, hereinafter referred to as "Lessee."

RECITALS:

WHEREAS, on March 1, 2005, County and Lessee entered into Amended and Restated Lease No. 3823 (the "Lease") 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 102S (the "Premises"), which Premises are more particularly and legally described in Exhibit "A" attached to and incorporated in the Lease (the Lease and all amendments thereto are collectively referred to herein as the "Lease"); and

WHEREAS, Section 4.4 of the Lease requires renegotiation of the Annual Minimum Rent and Percentage Rent as of March 1, 2025, and provides that on each tenth (10^{th}) anniversary thereafter, the Annual Minimum Rent and Percentage Rent shall be readjusted to the Fair Market Rental Value in accordance with the standards established in Section 4.4.1 of the Lease; and

WHEREAS, the parties hereto have reached an agreement with respect to the required rental adjustments which are to apply for the ten (10) year period effective as of March 1, 2025, and wish to amend the Lease as set forth herein; and

WHEREAS, the parties hereto have determined that there shall be no adjustment to the Annual Minimum Rent, and only an adjustment to the Percentage Rent rate found in Section 4.2.2 (c) of the Lease; and

WHEREAS, all capitalized terms used but not otherwise defined herein shall have the same meanings given such terms in the Lease.

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby deemed a contractual part hereof, and the mutual agreements, covenants and restrictions contained herein, the County and Lessee agree as follows:

1. **Percentage Rent.** Commencing as of March 1, 2025, Sections 4.2.2(c) is deleted and replaced with the following:

   "(c) ELEVEN PERCENT (11%) of Gross Receipts 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, and (5) other activities not otherwise provided for in this section, such as but not limited to, television and/or motion pictures or other media filming purposes;

2. **Counterparts.** This Amendment may be signed in counterparts. Each counterpart represents an original of this Amendment and all such counterparts shall collectively constitute one fully-executed document.

3. **Miscellaneous.** Except as herein specifically amended, all terms, conditions and provisions of the Lease shall be and remain in full force and effect and are unmodified, and each of the parties hereto reaffirms and re-acknowledges its respective obligations under the Lease as amended hereby. In the event of a conflict between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall control.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 as of the date first written above.

(Signature page follows)

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LESSEE:

EQR-MARINA DEL REY-I LIMITED PARTNERSHIP, a Delaware limited partnership, collectively as an undivided tenant-in-common
By: EQR-Marina Del Rey-I GP LLC, a Delaware limited liability company, its general partner
By: Archstone Master Holdings LLC, a Delaware limited liability company, its member
By: ERP Operating Limited Partnership, its member
By: Equity Residential, a Maryland real estate investment trust, its general partner

By: aPal

Name: Amalia Paliobeis

Title: VP, Head of Investments

EQR-MARINA DEL REY-II LIMITED PARTNERSHIP, a Delaware limited partnership
By: EQR-Marina Del Rey-II GP LLC, a Delaware limited liability company, its general partner
By: Smith Property Holdings Columbia Road L.P., a Delaware limited partnership, its member
By: Archstone Master Holdings LLC, a Delaware limited liability company, its managing general partner
By: ERP Operating Limited Partnership, an Illinois limited partnership, its member
By: Equity Residential, a Maryland real estate investment trust, its general partner

By: aP

Name: Amalia Paliobeis

Title: VP, Head of Investments

COUNTY OF LOS ANGELES:

By:______________________________

Gary Jones, Director
Beaches and Harbors

APPROVED AS TO FORM:

DAWYN HARRISON,
County Counsel

By:______________________________

Deputy County Counsel

AMENDMENT

-Amendment 1

AMENDMENT No. 1

AMENDMENT NO. 1 TO THE AMENDED AND RESTATED LEASE NO. 3823
PARCEL NO. 102S – MARINA DEL REY

THIS LEASE AMENDMENT NO. 1 TO THE AMENDED AND RESTATED LEASE NO. 3823 – MARINA DEL REY ("Amendment" or "Amendment No. 1") is made and entered into this 8th day of June, 2021 (the "Effective Date").

BY AND BETWEEN	**COUNTY OF LOS ANGELES,** **Hereinafter referred to as "County",**
AND	**EQR-MARINA DEL REY-I LIMITED PARTNERSHIP,** **a Delaware limited partnership, collectively as an undivided tenant-in-common, together with** **EQR-MARINA DEL REY II LIMITED PARTNERSHIP,** **a Delaware limited partnership, collectively as an undivided tenant-in-common,** **both are the successors of** **ARCHSTONE-SMITH OPERATING TRUST,** **a Maryland real estate investment trust,** **hereinafter referred to as "Lessee."**

RECITALS:

WHEREAS, on May 4, 1962, County and Lessee's predecessors in interest, entered into the Lease Agreement No. 5576 (now referred to as Lease No. 3823, as amended to date, the "Existing Lease") under the terms of which County leased to Lessee's predecessors in interest that certain real property located in the Marina del Rey Small Craft Harbor, County of Los Angeles, State of California, commonly known as Parcel 102S, which leasehold premises (the "Premises") are more particularly and legally described in Exhibit "A" attached to and incorporated in said Lease; and

WHEREAS, on March 3, 2004, County and Lessee have entered into that certain Option to Amend Lease Agreement (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, an extension of the Lease Term through March 31, 2042; and

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

WHEREAS, on March 1, 2005, County and Lessee have entered into the Amended and Restated Lease Agreement ("Lease"); and

WHEREAS, Section 9.3 of Article 9 of said Lease provides that the amounts of liability insurance required by said article shall be subject to renegotiation as of each fifth anniversary of the Lease Effective Date as of March 1, 2005 (each, an "Insurance Renegotiation Date"); and

WHEREAS, the parties hereto have reached agreement with respect to the required insurance adjustments and wish to amend the Lease as set forth herein, effective as of March 1, 2020 (2020 Insurance Renegotiation Date) for the five-year period; and

WHEREAS, the parties hereto wish to amend the Lease with respect to the insurance adjustments as set forth herein; and

WHEREAS, all capitalized terms used but not otherwise defined herein shall have the same meanings given such terms in the Lease; and

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby deemed a contractual part hereof, and the mutual agreements, covenants and conditions contained herein, the parties agree as follows:

1. **Property Insurance.**

Effective as of March 1, 2020, the first paragraph of Section 9.3 Liability Insurance of the Lease is deleted and replaced with the following:

> "Lessee shall maintain in full force and effect during the Term of this Lease, commercial general liability insurance together with premises operations, products, completed operations, advertising, independent contractor and contractual liability coverages, including liquor liability, with a combined single limit of not less than Twenty-Five Million Dollars ($25,000,000); Lessee agrees 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 such liability insurance policy or policies."

The remainder of Section 9.3 shall be unmodified and shall continue in full effect.

2. **Counterparts.** This Amendment may be signed in counterparts. Each counterpart represents an original of this Amendment and all such counterparts shall collectively constitute one fully-executed document.

3. **Miscellaneous.** Except as herein specifically amended, all terms, conditions and provisions of the Lease shall be and remain in full force and effect and are unmodified, and each of the parties hereto reaffirms and re-acknowledges its respective obligations under the Lease as amended hereby. In the event of a conflict between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall control.

IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this Amendment No. 1 to Lease No. 3823 to be executed by the Chairman of said Board and attested by the Executive Officer thereof, and the Lessee or its duly authorized representative, has executed the same on the date first above written.

LESSEE

EQR-MARINA DEL REY-I LIMITED PARTNERSHIP, a Delaware limited partnership, collectively as an undivided tenant-in-common
By: EQR-Marina Del Rey-I GP LLC, a Delaware limited liability company, its general partner
By: Archstone Master Holdings LLC, a Delaware limited liability company, its member
By: ERP Operating Limited Partnership, its member
By: Equity Residential, a Maryland real estate investment trust, its general partner

By: Carolle Ha

Its: First Vice President

EQR-MARINA DEL REY II LIMITED PARTNERSHIP, a Delaware limited partnership, collectively as an undivided tenant-in-common
By: Marina Del Rey-II GP LLC, a Delaware limited liability company, its general partner
By: Smith Property Holdings Columbia Road L.P., a Delaware limited liability company, its member
By: Archstone Master Holdings GP LLC, a Delaware limited liability company, its general partner

By: ERP Operating Limited Partnership, an Illinois limited partnership, its member
By: Equity Residential, a Maryland real estate investment trust, its general partner

By: Carole Ma

Its: First Vice President

ATTEST:

CELIA ZAVALA,
Executive Officer
of the Board of Supervisors

By: LaChelle Smitherman
Deputy

THE COUNTY OF LOS ANGELES

By: Hilda L. Solis
HILDA L. SOLIS
Chair, Board of Supervisors

APPROVED AS TO FORM:

RODRIGO CASTRO-SILVA,
County Counsel

Parjack Ghaderi
By: for Joseph Abdelkerim
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

42 JUN 08 2021

Celia Zavala
CELIA ZAVALA
EXECUTIVE OFFICER

EXHIBIT A

LEGAL DESCRIPTION

Marina del Rey
Lease Parcel No. 102T

All of Parcels 321, 322, 324, 325, 333 to 338 inclusive, 340, 341, 342 and portions of Parcels 308, 309, 319, 320, 323, 332, 339, 343 to 347 inclusive and 349 to 353 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, Pages 53 to 70 inclusive of Assessor's Maps, in the office of the County Recorder of said County, described as a whole as follows:

Commencing at the intersection of the southeasterly line of Parcel 370, as shown on said map, with a line parallel with and 10 feet northeasterly, measured at right angles, from the southwesterly line of said last mentioned parcel; thence South 36° 00' 30" East along said parallel line 441.80 feet to the beginning of a tangent curve concave to the southwest and having a radius of 520 feet; thence southeasterly along said curve through a central angle of 16° 54' 54", a distance of 153.52 feet to the true point of beginning; thence North 53° 59' 07" East 609.84 feet; thence South 36° 00' 53" East 24.33 feet; thence North 53° 59' 07" East 246.04 feet to a curve concentric with and 47 feet southwesterly, measured radially, from a curve concave to the southwest, having a central angle of 23° 06' 08" and having a radius of 810 feet, said last mentioned curve being tangent at the northwesterly terminus thereof to a line parallel with and 35.5 feet southwesterly, measured at right angles, from the straight line in the southwesterly boundary of Parcel 406, as shown on said map, said northwesterly terminus being distant South 36° 00' 53" East along said last mentioned parallel line 156.78 feet from a line parallel with and 40 feet northwesterly, measured at right angles, from the straight line in the northwesterly boundary of said last mentioned parcel; thence southeasterly along said concentric curve 226.71 feet to a radial of said 810 foot radius curve at the southeasterly terminus thereof; thence South 12° 54' 45" East tangent to said concentric curve 64.36 feet to the beginning of a curve concave to the west, having a radius of 1184.31 feet, tangent to said last mentioned course and tangent to the westerly line of the easterly 3.5 feet of said Parcel 308; thence southerly along said last mentioned curve through a central angle of 11° 29' 49", a distance of 237.64 feet; thence South 1° 24' 56" East along a straight line, which passes through the intersection of a line parallel with and 8.41 feet southerly, measured at right angles, from the straight line in the northerly boundary of Parcel 202, as shown on said map, with said westerly line, a distance of 120.90 feet to a line parallel with and 27 feet northerly, measured at right angles, from said straight line in said northerly boundary; thence West along said last mentioned parallel line 195.63 feet to a point, distant West thereon 200.00 feet from the easterly line of said last mentioned parcel, said last mentioned point being the beginning of a tangent curve concave to the south and having a radius of 100 feet; thence westerly along said last mentioned curve through a central angle of 35° 03' 05", a distance of 61.18 feet; thence South 54° 56' 55" West tangent to said last mentioned curve 440.96 feet to the southwesterly line of said Parcel 323; thence northwesterly along the southwesterly lines of said Parcels 323, 324,

325 and 332 to the southerly continuation of above described 520 foot radius curve; thence northerly along said southerly continuation 137.20 feet to said true point of beginning.

Except therefrom that portion of said land conveyed to the County of Los Angeles by Quitclaim Deed recorded July 21, 1998 as instrument no. 98-1242203.

Together with a right-of-way for ingress and egress, to be used in common with others, over those portions of Parcels 300, 315, 316, 317, 323 and 326, as shown on said map, within the following described boundaries:

Beginning at the intersection of the southwesterly boundary of said Parcel 326 with the westerly prolongation of the straight line in the southerly boundary of said Parcel 300; thence East along said westerly prolongation and said last mentioned straight line, 54.85 feet; thence North 35° 03' 05" West to the southeasterly boundary of above described parcel of land; thence South 54° 56' 55" West along said southeasterly boundary to the northeasterly boundary of said Parcel 326; thence northwesterly, westerly and southeasterly along the northeasterly, northerly and southwesterly boundaries of said last mentioned parcel to the point of beginning.

Also together with a right of way for ingress and egress, to be used in common with others, over those portions of Parcels 332, 353, 354 and 369, as shown on said map, within the following described boundaries:

Beginning at the intersection of the westerly boundary of above described parcel of land with a line parallel with and 30 feet northeasterly, measured at right angles, from the southwesterly line of said Parcel 332; thence North 34° 06'16" West along said last mentioned parallel line to a line parallel with and 30 feet northeasterly, measured at right angles, from that certain course of North 36° 00'30" West 380.10 feet in the southwesterly boundary of said Parcel 369; thence North 36° 00'30" West along said last mentioned parallel line 371.20 feet; thence North 14° 23'56" West 54.29 feet to the northwesterly boundary of said last mentioned parcel; thence South 52° 40' 22" West along said northwesterly boundary to the most westerly corner of said last mentioned parcel; thence southeasterly along the southwesterly lines of said Parcels 369, 354, 353 and 332 to said westerly boundary; thence northerly along said westerly boundary to the point of beginning.

Also reserving and excepting unto the County of Los Angeles a right of way for sanitary sewer purposes in and across above described parcel of land, within the following described boundaries:

Beginning at the southeasterly corner of above described parcel of land; thence northerly along the easterly boundary of said parcel of land to a line parallel with and 13 feet northerly, measured at right angles, from above described course of West 195.63 feet in the southerly boundary of said parcel of land; thence West along said last mentioned parallel line 228.04 feet to a line parallel with and 13 feet northwesterly, measured at right angles, from above described course of South 54°56'55" West 440.96 feet in the

southeasterly boundary of said parcel of land; thence South 54°56'55" West along said last mentioned parallel line 447.61 feet to the northeasterly boundary of that certain easement in said Parcel 323 shown and designated on said map as "30' Access, Fire Access and Harbor Utilities Easement to be reserved by the County of Los Angeles"; thence southeasterly along said northeasterly boundary to said southeasterly boundary; thence northeasterly and easterly along said southeasterly and southerly boundaries to the point of beginning.

Also reserving and excepting unto the County of Los Angeles a right of way for ingress and egress over that portion of above described parcel of land, within the following described boundaries:

Beginning at the southeasterly corner of above described parcel of land; thence northerly along the easterly boundary of said parcel of land to a line parallel with and 20 feet northerly, measured at right angles, from above described course of West 195.63 feet in the southerly boundary of said parcel of land; thence West along said last mentioned parallel line to a line parallel with and 26 feet northwesterly, measured at right angles, from above described course of South 54°56'55" West 440.96 feet in the southeasterly boundary of said parcel of land; thence South 54°56'55" West along said last mentioned parallel line to the northeasterly boundary of above mentioned certain 30 foot easement; thence northwesterly along said last mentioned northeasterly boundary to the westerly boundary of said parcel of land; thence southerly along said last mentioned westerly boundary to the southwesterly boundary of said parcel of land; thence southeasterly along said last mentioned southwesterly boundary to the most southerly corner of said parcel of land; thence northeasterly and easterly along the southeasterly and southerly boundaries of said parcel of land to the point of beginning.

Also reserving and excepting unto the County of Los Angeles rights of way for storm drain, access, fire access and harbor utilities purposes in and across those portions thereof designated on said map as easements to be reserved by said County for such purposes.

EXHIBIT A

LICENSED LAND SURVEYOR
STEVEN L. GEHRKE
Exp. 9/30/05
No. 5664
STATE OF CALIFORNIA

APPROVED AS TO DESCRIPTION
3/4, 20 04
COUNTY OF LOS ANGELES
BY
LAND SURVEYOR
Mapping & Property Management Division

By

Celia Zavala
Executive Officer

STATEMENT OF PROCEEDINGS FOR THE

REGULAR MEETING OF THE BOARD OF SUPERVISORS

OF THE COUNTY OF LOS ANGELES HELD VIRTUALLY IN

ROOM 381B OF THE KENNETH HAHN HALL OF ADMINISTRATION

500 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

Tuesday, June 8, 2021

9:30 AM

42. Parcel 102S (Marina 41) Amendment

Recommendation: Authorize the Chair to sign an amendment to the Marina del Rey Amended and Restated Lease for Parcel 102S (Marina 41) (4), pertaining to the readjustment of the insurance requirements for a five-year period effective March 1, 2020 and ending February 28, 2025, the Restated Lease is between the County and EQR-MARINA DEL REY-I LIMITED PARTNERSHIP, a Delaware limited partnership, and EQR-MARINA DEL REY-II LIMITED PARTNERSHIP, a Delaware limited partnership; and find that amendment of the lease is exempt from the California Environmental Quality Act. **(Department of Beaches and Harbors) 4-VOTES** (21-2277)

On motion of Supervisor Hahn, seconded by Supervisor Kuehl, this item was duly carried by the following vote:

Ayes: 5 - Supervisor Mitchell, Supervisor Kuehl, Supervisor Hahn, Supervisor Barger and Supervisor Solis

Attachments: Board Letter
Public Comment/Correspondence

Agreement No. 3823, Supplement 15

The foregoing is a fair statement of the proceedings of the regular meeting, June 8, 2021, by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

Celia Zavala, Executive Officer
Executive Officer-Clerk
of the Board of Supervisors

(424) 526-7777 • 13837 Fiji Way, Marina del Rey, CA 90292 • beaches.lacounty.gov

Caring for Our Coast

Gary Jones
Director

Kerry Silverstrom
Chief Deputy

Amy M. Caves
Deputy Director

June 08, 2021

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

42 June 8, 2021

CELIA ZAVALA
EXECUTIVE OFFICER

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

Dear Supervisors:

APPROVAL OF AMENDMENT NO. 1 TO THE AMENDED AND RESTATED LEASE NO. 3823
PARCEL 102S – MARINA 41 - MARINA DEL REY
(FOURTH DISTRICT) (4 VOTES)

SUBJECT

This Board Letter requests approval of Amendment No. 1 to Marina del Rey Amended and Restated Lease No. 3823 (Restated Lease) for Parcel 102S (Marina 41) to modify the insurance requirements.

IT IS RECOMMENDED THAT THE BOARD:

1. Find that the proposed Lease Amendment No. 1 is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Class 1(r) of the County's Environmental Document Reporting Procedures and Guidelines and Section 15301 of the State CEQA Guidelines (Existing Facilities).

2. Approve and authorize the Chair of the Board to execute the attached Amendment No. 1 to the above-referenced Restated Lease pertaining to the readjustment of the insurance requirements for a five-year period effective as of March 1, 2020, and ending February 28, 2025. The Restated Lease is between the County and EQR-MARINA DEL REY-I LIMITED PARTNERSHIP, a Delaware limited partnership, and EQR-MARINA DEL REY-II LIMITED PARTNERSHIP, a Delaware limited partnership.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the proposed Amendment No. 1 will incorporate changes to the Restated Lease's Section 9.3 Liability Insurance.

Commonly known as the Marina 41, Parcel 102S consists of 624 apartment units, heated outdoor pool and spa, tennis courts, and a covered parking structure. The leasehold is located at 4157 Via Marina in Marina del Rey, California, 90292. The Restated Lease term will expire on March 31, 2042.

Ground leases of County-owned property in Marina del Rey generally provide for the periodic review of liability insurance coverage to ensure that the amount of general liability insurance is adequate to protect the County's interests.

Section 9.3 of the Restated Lease provides the amounts of liability insurance required by said Section shall be subject to renegotiation each fifth anniversary of the Lease Effective Date of March 1, 2005.

Implementation of Strategic Plan Goals

The recommended action will incorporate new insurance provisions in fulfillment of County Strategy III.3 - Pursue Operational Effectiveness, Fiscal Responsibility and Accountability, and County Strategy III.3.2 by managing and maximizing County assets.

FISCAL IMPACT/FINANCING

Upon your Board's approval of the proposed Amendment No. 1, the Department of Beaches and Harbors does not anticipate any impact on the operating budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Commonly known as the Marina 41, Parcel 102S consists of 624 apartment units, heated outdoor pool and spa, tennis courts, and a covered parking structure. The Restated Lease term will expire on March 31, 2042.

On May 4, 1962, the County and the Lessee's predecessor in interest (Morris Appleman, Norman Beck, and Jerry B. Epstein) entered into the Lease Agreement No. 5576, with an original 60-year term (Lease Term), which was further assigned several times over the years.

On March 3, 2004 your Board approved the assignment of the leasehold interest and option for amended and restated lease (Option Agreement) from Kingswood Village Marina, a California limited partnership (Kingswood), to Archstone-Smith Operating Trust, a Maryland real estate investment trust (Archstone), to facilitate redevelopment at Parcel 102S and extend the Lease Term through March 31, 2042.

The assignment from Kingswood to Archstone was dated March 11, 2004. Archstone exercised the Option Agreement according to its terms and conditions, and on March 1, 2005, the County and Archstone (Assignee to Kingswood) entered into the Amended and Restated Lease Agreement No. 3823 (former Lease No. 5576).

The Amended and Restated Lease was later assigned several times and leasehold ultimately changed to EQR-MARINA DEL REY-I LIMITED PARTNERSHIP, a Delaware limited partnership, and to EQR-MARINA DEL REY-II LIMITED PARTNERSHIP, a Delaware limited partnership.

Amendment No. 1 to Restated Lease No. 3823 has been approved as to form by County Counsel. At its virtual meeting on May 12, 2021¬, the Small Craft Harbor Commission voted unanimously in favor of endorsing the Department of Beaches and Harbors' recommendation that your Board approve and execute Amendment No. 1.

Leases of County-owned property in Marina del Rey are authorized by Government Code Sections 25536 and 25907.

ENVIRONMENTAL DOCUMENTATION

The proposed Amendment No. 1 is categorically exempt under the provisions of CEQA pursuant to Class 1(r) of the County's Environmental Document Reporting Procedures and Guidelines and Section 15301 of the CEQA Guidelines (Existing Facilities), as the proposed actions involve negligible or no expansion of existing or former use and will not have a significant effect on the environment. In addition, it will comply with all applicable regulations, and there are no cumulative impacts, unusual circumstances, damage to scenic highways, listing on hazardous waste site lists compiled pursuant to Government Code section 65962.5, or indications that it may cause a substantial adverse change in the significance of a historical resource that would make the exemption inapplicable.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no impact on current services or projects from your Board's approval of Amendment No. 1

CONCLUSION

Please have the Chair of the Board of Supervisors sign all three originals of Amendment No. 1 and have the Executive Officer of the Board return two executed copies, as well as an adopted-stamped copy of this letter to the Department of Beaches and Harbors, retaining a copy for your records. Should you have any questions, please contact Natasha Robinson at (424) 526-7742 or NRobinson@bh.lacounty.gov.

Respectfully submitted,

GARY JONES
Director

GJ:AC:SP:SVG:nr

Enclosures

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

ASSIGNMENT

-Assignment A

ASSIGNMENT A

Los Angeles County
Caring for Your Coast
Beaches & Harbors

To enrich lives through effective and caring service

February 19, 2004

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

13 MAR 03 2004

Violet Varona-Lukens
VIOLET VARONA-LUKENS
EXECUTIVE OFFICER

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

Dear Supervisors:

CONSENT TO ASSIGNMENT OF LEASEHOLD INTEREST AND OPTION FOR AMENDED AND RESTATED LEASE TO FACILITATE REDEVELOPMENT – PARCEL 102S (KINGSWOOD VILLAGE APARTMENTS) - MARINA DEL REY (4th DISTRICT) (4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed assignment of the leasehold interest in Parcel 102S, Lease No. 3823 (formerly 5576) is categorically exempt under the California Environmental Quality Act pursuant to Class 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.

2. Approve and authorize the Chairman of the Board to sign three copies each of the Consent of County of Los Angeles to Assignment of Lease (Consent), attached as Exhibit A, for Parcel 102S from Kingswood Village-Marina, a California limited partnership (Kingswood), to Archstone-Smith Operating Trust, a Maryland real estate investment trust (Archstone).

3. Find that approval of the proposed Option to Amend Lease Agreement (Option), attached as Exhibit B, is categorically exempt under the California Environmental Quality Act pursuant to Class 1 (r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://beaches.co.la.ca.us
Stan Wisniewski Director • Kerry Gottlieb Chief Deputy

4. Approve and authorize the Chairman of the Board to sign the attached Option granting to the recommended lessee, upon fulfillment of stated conditions, the right to extend the term of its existing ground lease on Parcel 102S by 20 years.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Assignment of Leasehold

Kingswood is the lessee of Parcel 102S by virtue of a previous assignment, approved by your Board on March 11, 1975. Kingswood is now requesting the County's consent to the assignment of its leasehold interest in Parcel 102S, commonly known as the Kingswood Village Apartments, to Archstone.

Marina del Rey leases provide that the County's consent is required on most lease assignments and that such consent may not be unreasonably withheld. Department of Beaches and Harbors policy provides that the County's approval or denial of any assignment will be based on the following criteria: (a) the financial condition of the assignee; (b) the price to be paid for the leasehold as it relates to the existing development thereon; and (c) management of the leasehold by the new lessee being in the best interests of the Marina as a whole.

Our review has found: a) Archstone is a Maryland based Real Estate Investment Trust (REIT) with assets of approximately $9.3 billion that owns, acquires, develops and manages high-quality apartment developments throughout the United States, currently totaling over 80,000 apartment units, and has appropriate financial resources to own and operate the leasehold and perform the anticipated renovations and improvements to the leasehold; b) the sale price appears reasonable for the leasehold and improvements thereon; and c) the assignee has the requisite experience in acquiring, developing and managing apartment developments similar to Kingswood Village Apartments.

Option and Amended and Restated Lease

The proposed Option for Parcel 102S is the result of negotiations with proposed assignee Archstone, with the consent of Kingswood. The attached Option is designed to allow Archstone to exercise its option and receive the benefits of the Amended and Restated

Lease (Restated Lease) attached as Exhibit C, upon demonstration that it has satisfied all of the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the development project. If Archstone does not exercise the Option, the new percentage rents and a number of improved lease terms will nonetheless be incorporated by amendment into the current lease.

The Restated Lease provides for a 20-year lease extension; payment of a $2,210,000 lease extension fee; complete renovation of the existing 624 apartment units over a 3-year period, including all common areas, apartment interiors, exterior building facades, and windows in both the low-rise and tower units; establishment of a capital reserve sinking fund by lessee in an amount equal to 3% of gross annual leasehold revenue for each year during the term of the lease, to be utilized for Director-approved capital expenditures, with all such funds required to be fully utilized for such approved capital expenditures not later than 10 years prior to the expiration of the lease; establishment of new minimum and percentage rents; County participation in leasehold sale and/or refinance; revised arbitration procedures; County right to recapture the leasehold if the lessee pursues its sale; establishment of a sinking fund to remove leasehold improvements at lease termination; liquidated damages of $100 per day (adjusted for inflation) for each cited maintenance deficiency that remains uncured after the specified cure period; and other miscellaneous improvements to the lease (e.g., payment of late fees and interest on overdue County payments and enhanced audit and record-keeping standards). Once the lessee has obtained all necessary project entitlements and has fulfilled the other requirements entitling it to exercise the Option, we will return to your Board for authority to execute the Restated Lease in substantially the same form as attached.

The Department has obtained an appraisal that confirms the return to the County from the lease extension is equivalent to, or greater than, fair market value.

Implementation of Strategic Plan Goals

These recommendations are consistent with the County's Strategic Plan Goal of "Service Excellence," in that appropriate management of the leasehold and protection of County interests are maintained in the transfer of the ownership interests, and the County Goal of "Fiscal Responsibility," in that the recommended Option and Restated Lease will allow the

Department to implement that portion of its Strategic Plan that enhances strategic partnerships with existing and prospective lessees through proactive implementation of the Marina del Rey Asset Management Strategy, toward both revenue maximization and property redevelopment.

The following chart details the proposed deal terms of the Restated Lease providing for the 20-year lease extension as they relate to your Board's existing Lease Extension Policy:

BOARD POLICY ITEM	PROPOSED DEAL TERMS – PARCEL 102S
1) REDEVELOPMENT Redevelopment of existing improvements	• Renovation of existing 624 apartment units, including common areas, interiors of all units, exterior building facades and windows in both low-rise and tower units, as shown in Development Plan attached to the lease, on a phased basis over a 3-year period, exclusive of Force Majeure, which in no event shall exceed 2 years. • Total development cost to be not less than $24.6 million. • A capital reserve sinking fund to be funded annually by lessee in the amount of 3% of gross revenue will be maintained during the term of the extended lease. This fund must be fully expended for permitted capital expenditures by 10 years prior to the expiration date of the extended lease. All permitted capital expenditures are subject to prior approval by the Director, such approval not to be unreasonably withheld.

2) EXTENSION TERM	• Option to extend lease by 20 years from 4/1/22 through 3/31/42 is exercisable by lessee within 1 year of grant of option by Board of Supervisors on condition lessee obtains all required planning, zoning and entitlement approvals, issuance of necessary building permits, payment of an option fee of $100,000, and has provided to County satisfactory evidence of project financing. If required by lender, mortgagee to be permitted an additional 5-year extension in the event of foreclosure. If lessee is unable to obtain all of the necessary entitlement and financing approvals within the one-year period, the Director may grant one 6-month extension if lessee can demonstrate it has diligently pursued required approvals and other conditions of option exercise. If lessee obtains its approvals within the 12-month (or 18-month) period, but such approvals are subject to litigation or appeal brought by a third party, then the option exercise date will be tolled pending the resolution of such litigation or appeal; provided, however, that the option exercise date shall in no event be later than 4 years after the date of the grant of option. • If option is not exercised, the following shall be incorporated into the existing lease by amendment: (a) payment of County administrative costs; (b) revised lease assignment and disclosure rules; (c) a required sinking fund for removal of leasehold improvements at expiration of lease term; (d) modernized arbitration procedures; (e) liquidated damages for maintenance deficiencies; (f) late fees and penalties for late payments; (g) security deposit equal to 3-months' minimum rent; (h) provision of a 5-year cycle for renegotiation of insurance requirements; and, (i) enhanced audit and record-keeping requirements.
3) EXTENSION FEE Fee equal to or commensurate with value of the extension	• An extension fee in the amount of $2,210,000, payable as set forth below. 1. Lessee shall pay a nonrefundable $100,000 option fee concurrent with the execution of the option. Such payment shall be credited against the extension fee if the option is exercised, but shall not be refundable in the event the option is not exercised. 2. The remaining $2,110,000 shall be payable at the time of exercise of the option or in 10 equal annual principal installments of $211,000, plus interest accrued on the unpaid balance of the extension fee at the prime rate. The first payment shall be due on the date of lessee's exercise of the option with the remaining 9 payments due on each of the succeeding 9 anniversaries of that date.

4) MARKET RATE RENTS Ensure fair market rents	• Minimum annual rent to be reset upon exercise of option and every 3 years thereafter to 85% of the previous 3 years' average total rent, except that the first 3-year adjustment will be the greater of a) $1,300,000, b) 85% of the previous year's annual rent, or c) 85% of the previous 3 years' average annual rent. • Percentage rent to be set at 10.5% for apartments (including high-rise units currently at 8.5%). • Percentage rents fixed for a 20-year period from effective date of the Restated Lease and subject to renegotiation to fair market rental as of the 1st day of the 21st year and every 10 years thereafter.
5) PARTICIPATION IN SALE AND REFINANCE Secure County participation in sale and refinance of leasehold	• Sale Participation: Greater of 5% of Gross Proceeds or 20% of Net Profit upon assignment of leasehold. • Refinance Participation: 20% of Net Proceeds not reinvested in leasehold improvements.
6) COUNTY ADMINISTRATIVE COSTS Ensure payment for County costs for lease extension and administration	• Reimbursement of County costs for extension negotiations/lease documentation.
7) COUNTY INCOME CONTINUITY Ensure County revenue flow during redevelopment	• Minimum annual rent, as specified in Item 4 above, continues during renovation, and lessee also required to pay percentage rent in accord with the newly set rates effective upon exercise of option.
8) RIGHT TO RECAPTURE	• County has right to recapture the leasehold if lessee desires to either assign or sell a controlling interest in lessee entity.
9) LEASE ASSIGNMENT-DISCLOSURE ISSUES	• Lessee has agreed to County disclosure requirements relating to identity, operating experience and character/reputation of proposed assignees, as well as to disclosure of financial information in conformity with County policies.
10) APPRAISAL	• County has received an appraisal that confirms return to the County from the lease extension is equivalent to, or greater than, fair market value.

Additional Matters

11) OTHER TERMS	1. 10 years prior to expiration of lease, lessee to structure funding for removal of improvements (at County's election). 2. Rental renegotiation and insurance disputes subject to rent-a-judge procedure pursuant to "baseball" type arbitration. 3. Maintenance standards for improvements to conform to Marina del Rey standards as revised from time to time. 4. Lease administrative items include a) late fee of 6% plus interest at prime plus 3% for any late payments, b) security deposit equal to 3 months' minimum rent, c) insurance levels reset/renegotiated upon execution of the Restated Lease and every 5 years thereafter, d) County maintains approval rights over all construction plans and specifications, e) enhanced audit and record-keeping standards. 5. Liquidated damages of $100 per day (adjusted for inflation) for each cited maintenance deficiency that remains uncured after a specified cure period, to be assessed against the security deposit.

If the lessee does not or is unable to exercise the Option on or before its stated expiration date (including any extensions), it is required to execute an amendment to the current lease, which will add the following requirements to its currently-existing lease: a) the obligation to reimburse the County's actual costs incurred for outside consultants, County Counsel and the Department's lead negotiator in the review, negotiation, preparation and documentation of the Restated Lease; b) a sinking fund for the removal of lease improvements upon lease termination; c) disclosure provisions in the event of lease assignment; d) assessment of a late fee and interest for late payments due the County; e) security deposit equal to three (3) months' minimum rent; f) insurance levels newly set and renegotiated every five (5) years; g) provision for enhanced audit and record-keeping standards; h) liquidated damages of $100 per day, per deficiency for all cited lease deficiency items remaining uncured beyond allowed cure periods; and, (i) modernized arbitration provisions.

FISCAL IMPACT/FINANCING

The Restated Lease reflects the County's current market rate percentage rents for all relevant categories. It will produce two categories of fiscal benefit to the County: 1) an extension fee; and 2) rent increases due to increasing County percentage rent from 8.5% to 10.5% on high-rise units and to increasing gross apartment rent income through the renovation, upgrading and modernization of the apartment complex. Each component is discussed in detail below.

Extension Fee

Lessee will pay an extension fee of $2,210,000 due on exercise of the Option, payable as a non-refundable option fee of $100,000 concurrent with the execution of the Option with the remaining balance of $2,110,000 payable in ten equal annual installments of $211,000 in principal, plus interest accrued on the unpaid balance at the prime rate, adjusted quarterly, with the first payment due on the date of lessee's exercise of the option with the remaining nine (9) payments due on each of the succeeding anniversary dates.

Rent Increase Due to Renovation

The total rent derived from Parcel 102S during calendar year 2002 was approximately $927,952. After renovation, lease-up and stabilization of the renovated apartment units, and effecting the increase in percentage rent on high-rise units from 8.5% to 10.5%, our economic consultant has estimated that the total County rent will rise to approximately $1,734,346 annually, an annual increase of approximately $800,000.

Costs of consultants and primary County staff involved in the negotiation and development of the Option and Restated Lease are being reimbursed by the lessee on an ongoing basis.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On May 4, 1962, the County entered into a 60-year lease for the premises currently known as Parcel 102S, Kingswood Village Apartments. Through a series of assignments approved by your Board, Kingswood succeeded to the status of lessee.

The parcel is currently improved with 624 apartment units located in seven low-rise buildings and one high-rise building on 9.2 acres of land area. In exchange for a lease extension to the date of March 31, 2042 that will be available upon satisfaction of the Option's enumerated conditions and your Board's approval of the Restated Lease, lessee has agreed to remodel all of the existing improvements.

The assignee has specifically committed, as a condition of the Department's consent to the assignment, to assume the lease obligation to maintain the leasehold in accordance with all maintenance, repair and improvement requirements. A rental audit was completed on June 24, 2003 and the proposed assignee is aware of and has agreed to assume the responsibility for any additional rent or outstanding lease payment obligations or other payments that may be identified in future audits from and after the last audit date.

Archstone has made application to the Regional Planning Department for its discretionary land use entitlements under the applicable standards of the Local Coastal Program (LCP), including those related to building height and traffic requirements. 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.

Amendment and extension of the existing lease is authorized by Government Code Sections 25907 and 25536. The extended lease term is in conformance with the maximum 99-year period authorized by California law.

At its meeting of February 10, 2004, the Small Craft Harbor Commission approved, by a vote of 3 - 0 with one abstention, the Director's recommendation that your Board approve the assignment of lease and execute the Option for Amended and Restated Lease in the form attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

Approval of the assignment of leasehold interests and the Option are categorically exempt under the California Environmental Quality Act pursuant to Class 1(r) and 4(j) of the County's Environmental Document Reporting and Procedures Guidelines. Approval of the Option does not authorize construction or re-construction of any improvements on the parcel. The discretionary land use entitlements and the corresponding environmental documentation necessary to implement the proposed redevelopment/replacement contemplated by the Amended and Restated Lease are under review by the Department of Regional Planning.

CONTRACTING PROCESS

The lessee's proposal for a lease extension was submitted to the Department and negotiations were pursued for the proposed Option, as well as Restated Lease, pursuant to the Board-adopted Lease Extension Policy. Upon lessee's demonstration that it has satisfied the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the development project, we will return to your Board for final confirmation that the conditions and approvals for exercise contained in the Option have been satisfied and request authorization for execution of the Restated Lease.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on other current services or projects.

CONCLUSION

Please authorize the Chairman of the Board of Supervisors to sign three copies each of the Consent and Option and authorize the Executive Officer of the Board to acknowledge the Chairman's signature on each document and return two executed copies of each to the Department of Beaches and Harbors.

Respectfully submitted,

Stan Wisniewski

Stan Wisniewski, Director

SW:RM:AK:GB:SI
Attachments (3)

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

Recording Requested by:

COUNTY OF LOS ANGELES

When Recorded Return to:

COUNTY OF LOS ANGELES
Office of County Counsel
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012
Attn: Thomas Faughnan, Esq.

FREE RECORDING
GOVERNMENT CODE SECTION 6103

_______________SPACE ABOVE THIS LINE FOR RECORDING USE______________

MEMORANDUM OF LEASE
PARCEL 102S — MARINA DEL REY

This Memorandum of Lease ("Memorandum") dated as of March 4, 2005, is entered by and between the COUNTY OF LOS ANGELES ("County"), as lessor, and ARCHSTONE-SMITH OPERATING TRUST, a Maryland real estate investment trust ("Lessee"), as lessee.

WITNESSETH

WHEREAS, County and Morris Appleman, Norman Beck and Jerry B. Epstein (collectively, the "Original Lessee"), entered into Lease No. 5576 (now referred to as Lease No. 3823) (as amended to date, the "Existing Lease") regarding the lease from County of that certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 102S and which is more specifically described on Exhibit A attached hereto and incorporated herein by this reference (the "Premises");

WHEREAS, through a series of assignments Lessee has succeeded to the Original Lessee's right, title and interest as lessee under the Existing Lease;

WHEREAS, County and Lessee have entered into that certain Amended and Restated Lease Agreement dated as of even date herewith (the "Restated Lease"), amending and restating the Existing Lease in its entirety.

NOW, THEREFORE, in reliance on the foregoing and in consideration of the mutual covenants, agreements and conditions set forth herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto and each of them do agree that the Existing Lease is hereby amended and restated in its entirety in accordance with the Restated Lease, as follows:

1. **Lease**. For and in consideration of the payment of rentals and the performance of all the covenants and conditions of the Restated Lease, County hereby leases to Lessee, and Lessee hereby leases and hires from County, an exclusive right to possess and use, as lessee, the Premises for the Term (as hereinafter defined) and upon the terms and conditions, and subject to the requirements, set forth in the Restated Lease.

2. **Term**. Unless terminated sooner in accordance with the provisions of the Restated Lease, the term of the Restated Lease (the "Term") shall continue until and expire on 11:59 p.m. on March 31, 2042.

3. **Reservations**. Lessee expressly agrees that the Restated Lease and all rights thereunder shall be subject to all prior encumbrances, reservations, licenses, easements and rights of way in, to, over or affecting the Premises, for any purpose whatsoever, existing of record as of the date hereof, or otherwise disclosed or known to Lessee as of the date hereof, or otherwise referenced in the Restated Lease.

Without limiting the foregoing, Lessee expressly agrees that the Restated Lease and all rights thereunder shall be subject to all prior matters of record and the rights of County or the City of Los Angeles existing as of the Effective Date of the Restated Lease 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 of Los Angeles to convey such easements and transfer such rights to others.

4. **Successors**. Subject to the provisions in the Restated Lease governing assignment, the rights and obligations created in the Restated Lease shall bind and inure to the benefit of the respective heirs, personal representatives, successors, grantees, and assigns of County and Lessee.

5. **Incorporation and Conflicts**. The purpose of this Memorandum is to provide notice of the Restated Lease. All of the terms and conditions of the Restated Lease are incorporated herein by reference as though set forth fully herein. In the event of any conflict between the terms hereof and of the Restated Lease, the Restated Lease shall prevail. This Memorandum is prepared for the purpose of recordation only and it in no way modifies the provisions of the Restated Lease. A true copy of the Restated Lease is on file in the offices of the County at Department of Beaches & Harbors, 13837 Fiji Way, Marina del Rey, California 90292. This Memorandum may be executed in counterparts, each of which shall be an original and all of which together shall constitute one fully-executed document.

SIGNATURES ON FOLLOWING PAGE

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

THE COUNTY OF LOS ANGELES

By: ______________________________
Chair, Board of Supervisors

ARCHSTONE-SMITH OPERATING TRUST,
a Maryland real estate investment trust

By: ______________________________
John W. Luedtke, Senior Vice President

ATTEST:

VIOLET VARONA-LUKENS,
Executive Officer of the
Board of Supervisors

By: ______________________________
Deputy

COUNTY OF LOS ANGELES
CALIFORNIA

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By: ______________________________
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: ______________________________

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

13 MAR 03 2004

VIOLET VARONA-LUKENS
EXECUTIVE OFFICER

EXHIBIT A

LEGAL DESCRIPTION

Marina del Rey
Lease Parcel No. 102T

All of Parcels 321, 322, 324, 325, 333 to 338 inclusive, 340, 341, 342 and portions of Parcels 308, 309, 319, 320, 323, 332, 339, 343 to 347 inclusive and 349 to 353 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, Pages 53 to 70 inclusive of Assessor's Maps, in the office of the County Recorder of said County, described as a whole as follows:

Commencing at the intersection of the southeasterly line of Parcel 370, as shown on said map, with a line parallel with and 10 feet northeasterly, measured at right angles, from the southwesterly line of said last mentioned parcel; thence South 36° 00' 30" East along said parallel line 441.80 feet to the beginning of a tangent curve concave to the southwest and having a radius of 520 feet; thence southeasterly along said curve through a central angle of 16° 54' 54", a distance of 153.52 feet to the true point of beginning; thence North 53° 59' 07" East 609.84 feet; thence South 36° 00' 53" East 24.33 feet; thence North 53° 59' 07" East 246.04 feet to a curve concentric with and 47 feet southwesterly, measured radially, from a curve concave to the southwest, having a central angle of 23° 06' 08" and having a radius of 810 feet, said last mentioned curve being tangent at the northwesterly terminus thereof to a line parallel with and 35.5 feet southwesterly, measured at right angles, from the straight line in the southwesterly boundary of Parcel 406, as shown on said map, said northwesterly terminus being distant South 36° 00' 53" East along said last mentioned parallel line 156.78 feet from a line parallel with and 40 feet northwesterly, measured at right angles, from the straight line in the northwesterly boundary of said last mentioned parcel; thence southeasterly along said concentric curve 226.71 feet to a radial of said 810 foot radius curve at the southeasterly terminus thereof; thence South 12° 54' 45" East tangent to said concentric curve 64.36 feet to the beginning of a curve concave to the west, having a radius of 1184.31 feet, tangent to said last mentioned course and tangent to the westerly line of the easterly 3.5 feet of said Parcel 308; thence southerly along said last mentioned curve through a central angle of 11° 29' 49", a distance of 237.64 feet; thence South 1° 24' 56" East along a straight line, which passes through the intersection of a line parallel with and 8.41 feet southerly, measured at right angles, from the straight line in the northerly boundary of Parcel 202, as shown on said map, with said westerly line, a distance of 120.90 feet to a line parallel with and 27 feet northerly, measured at right angles, from said straight line in said northerly boundary; thence West along said last mentioned parallel line 195.63 feet to a point, distant West thereon 200.00 feet from the easterly line of said last mentioned parcel, said last mentioned point being the beginning of a tangent curve concave to the south and having a radius of 100 feet; thence westerly along said last mentioned curve through a central angle of 35° 03' 05", a distance of 61.18 feet; thence South 54° 56' 55" West tangent to said last mentioned curve 440.96 feet to the southwesterly line of said Parcel 323; thence northwesterly along the southwesterly lines of said Parcels 323, 324,

325 and 332 to the southerly continuation of above described 520 foot radius curve; thence northerly along said southerly continuation 137.20 feet to said true point of beginning.

Except therefrom that portion of said land conveyed to the County of Los Angeles by Quitclaim Deed recorded July 21, 1998 as instrument no. 98-1242203.

Together with a right-of-way for ingress and egress, to be used in common with others, over those portions of Parcels 300, 315, 316, 317, 323 and 326, as shown on said map, within the following described boundaries:

Beginning at the intersection of the southwesterly boundary of said Parcel 326 with the westerly prolongation of the straight line in the southerly boundary of said Parcel 300; thence East along said westerly prolongation and said last mentioned straight line, 54.85 feet; thence North 35° 03' 05" West to the southeasterly boundary of above described parcel of land; thence South 54° 56' 55" West along said southeasterly boundary to the northeasterly boundary of said Parcel 326; thence northwesterly, westerly and southeasterly along the northeasterly, northerly and southwesterly boundaries of said last mentioned parcel to the point of beginning.

Also together with a right of way for ingress and egress, to be used in common with others, over those portions of Parcels 332, 353, 354 and 369, as shown on said map, within the following described boundaries:

Beginning at the intersection of the westerly boundary of above described parcel of land with a line parallel with and 30 feet northeasterly, measured at right angles, from the southwesterly line of said Parcel 332; thence North 34° 06'16" West along said last mentioned parallel line to a line parallel with and 30 feet northeasterly, measured at right angles, from that certain course of North 36° 00'30" West 380.10 feet in the southwesterly boundary of said Parcel 369; thence North 36° 00'30" West along said last mentioned parallel line 371.20 feet; thence North 14° 23'56" West 54.29 feet to the northwesterly boundary of said last mentioned parcel; thence South 52° 40' 22" West along said northwesterly boundary to the most westerly corner of said last mentioned parcel; thence southeasterly along the southwesterly lines of said Parcels 369, 354, 353 and 332 to said westerly boundary; thence northerly along said westerly boundary to the point of beginning.

Also reserving and excepting unto the County of Los Angeles a right of way for sanitary sewer purposes in and across above described parcel of land, within the following described boundaries:

Beginning at the southeasterly corner of above described parcel of land; thence northerly along the easterly boundary of said parcel of land to a line parallel with and 13 feet northerly, measured at right angles, from above described course of West 195.63 feet in the southerly boundary of said parcel of land; thence West along said last mentioned parallel line 228.04 feet to a line parallel with and 13 feet northwesterly, measured at right angles, from above described course of South 54°56'55" West 440.96 feet in the

southeasterly boundary of said parcel of land; thence South 54°56'55" West along said last mentioned parallel line 447.61 feet to the northeasterly boundary of that certain easement in said Parcel 323 shown and designated on said map as "30' Access, Fire Access and Harbor Utilities Easement to be reserved by the County of Los Angeles"; thence southeasterly along said northeasterly boundary to said southeasterly boundary; thence northeasterly and easterly along said southeasterly and southerly boundaries to the point of beginning.

Also reserving and excepting unto the County of Los Angeles a right of way for ingress and egress over that portion of above described parcel of land, within the following described boundaries:

Beginning at the southeasterly corner of above described parcel of land; thence northerly along the easterly boundary of said parcel of land to a line parallel with and 20 feet northerly, measured at right angles, from above described course of West 195.63 feet in the southerly boundary of said parcel of land; thence West along said last mentioned parallel line to a line parallel with and 26 feet northwesterly, measured at right angles, from above described course of South 54°56'55" West 440.96 feet in the southeasterly boundary of said parcel of land; thence South 54°56'55" West along said last mentioned parallel line to the northeasterly boundary of above mentioned certain 30 foot easement; thence northwesterly along said last mentioned northeasterly boundary to the westerly boundary of said parcel of land; thence southerly along said last mentioned westerly boundary to the southwesterly boundary of said parcel of land; thence southeasterly along said last mentioned southwesterly boundary to the most southerly corner of said parcel of land; thence northeasterly and easterly along the southeasterly and southerly boundaries of said parcel of land to the point of beginning.

Also reserving and excepting unto the County of Los Angeles rights of way for storm drain, access, fire access and harbor utilities purposes in and across those portions thereof designated on said map as easements to be reserved by said County for such purposes.

EXHIBIT A

LICENSED LAND SURVEYOR
STEVEN L. GEBRKE
Exp. 9/30/05
No. 5664
STATE OF CALIFORNIA

APPROVED AS TO DESCRIPTION
3/4, 20 04
COUNTY OF LOS ANGELES
BY
LAND SURVEYOR
Mapping & Property Management Division

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange
} ss.

On 2/28/05 before me, K. Schremp
Date — Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared John W. Luedtke,
Name(s) of Signer(s)

☑ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

K. SCHREMP
Commission # 1516378
Notary Public - California
Orange County
My Comm. Expires Oct 27, 2008

WITNESS my hand and official seal.

K Schremp
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: ______

Document Date: ______ Number of Pages: ______

Signer(s) Other Than Named Above: ______

Capacity(ies) Claimed by Signer

Signer's Name: ______

☐ Individual
☐ Corporate Officer — Title(s): ______
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

3823 SUPPLEMENT 14

AMENDED AND RESTATED LEASE AGREEMENT

by and between

County of Los Angeles

and

Archstone-Smith Operating Trust,
a Maryland real estate investment trust

(Parcel 102S — Lease No. 3823)

Dated as of March 4, 2005

TABLE OF CONTENTS

AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 102S — MARINA DEL REY

THIS AMENDED AND RESTATED LEASE AGREEMENT ("Lease") is made and entered into as of the ____ day of March, 2005 ("Effective Date"), by and between the COUNTY OF LOS ANGELES ("County"), as lessor, and ARCHSTONE-SMITH OPERATING TRUST, a Maryland real estate investment trust (together with its permitted successors and assigns, "Lessee"), as lessee.

WITNESSETH

WHEREAS, the parties hereto or their predecessors in interest, on May 4, 1962, entered into Lease No. 5576 (now referred to as Lease No. 3823) (as amended to date, the "Existing Lease") whereby Lessee leases from County that certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 102S and which is more specifically described on Exhibit A attached hereto and incorporated herein by this reference (the "Premises"), the term of which currently extends through March 31, 2022 (the "Existing Expiration Date"); and

WHEREAS, County and Lessee have entered into that certain Option to Amend Lease Agreement dated March 3, 2004 (the "Option Agreement"), pursuant to which County has 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, an extension of the term of the lease through March 31, 2042; 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, the parties hereto and each of them do 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 meanings as follows:

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 cost 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, (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 the County department head) required by the lead lease negotiator/administrator for technical expertise or assistance.

1.1.3 "ADA" shall have the meaning set forth in clause (vi) of subsection 1.2.1.

1.1.4 "ADJUSTMENT DATE" and "ADJUSTMENT DATES" shall have the meaning set forth in subsection 4.2.3.

1.1.5 "ADMINISTRATIVE CHARGE" shall have the meaning set forth in Section 4.6.

1.1.6 "AFFILIATE" shall have the meaning set forth in Section 17.9.

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

1.1.10 "APPLICABLE LAWS" shall have the meaning set forth in subsection 1.2.1.

1.1.11 "APPLICABLE RATE" shall mean an annually compounded rate of interest equal to the lesser of (a) the Prime Rate, as defined in subsection 4.4.5, plus three percent (3%) per annum, or (b) ten percent (10%) per annum; however, the Applicable Rate shall in no event exceed the maximum rate of interest which may be charged pursuant to Applicable Laws. In the event that the Applicable Rate as determined by the first sentence of this definition exceeds such maximum rate of interest, then the Applicable Rate shall be deemed the maximum rate permissible under Applicable Laws notwithstanding the first sentence of this definition.

1.1.12 "APPROVED APARTMENT LEASE" shall have the meaning set forth in subsection 11.1.2.

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

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

1.1.15 "AWARD" shall have the meaning set forth in subsection 6.1.3.

1.1.16 "BASE VALUE" shall have the meaning set forth in subsection 4.8.1.1.

1.1.17 "BENEFICIAL INTEREST" shall have the meaning set forth in subsection 4.6.4.

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

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

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

1.1.21 "CAPITAL IMPROVEMENT FUND" shall have the meaning set forth in Section 5.9.

1.1.22 "CHANGE OF OWNERSHIP" shall have the meaning set forth in subsection 4.6.1.

1.1.23 "CHANGE OF CONTROL" shall have the meaning set forth in subsection 4.6.1.

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

1.1.25 "CONDEMNATION" shall have the meaning set forth in subsection 6.1.1.

1.1.26 "CONDEMNOR" shall have the meaning set forth in subsection 6.1.4.

1.1.27 "CONSUMER PRICE INDEX" shall mean the Consumer Price Index--All Urban Consumers for Los Angeles-Riverside-Orange Counties, 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 agreed upon by County and Lessee.

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

1.1.29 "COUNTY OPTION" shall have the meaning set forth in subsection 11.2.4.

1.1.30 "COUNTY OPTION PRICE" shall have the meaning set forth in subsection 11.2.4.

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

1.1.32 "DATE OF TAKING" shall have the meaning set forth in subsection 6.1.2.

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

1.1.34 "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.

1.1.35 "DISQUALIFICATION JUDGMENT" shall have the meaning set forth in subsection 16.14.1.

1.1.36 "DOCUMENTED TRANSACTION COSTS" shall have the meaning set forth in subsection 4.8.1.2.

1.1.37 "EFFECTIVE DATE" shall mean the date set forth in the first preamble paragraph of this Lease.

1.1.38 "ENCUMBRANCE" shall have the meaning set forth in subsection 12.1.1.

1.1.39 "ENCUMBRANCE HOLDER" shall have the meaning set forth in subsection 12.1.1.

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

1.1.41 "ESTIMATED COSTS" shall have the meaning set forth in subsection 2.3.2.

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

1.1.43 "EXCESS PERCENTAGE RENT PAYMENT" shall have the meaning set forth in subsection 4.2.2.4.

1.1.44 "EXCLUDED TRANSFERS" shall have the meaning set forth in subsection 4.6.2.

1.1.45 "EXISTING EXPIRATION DATE" shall have the meaning set forth in the preamble to this Lease.

1.1.46 "EXISTING LEASE" shall have the meaning set forth in the preamble to this Lease.

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

1.1.48 "FAIR MARKET RENTAL VALUE" shall have the meaning set forth in subsection 4.4.1.

1.1.49 "FINAL ALTERATION PLANS AND SPECIFICATIONS" shall have the meaning set forth in subsection 5.3.3.

1.1.50 "FINANCING EVENT" shall have the meaning set forth in Section 12.1.

1.1.51 "FORCE MAJEURE" shall have the meaning set forth in Section 5.6.

1.1.52 "GROSS ERROR" shall have the meaning set forth in subsection 16.15.4.

1.1.53 "GROSS RECEIPTS" shall have the meaning set forth in subsection 4.2.2.3.

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

1.1.55 "IMPROVEMENT COSTS" shall have the meaning set forth in subsection 4.8.1.1.

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

1.1.57 "INITIATING PARTY" shall have the meaning set forth in subparagraph (a) of Article 16.

1.1.58 "INSTITUTIONAL LENDER" shall have the meaning set forth in subsection 12.1.3.1

1.1.59 "INSURANCE RENEGOTIATION DATE" shall have the meaning set forth in Section 9.3.

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

1.1.61 "LEASE" shall mean this Amended and Restated Lease Agreement.

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

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

1.1.64 "LESSEE SALE PRICE" shall have the meaning set forth in subsection 11.2.4.

1.1.65 "MAJOR SUBLEASE" shall have the meaning set forth in subsection 11.1.1.

1.1.66 "MAJOR SUBLESSEE" shall have the meaning set forth in subsection 11.1.1.

1.1.67 "MONTHLY MINIMUM RENT" shall have the meaning set forth in subsection 4.2.1.

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

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

1.1.70 "NET REFINANCING PROCEEDS" shall have the meaning set forth in subsection 4.8.5.

1.1.71 "NET TRANSFER PROCEEDS" shall have the meanings set forth in subsections 4.8.1 and 4.8.2.

1.1.72 "NOTICE OF COMPLETION" shall have the meaning set forth in subsection 5.5.7.

1.1.73 "OPTION" shall have the meaning set forth in the preamble to this Lease.

1.1.74 "OPTION AGREEMENT" shall have the meaning set forth in the preamble to this Lease.

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

1.1.76 "PAYMENT BOND" shall have the meaning set forth in subsection 5.4.3.2.

1.1.77 "PERCENTAGE RENT" shall have the meaning set forth in subsection 4.2.2.

1.1.78 "PERFORMANCE BOND" shall have the meaning set forth in subsection 5.4.3.1.

1.1.79 "PERMITTED CAPITAL EXPENDITURES" shall have the meaning set forth in Section 5.9.

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

1.1.81 "PREMISES" shall have the meaning set forth in the preamble to this Lease.

1.1.82 "PRIME RATE" shall mean the average prime rate of interest published in the Wall Street Journal.

1.1.83 "PROPOSED TRANSFER" shall have the meaning set forth in subsection 11.2.4.

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

1.1.85 "PURCHASE MONEY NOTE" shall have the meaning set forth in subsection 4.7.2.

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

1.1.87 "RENEGOTIATION DATE" and "RENEGOTIATION DATES" shall have the meaning set forth in Section 4.4.

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

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

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

1.1.91 "RESPONDING PARTY" shall have the meaning set forth in subparagraph (a) of Article 16.

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

1.1.93 "SECTION" shall mean a section of this Lease.

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

1.1.95 "SHALL" and "WILL" are mandatory and the word "MAY" is permissive.

1.1.96 "STATE" shall mean the State of California.

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

1.1.98 "SUBLEASE" shall have the meaning set forth in subsection 11.1.1.

1.1.99 "SUBLESSEE" shall have the meaning set forth in subsection 11.1.1.

1.1.100 "SUBSECTION" shall mean a subsection of a Section of this Lease.

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

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

1.1.103 "UNINSURED LOSS" shall have the meaning set forth in Section 10.2.

1.1.104 "WRITTEN APPRAISAL EVIDENCE" shall have the meaning set forth in subsection 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.

1.2.1 As-Is. Lessee acknowledges that (1) it is currently in possession of the Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Premises since the construction of the original Improvements constructed on the Premises under the Existing Lease, and (3) the Improvements now existing on the Premises were constructed by Lessee or its predecessors with contractors selected by them. Except as provided in subsection 1.2.2, 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 Effective Date 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 WITH ALL FAULTS". 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 and/or any Improvements located thereon, including without limitation: (i) the quality, nature, adequacy and physical condition and aspects of the Premises and/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, HVAC, plumbing, sewage and utility systems, facilities and appliances, and the square footage of the land and within the Improvements and within each space therein, (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/or any 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 and/or any Improvements located thereon for any particular purpose, (v) the zoning or other legal status or entitlement or lack thereof of the Premises or any other public or private restrictions on use of the Premises, (vi) the compliance of the Premises and/or any Improvements located thereon with any applicable codes, laws, rules, regulations, statutes, resolutions, ordinances, covenants, conditions and restrictions of County, City, State, the United States of America, the California Coastal Commission and/or any other governmental or quasi-governmental entity to which the Premises is subject ("Applicable Laws") or of any other person or entity (including, without limitation, relevant provisions of the Americans with Disabilities Act ("ADA"), (vii) the presence of any underground storage tank or hazardous materials on, under about or otherwise affecting the Premises, (viii) the quality of any labor and materials used in any Improvements, (ix) subject to subsection 1.2.2 below, the condition of title to the Premises, and (x) the economics of the operation of the Premises and/or any Improvements located thereon.

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.

2. TERM.

2.1 Term. Unless terminated sooner in accordance with the provisions of this Lease, the term of this Lease (the "Term") shall continue until and expire at 11:59 p.m. on March 31, 2042. Each twelve (12) month period during the Term from April 1 through March 31 of the succeeding calendar year is referred to herein as a "Lease Year."

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 or hereafter constructed by Lessee upon the Premises, and all alterations, additions, or betterments 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. At the election of County, all Improvements and all alterations, additions, and betterments thereto, shall remain upon and be surrendered with the Premises as part thereof and title thereto shall vest in County without compensation therefor 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 receive any and all proceeds which are attributable to the Condemnation of business installations or Improvements belonging to Lessee immediately prior to the taking of possession by the Condemnor as said rights are set forth in Article 6 of this Lease, or to remove any furniture, fixtures, equipment or other items not intended to be 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 associated 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 approved by County, such approval not to be unreasonably withheld or delayed, which report details and estimates the cost of removing all Improvements on the Premises at the expiration of the Term (the "Expert Report"). County may give written notice (the "County Removal Notice") at any time, no later than five (5) years prior to the expiration of the Term, or concurrently upon any earlier termination, of County's election to require Lessee to remove, at the sole cost and expense of Lessee, not later than the expiration of the Term or within ninety (90) days after any earlier termination of this Lease, all or any portion of the Improvements of any kind whatsoever placed or maintained on the Premises, whether above or below grade, or whether placed thereon or maintained by Lessee or others, including, but not limited to, concrete foundations, pilings, structures and buildings; and if such structures are required to be removed by Lessee, then Lessee shall, upon the expiration of this Lease (or within ninety (90) days after any earlier termination of the Lease), immediately restore, and quit, and peacefully surrender possession of, the Premises to County in good, usable and buildable condition, consisting of a level, graded buildable pad with no excavations, hollows, hills or humps. If Lessee is entitled to the ninety (90) day removal period described above because the Lease is terminated prior to its scheduled expiration date, then during such ninety (90) day period Lessee shall have a license to enter and perform the removal work as required under this Section 2.3. Such license shall be subject to and in accordance with the same insurance, indemnification and other obligations and liabilities of Lessee set forth in this Lease, which obligations and liabilities shall survive the termination of this Lease and be applicable to any such period of Lessee's entry on to the Premises under this Section 2.3, except that Lessee shall not be required to pay Minimum Monthly Rent or Percentage Rent during such license period, and Section 15.5 shall not be applicable, as long as Lessee does not conduct business or otherwise use the Premises for purposes other than the demolition and removal of Improvements. If during such license period Lessee conducts business or otherwise uses the Premises for purposes other than the demolition and removal of Improvements, then the Minimum Monthly Rent and Percentage Rent payable during such license period shall calculated in accordance with the provisions of Section 15.5 of this Lease.

If County sends a County Removal Notice to Lessee not later than five (5) years prior to the expiration of the Term, Lessee shall, no later than the date which is thirty (30) days after the date upon which Lessee received such County Removal Notice, provide County with a written plan ("Funding Plan") that sets forth Lessee's proposed method of securing the performance by Lessee of its Improvement removal and restoration obligations pursuant to this subsection. Such Funding 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 security in form and amount, and from an issuer, satisfactory to County, 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 the full funding of the security not later than two (2) years prior to the expiration of the Term. The amount of the deposit of funds or letter of credit, bond or other security shall be no less than the estimated cost to remove the

Improvements as set forth in the Expert Report described above (the "Estimated Costs"), adjusted from time to time to reflect the percentage change in the ENR Index since the date of the Expert Report; provided, however, that in no event shall such adjustments result in a letter of credit, bond or other security or deposit of an amount less than the Estimated Costs. Lessee shall modify its proposed Funding Plan as reasonably required by County to satisfy the foregoing requirements to the reasonable satisfaction of County. Lessee shall thereafter be required to comply with the Funding Plan approved by County pursuant to this section.

If County fails to elect to require Lessee to remove the Improvements on the Premises as provided above, then upon the expiration of the Term, or earlier termination of the Lease, Lessee shall turn over the Premises to County in good and workmanlike condition, consistent with the condition of other buildings, structures and Improvements of comparable age and construction quality.

2.3.3 County's Right to Remove Improvements. If, following an election by County to cause Lessee to remove the Improvements as provided in subsection 2.3.2 above, Lessee fails to so remove said Improvements and restore the Premises, County may sell, remove or demolish the same, in event of which sale, removal or demolition Lessee shall reimburse County for any cost or expense thereof in excess of any funds received by County through the security above provided and any consideration received by County as a result of such sale, removal or demolition. If the Actual Cost incurred by County in connection with the removal or demolition of the Improvements, restoration of the Premises as required hereunder, net of any consideration or other proceeds received by County in connection therewith, is less than the security and other funds provided by Lessee in accordance herewith, then any excess security and funds shall promptly be refunded to Lessee within sixty (60) days following the demolition and removal of the Improvements and the restoration of the Premises. In any event, any amounts of the security that are not used by County for the demolition, removal and restoration work described herein shall be returned to Lessee not later than two (2) years after Lessee's surrender of possession of the Premises after the expiration of the Term or sooner termination of the Lease.

2.3.4 Duty to Remove Equipment, Etc. No later than the expiration of the Term or sooner termination of this Lease, Lessee shall in any event remove at its cost and expense such furniture, equipment and personal property as are not firmly affixed to said Improvements or reasonably necessary for the orderly operation of the Premises. Should Lessee fail to so remove said furniture, equipment and personal property within said period, and said failure continues for ten (10) business days after written notice from County to Lessee, Lessee shall lose all right, title and interest in and thereto, and County may elect to keep the same upon the Premises or to sell, remove, or demolish the same, in event of which sale, removal, or demolition Lessee shall reimburse County for its Actual Costs incurred in connection with such sale, removal or demolition in excess of any consideration received by County as a result of said sale, removal or demolition.

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 outside of the buildings shall vest in County upon construction or installation to the extent that they are not owned by a utility, and shall constitute part of the Premises leased to Lessee hereunder. Notwithstanding the foregoing sentence, such utility lines, transformer vaults and all other utility facilities, 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 shall be used by Lessee for the operation and management of (i) a residential apartment project, and (ii) 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 shall be used for no other purpose 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, nor commit any waste thereon. No rubbish, trash, waste or debris of any kind or character shall ever be placed or permitted to accumulate upon any portion of the Premises, except in appropriate receptacles intended for such purposes. Lessee shall maintain all landscaping in a good and sightly condition, with no accumulation of brush, weeds or undergrowth permitted on the Premises. Lessee shall not use or permit any portion of the Premises to be used in a manner that renders said Premises a fire hazard. Lessee shall not permit on the Premises any unsanitary, unsightly or offensive condition. Lessee shall not perform nor permit its sublessees, licensees or invitees to perform, any activity on any portion of the Premises that would violate the standards applicable to the Premises that are set forth in this subsection 3.2.1, and Lessee shall not perform or permit its sublessees to perform any such activity on any adjacent public street or adjacent public property.

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

3.2.2.1 The Premises shall not be used or developed in any way which is in violation of any Applicable Laws;

3.2.2.2 The Premises 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, including the sale, display or depiction of any graphic, explicit and/or obscene depictions of sexual activity; provided, however, that this subsection 3.2.2.2 shall not be interpreted to regulate in violation of Applicable Law the private activity of an individual confined to such individual's private residence;

3.2.2.3 All Improvements shall at all times be kept in good condition and repair consistent with the requirements of Section 10.1 of this Lease;

3.2.2.4 Lessee shall take such measures as are appropriate to prevent any conditions from existing on the Premises which create a danger to the health or safety of any persons residing or working at, or persons patronizing, the Premises, or any conditions that induce, breed or harbor infectious plant diseases, rodents, or noxious insects;

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 shall be erected, used or maintained by Lessee outdoors above ground on any portion of the Premises, whether attached to an improvement or otherwise; notwithstanding the foregoing, the requirement to obtain Director's approval with regard to outdoor above-ground antennae or other transmission or reception devices shall not be applicable 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 the Premises (or adjacent to the Premises if the purpose thereof is for boring, mining or exploration on the Premises), except as is necessary to allow Lessee to perform its maintenance and repair obligations pursuant to this Lease;

3.2.2.7 No adverse environmental condition in violation of Applicable Laws shall be permitted to exist on any portion of the Premises, nor shall any toxic or hazardous wastes be permitted to be generated, treated, stored, disposed of, or otherwise deposited in or on or allowed to emanate from the Premises or any portion thereof, including, without limitation, into the subsurface waters thereof; provided, however, that toxic or hazardous substances may be stored or used, so long as such storage and use is (a) ancillary to the ordinary course of business of an otherwise Permitted Use with the intent that such substances will be used in the ordinary course of business, and (b) conducted in compliance with all Applicable Laws; and

3.2.2.8 The following uses shall not be permitted: (a) fuel sales; (b) boat or vehicle repair, other than minor servicing or owner maintenance; or (c) live bait sales.

3.3 Active Public Use. The parties acknowledge that the ultimate objective of 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, along with the generation and realization of revenue therefrom. Accordingly, Lessee agrees and covenants that it will operate the Premises fully and continuously in light of these objectives, consistent with the operation of a residential apartment project, and that it will use commercially reasonable efforts so that County may obtain maximum revenue therefrom as contemplated by this Lease. In the event of any dispute or controversy relating hereto, this Lease shall be construed with due regard to the aforementioned objectives.

3.4 Days of Operation. The Premises (other than those portions used for private residential purposes) shall be open during the hours of 9:00 a.m. to 5:00 p.m. on all business days. Any changes in the days and/or hours of operation of the public portions of the Premises shall be subject to the written approval of County.

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 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 Laws, the Design Control Board), whether pursuant to Article 5 of this Lease or otherwise, in writing, prior to the erection or installation of said art, sign, display, identification, monument, awning or advertising sign; provided, however, that subject to the other requirements of this Lease, including without limitation, the Redevelopment Work required to be completed by Lessee pursuant to Section 5.1, Lessee shall be permitted to maintain those items described in this Section 3.5 that are existing on the Premises as of the Effective Date to the extent that such items have been installed in compliance with the terms and provisions of the Existing Lease.

3.6 Compliance with Regulations. Lessee shall comply with all Applicable Laws and shall pay for and maintain any and all licenses and permits related to or affecting the use, operation, maintenance, repair or improvement of the Premises. Without limitation of the foregoing, Lessee shall comply with all public access requirements of the Marina del Rey Local Coastal Program, as amended.

3.7 Rules and Regulations. Lessee agrees to comply with such other reasonable rules and regulations governing the use and occupancy of the Premises as may be promulgated by County from time to time for general applicability on a non-discriminatory basis to other residential apartment 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 expressly agrees that this Lease and all rights hereunder shall be subject to all prior encumbrances, reservations, licenses, easements and rights of way in, to, over or affecting the Premises for any purpose whatsoever existing of record as of the date hereof, or otherwise disclosed or known to Lessee as of the date hereof, or otherwise referenced in this Lease.

Without limiting the foregoing, Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all prior matters of record and the right of County or City existing as of the Effective Date or otherwise disclosed to or known to Lessee, as their interests may appear, to install, construct, maintain, service and operate sanitary sewers, public roads and sidewalks, fire access roads, storm drains, drainage facilities, electric power lines, telephone lines and access and utility easements across, upon or under the Premises, together with the right of County or the City to convey such easements and transfer such rights to others.

4. PAYMENTS TO COUNTY.

4.1 Net Lease. The parties acknowledge that the payments to be made by Lessee under this Lease are intended to be absolutely net to County. The rent and other sums to be paid to County hereunder are not subject to any demand, set-off or other withholding (except as expressly set forth herein to the contrary). 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, 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 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 said Premises.

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 covered hereby or to the Improvements thereon, 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 in accordance with Applicable Laws; 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 (other than Approved Apartment Leases) to the effect that the interests created therein may also be subject to possessory interest taxes, and that the Sublessee shall be responsible for any and all possessory interest taxes on the Sublessee's interest; however, Lessee acknowledges that the payment of such possessory interest taxes is the ultimate responsibility of Lessee.

4.2 Rental Payments. Throughout the Term, for the possession and use of the Premises granted herein, Lessee shall pay County a monthly amount equal to the greater of (a) Monthly Minimum Rent or (b) Percentage Rent (each as defined below).

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 4.2.3 and 4.4 below) during each year of 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").

During the three (3) year period from the Effective Date through the day preceding the third (3^{rd}) anniversary of the Effective Date, the Annual Minimum Rent shall be equal to eighty-five percent (85%) of the average total annual square foot rental and percentage rentals which were payable by Lessee under the Existing Lease during the three (3) year period immediately preceding the Effective Date.

Effective as of the third (3^{rd}) anniversary of the Effective Date, the Annual Minimum Rent payable for the following three (3) year period shall be adjusted to equal the greatest of (i) eighty-five percent (85%) of the average total Annual Minimum Rent and Percentage Rent which were payable by Lessee under this Lease during the three (3) year period immediately following the Effective Date, (ii) eighty-five percent (85%) of the total Annual Minimum

Rent and Percentage Rent which were payable by Lessee under this Lease for the one (1) year period immediately preceding the third (3^{rd}) anniversary of the Effective Date, or (iii) $1,300,000.

Effective on and after the sixth (6^{th}) anniversary of the Effective Date, the Annual Minimum Rent shall be as set forth in Sections 4.2.3 and 4.4 below.

4.2.2 Percentage Rent. For the purposes of this Lease, "Percentage Rent" for any given month or year shall be defined as the sum of the amounts set forth in this Section. Gross Receipts (as defined herein) from each transaction, sale or activity of Lessee and/or any sublessee shall be reported under one or more of the percentage categories set forth below in this subsection 4.2.2, as applicable. It is understood that Article 3 of this Lease provides for the Permitted Uses of the Premises and that the percentage categories listed below are not all applicable to this Lease and are in no way intended to expand or modify the Permitted Uses. Director, by Policy Statement and with the approval of Lessee, Auditor-Controller and County Counsel, has interpreted and may further interpret the scope of the percentage categories as set forth in this subsection 4.2.2, with such determinations and interpretations to be a guideline in determining the appropriate categories. Within fifteen (15) days after the close of each and every calendar month of the term hereof, Lessee shall file a report of Gross Receipts and pay to County a sum equal to the total of the following percentages of Gross Receipts for said previous month, less the amount of Monthly Minimum Rent paid for said previous month as provided herein:

(a) Intentionally omitted;

(b) Intentionally omitted;

(c) TEN AND ONE-HALF PERCENT (10.5%) of Gross Receipts 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, and (5) other activities not otherwise provided for in this section, such as but not limited to, television and/or motion pictures or other media filming purposes;

(c1) TWELVE PERCENT (12%) of Gross Receipts for the occupancy of (1) offices utilized for banking, financial or investment activities, internal clerical or administrative activities, business enterprises, real estate and insurance brokerage, legal, medical, engineering, travel agencies, yacht club purposes, or similar uses; or (2) restaurants, stores, shops, or other commercial establishments; provided that, except as provided in subsection 4.2.2.5, Gross Receipts or other fees charged for the occupancy of restaurants, stores, shops or other commercial establishments shall not be included in the calculation of Percentage Rent under this subsection (c1) if the Gross Receipts from the operation of such businesses are required to be reported under other subsections of this Section;

(d) Intentionally omitted;

(e) TWENTY FIVE PERCENT (25%) of commissions or other fees received from boat brokerage, car rental agencies, marine insurance commissions where the sale of insurance is conducted in conjunction with boat sales and/or boat brokerage, laundry and dry cleaning commissions (exclusive of coin operated services, which shall be covered by paragraph (h) below) and other similar activities where earnings are normally on a commission basis when said activity is approved in advance by Director;

(f) With respect to service enterprises, including, without limitation, cable, internet, satellite, telecommunication or other antennae fees, telephone and other utility services, and valet parking services, FIVE PERCENT (5%) of the Gross Receipts received by Lessee or sublessee from such enterprise if Lessee or a sublessee is the operator of such enterprise, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee or a sublessee from such enterprise if a third (3rd) party provider is the operator of such enterprise;

(g) Intentionally omitted;

(h) With respect to the installation and/or operation of coin-operated vending or service machines, including pay telephones, FIVE PERCENT (5%) of the Gross Receipts received by Lessee or sublessee from such enterprise if Lessee or a sublessee is the operator of such enterprise, or TWENTY-FIVE PERCENT (25%) of any commissions or fees collected by Lessee or a sublessee from such enterprise if a third (3rd) party provider is the operator of such enterprise;

(i) TEN PERCENT (10%) of Gross Receipts from the operation of a bar, tavern, cocktail lounge, discotheque, night club or other facilities engaged primarily in the on-premises sale of alcoholic beverages, except as provided for in subsection (j);

(j) THREE AND ONE-HALF PERCENT (3½%) of Gross Receipts from the operation of restaurants, restaurant/cocktail lounge combination, coffee shops, beach and theater food facilities, except that Gross Receipts from facilities established and operated as a take-out food operation shall be reported under subsection (s); a "take-out food operation" shall mean a restaurant or other food operation a majority of the Gross Receipts from which are derived from the sale of food or beverages to be consumed off-site;

(k) Intentionally omitted;

(l) Intentionally omitted;

(m) FIFTEEN PERCENT (15%) of Gross Receipts from club dues, initiation fees, and assessments, except that separate assessments for capital improvements may be exempted; provided that to qualify for such an exemption Lessee must comply with the "Criteria for Eligibility for Exemption of Special Assessments from Gross Receipts" issued by the Director;

(n) Intentionally omitted;

(o) Intentionally omitted;

(p) Intentionally omitted;

(q) FIVE PERCENT (5%) of Gross Receipts of cover charges or other fees charged for admission to facilities featuring entertainment, excluding movie theaters (which Gross Receipts shall be reportable under subsection (s));

(r) TWENTY FIVE PERCENT (25%) of Gross Receipts from parking fees, except that (1) parking fees or charges, if any, which are collected in conjunction with an activity the Gross Receipts from which are required to be reported in a percentage category higher than twenty five percent (25%) shall be included in Percentage Rent at such higher percentage; and (2) valet parking charges, fees and tips shall not be included in Percentage Rent under this subsection, but instead shall be included in Percentage Rent under subsection (f) above;

(s) FIVE PERCENT (5%) of Gross Receipts from the sale of miscellaneous goods and services consistent with the Permitted Uses but not specifically provided for elsewhere in this Section;

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

(t) The specific percentages set forth above apply to those Permitted Uses of the Premises which are applicable as of the Effective Date. Where a specific percentage in the foregoing schedule has not been provided for a specific additional or related use, then, concurrent with County or Director's approval of such additional or related use, Director shall establish the specific percentage to be applied to such additional or related use. Such percentage shall be the greater of (1) the average percentage rent received by County with respect to that category of activities within Marina del Rey, California at the time of approval of the additional or related use, and (2) the most recent agreement between County and a Marina del Rey lessee, whether by arbitration or otherwise, with respect to the appropriate percentage to be applied to that use. The percentage rent for the related use as determined by Director shall remain in effect until the next Renegotiation Date.

4.2.2.1 Other Activities. If Director or Lessee determine that a percentage of Gross Receipts is not suitable or applicable for a particular activity not described above, although permitted hereunder, Director and Lessee shall mutually establish a minimum monthly payment to County as payment for the privilege of engaging therein, which shall remain effective until the next Renegotiation Date. Said minimum monthly amount shall be reasonable in accordance with the revenue generated by such activity and shall be included in Percentage Rent, as determined hereunder, in lieu of a percentage of Gross Receipts therefor. If Director and Lessee are unable to agree upon such minimum monthly amount, the matter shall be resolved by arbitration as provided in Article 16 hereof.

4.2.2.2 Accounting Records and Procedures. Lessee agrees to and shall comply with, and shall cause all of its sublessees, licensees, permittees and concessionaires to agree to and comply with, the record keeping and accounting procedures, as well as the inspection and audit rights granted to County, set forth in Article 14 of this Lease.

4.2.2.3 Gross Receipts. Except as herein otherwise provided, the term "Gross Receipts" as used in this Lease means all money, cash receipts, or other things of value, including but not limited to gross charges, sales, rentals, common area maintenance payments, operating expense reimbursements, fees and commissions made or earned by, or paid to, Lessee and/or all its assignees, Sublessees, licensees, permittees or concessionaires, whether collected or accrued from any business, use, occupation or any combination thereof, originating, transacted, or performed in whole or in part, on the Premises, including but not limited to rentals, the rendering or supplying of services and the sale of goods, wares or merchandise. Gross Receipts shall not include any security deposit received from a Sublessee until such time as the security deposit is applied against the rental or other obligations of such Sublessee or is otherwise retained by Lessee.

(1) Except as otherwise set forth herein, there shall be no deduction from Gross Receipts for any overhead or cost or expense of operation, such as, without limitation, salaries, wages, costs of goods, interest, debt amortization, rent credit, collection costs, discounts from credit card operations, insurance and taxes.

(2) Gross Receipts shall not include direct taxes imposed upon the consumer and collected therefrom by Lessee such as, without limitation, retail sales taxes, excise taxes, or related direct taxes paid periodically by Lessee to a governmental agency accompanied by a tax return statement.

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

(4) Gross Receipts shall not include any of the following items:

a. goods returned to suppliers or which are delivered for resale (as opposed to delivery) to another retail location or to a warehouse or to any retailers without profit to Lessee, where such returns or deliveries are made solely for the convenient operation of the business of Lessee or sublessee and not for the purpose of consummating a sale made in, about or from the Premises;

b. an amount equal to the cash refunded or credit allowed on merchandise returned by customers and accepted by Lessee, or the amount of cash refunded or credit allowed thereon in lieu of Lessee's acceptance thereof, but only to the extent that the sales relating to such merchandise were made in, about or from the Premises; provided that whenever Lessee accepts a credit slip as payment for goods or services, the amount of credit shall be included in Gross Receipts;

c. sales of fixtures, equipment or property which are not Lessee's stock in trade;

d. receipts from insurance claims other than rental interruption or business interruption insurance;

e. interest earned by Lessee on funds arising from the Premises or the use thereof, deposited or maintained by Lessee in banks or similar financial institutions;

f. the Cost of Lessee's Sublessees' submetered electricity, provided (1) each Sublessee's obligation to reimburse Lessee for such Sublessee's electrical charges is separate and apart from such tenant's obligation to pay rent for its occupancy of the Premises; (2) the reimbursed sum is in an amount equal to the Cost of the Sublessee's electricity; and, (3) the receipt is actually credited against the cost of the Sublessee's electricity; For the purpose of the foregoing sentence, the "Cost" of the Sublessee's electricity shall mean the actual costs incurred by Lessee, exclusive of overhead and general and administrative expenses, in paying the portion of the respective utility's electric bill that is allocable to the Sublessee based on such Sublessee's submetered consumption of electricity, and in paying the portion of any third party submeter reading and service charge to each submeter that is actually read and a direct allocation of the submeter service charge to each such submeter that is serviced. County shall have the right to approve all submeters and to challenge the legitimacy or amount of any Cost, and all disputes regarding such County approvals or challenges, if not resolved by the parties within thirty (30) days after notice to Lessee of such disapproval or challenge, shall be resolved by arbitration pursuant to Article 16 of this Lease.

4.2.2.4 Excess Payments Credit. If rent payments actually made by Lessee in a particular Lease Year exceed the total rentals actually due for that year as computed on an annual basis at the end of each 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 (or has not fully recouped any Excess Percentage Rent Payment from any prior period), County shall refund such amount to Lessee within thirty (30) days of notice from Lessee and verification by County of such overpayment (which verification shall take no more than thirty (30) days from County's receipt of Lessee's notice, subject to any audit rights of County set forth in this Lease).

4.2.2.5 Effect of Sublessee, etc. Doing Business. Except as specifically provided to the contrary in this Lease, 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 (1) of subsection (c1) of subsection 4.2.2, 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) or (c1) of this Section.

4.2.2.6 Interest; Etc. 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.

4.2.2.7 Percentage Rent Does Not Affect Permitted Uses. It is understood and acknowledged by Lessee that Section 3.1 of this Lease sets forth the Permitted Uses of the Premises by Lessee; thus, the Percentage Rent categories listed in subsection 4.2.2 are not all necessarily applicable to this Lease and are in no way intended to expand the Permitted Uses.

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

4.2.3 Adjustments to Annual Minimum Rent. As of the sixth (6th) anniversary of the Effective Date and each 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 subsection 4.2.3. The Annual Minimum Rent shall be adjusted as of each Adjustment Date to the amount which equals eighty five percent (85%) of the average of the total annual rent (i.e., the total Annual Minimum Rent and Percentage Rent), payable by Lessee to County under Section 4.2 of this Lease during the thirty six (36) month period immediately preceding the Adjustment Date.

4.3 Extension Fee Installment Payments. In consideration of the extension of the Term as provided herein, Lessee shall be required to pay to County the Extension Fee Installment Payments described in Section 4.2 of the Option Agreement. The Extension Fee Installment Payments shall be considered as additional rent payable by Lessee under this Lease.

4.4 Renegotiation of Annual Minimum and Percentage Rents. Effective on the twentieth (20^{th}) anniversary of the Effective Date, and 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 taking into account relevant market considerations for setting minimum rent), expressed as respective percentages of Gross Receipts in accordance with the categories enumerated in subsection 4.2.2, which the Premises would bring, on an absolute net basis, taking into account the Permitted Uses, all relevant and applicable County policies and all of the other terms, conditions and covenants contained in the Lease, if the Premises were exposed for lease for a reasonable time on an open and competitive market to a lessee for the purpose of the Permitted Uses, where County and the respective tenant are dealing at arms length and neither is under abnormal pressure to consummate the transaction, together with all restrictions, franchise value, earning power and all other factors and data taken into account in accordance with California law applicable from time to time to eminent domain proceedings.

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. 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 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, 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 with Lessee's (or County's, as the case may be) determination of the Fair Market Rental Value 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 setting forth the Fair Market Rental Value so jointly determined, to be effective upon the Renegotiation Date. Director shall be authorized to execute any such amendment on behalf of County to memorialize the agreed Fair Market Rental Value. 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 pay to County Annual Minimum Rent and Percentage Rent at the level existing for the last year of the ten (10) year period then completed.

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 all of the terms, conditions and covenants of this Lease (including, without limitation, the use of the Premises for the Permitted Use), the 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 of leaseholds under the laws of eminent domain in the State of California. 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 Fair Market Rental Value and the Annual Minimum 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 at its election pay or 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 plus one percent (1%) for the period between the date which is six (6) months after the Renegotiation Date and the date of payment.

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 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 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 unpaid when due and payable; provided that the Late Fee shall be waived with respect to the first occurrence during any Lease Year of a late payment, if such payment is received by County within one (1) business day following written notice from County that the unpaid amount was not paid by the date due. In addition to any Late Fee, any unpaid rent due shall additionally bear interest at an annual rate equal to the Prime Rate plus three percent (3%), computed from the date when such amounts were due and payable, compounded monthly, until paid. Lessee acknowledges that such Late Fee and interest shall be applicable to all identified monetary deficiencies under this Lease, whether identified by audit or otherwise, and that interest on such amounts shall accrue from and after the date when such amounts were due and payable as provided herein (as opposed to the date when such deficiencies are identified by County).

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 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 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 and Financing Events are further subject to County approval as provided in Articles 11 and 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 or in any Major Sublease, (b) Lessee's granting of a Major Sublease or (c) any transaction or series of related transactions not described in clauses (a) or (b) of this subsection 4.6.1 which constitute an Aggregate Transfer of fifty percent (50%) or more of the beneficial interests in, or a Change of Control of, Lessee, this Lease or a Major Sublease. For the purposes of this Lease, "Change of Control" shall refer to a transaction whereby the transferee acquires a beneficial interest in Lessee, this Lease or a Major Sublease which brings its cumulative beneficial interest in Lessee, this Lease or a Major Sublease, as appropriate, to over 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:

4.6.2.1 a transfer by any partner of Lessee, as of the Effective Date, to any other partner of Lessee as of the Effective Date;

4.6.2.2 a transfer to a spouse in connection with a property settlement agreement or decree of dissolution of marriage or legal separation, provided, however, that County shall have the right to approve of any change in management of Lessee following such a transfer, which approval shall not be unreasonably withheld, conditioned or delayed;

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 mean 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 to the trustor 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;

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 real estate investment trust whose stock or other equity interest is traded publicly on a national stock exchange or is traded in the over-the-counter market and whose price is regularly quoted in recognized national quotation services; provided, however, that this exclusion shall not apply to a single transaction or series of related transactions whereby fifty percent (50%) or more of the beneficial interests in such entity are transferred, or which otherwise effects a Change of Control in such entity;

4.6.2.5 a mere change in the form, method or status of ownership (other than a transfer of beneficial interests between or among individuals and/or entities controlled by such individuals); provided that this exclusion shall not apply to a single transaction or series of related transactions whereby an Aggregate Transfer (as defined below) of fifty percent (50%) or more of the beneficial interests in Lessee, this Lease or a Major Sublease has occurred, unless the Aggregate Transfer is purely a change in the corporate or other entity structure, such as the conversion of a partnership, corporation, limited liability company or other entity to another corporate or partnership form or the change of the jurisdiction of incorporation of the entity;

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, this Lease or a Major Sublease, as appropriate) transferred in all transactions (other than those enumerated in subsection 4.6.2) occurring since the latest of (a) the Effective Date, (b) the execution by Lessee of this Lease or a Major Sublease, as appropriate, and (c) the most recent Change of Ownership upon which an Administrative Charge was paid to County.

4.6.4 Beneficial Interest. As used in this Lease, the "beneficial interest," "beneficial interest in this Lease," or "beneficial interest in a Major Sublease" shall refer to the interests of the natural persons who comprise the ultimate owner or owners of Lessee's interest in this Lease or a Major Sublease, or a Major Sublessee's interest in a Major Sublease, whichever is appropriate, regardless of the form of such ownership and regardless of whether such interests are owned through corporations, trusts, partnerships, limited liability companies or layers thereof; provided, however, that if an entity with a direct or indirect ownership interest in the Lease or a Major Sublease is a partnership, corporation or limited liability entity (a) whose beneficial interest in this Lease or a Major Sublease, whichever is appropriate, comprises less than fifteen percent (15%) of its total assets or (b) in which no ten (10) shareholders, partners or members together own more than thirty percent (30%) of the partnership interests, shares, membership interests or other equity interests in the entity, then for the purposes of Sections 4.6 through 4.8 hereof, the entity itself shall be deemed to be the ultimate owner of the beneficial interest in this Lease or a Major Sublease, as appropriate, and the owners of such entity shall not be treated as the ultimate owners of such beneficial interest.

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 appropriate, 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.

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

4.7 Calculation and Payment. A deposit of Fifteen Thousand and 00/100 Dollars ($15,000) toward the Administrative Charge shall be due and payable upon Lessee's notification to County of the proposed Change of Ownership 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 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 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 and any supporting documentation reasonably requested by Lessee within ten (10) 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 this Lease or a Major Sublease, whichever is appropriate, 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. Failure of County to approve the Calculation Notice in writing within such thirty (30) day period shall be deemed to constitute County's disapproval thereof. Failing mutual agreement within thirty (30) days after the expiration of said thirty (30) day 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, which 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, this Lease or a Major Sublease, 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 execution of this Lease (or a Major Sublease) by Lessee, (c) 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 (or a Major Sublease), or (d) the date which is twelve (12) months prior to the transfer which constitutes the Change of Ownership.

4.7.2 Purchase Money Notes/Stock Consideration. 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"), the Net Proceeds Share shall be payable by Lessee in cash at the time of the consummation of the transaction notwithstanding the deferred nature of the consideration. In such case, the face amount of the Purchase Money Note shall be treated as sale proceeds; 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. If the transferor of an interest accepts stock or other non-cash consideration in payment of all or a portion of the acquisition cost, the fair market value of the stock or other non-cash consideration shall be treated as having been received in the form of cash. 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, or with respect to the value of other non-cash consideration, shall be settled by arbitration pursuant to Article 16 of this Lease.

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 joint and several obligation of the transferor and transferee. 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.

4.8 Net Proceeds Share. In the event of a Change of Ownership, the Net Proceeds Share shall be a sum equal to the greater of (a) five percent (5%) of the gross sale or transfer proceeds or 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 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), or (b) twenty percent (20%) of the Net Transfer Proceeds from such transfer. With respect to a Financing Event, the Net Proceeds Share (if any) shall be equal to twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event.

4.8.1 Transaction by Original Lessee. In the case of a transfer by Lessee (but not a successor or assignee of Lessee) constituting a Change of Ownership, "Net Transfer Proceeds" shall mean the total cash and other consideration received, determined in accordance with subsection 4.7.2 hereof (but in the case of a transfer to a party affiliated with or otherwise related to the transferor 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), less the following costs with respect to Lessee (but not its successors or assignees):

4.8.1.1 Eighty Two Million Five Hundred Thousand Dollars ($82,500,000.00) (the "Base Value"), together with the final actual construction costs paid by Lessee in connection with the construction of the Redevelopment Work or other physical Improvements to the Premises in accordance with Article 5 herein, whose costs have been submitted to County within thirty (30) days after the completion of such Improvements and which costs shall have been approved in writing by County ("Improvement Costs").

4.8.1.2 Commissions, title and escrow costs, legal fees and other bona fide closing costs actually paid to third parties and documented to the satisfaction of County, 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"). In the event that the transaction involves multiple assets, Documented Transaction Costs shall be prorated based on the relative values of the assets transferred.

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 total cash and other consideration received by that successor Lessee (but in the case of a transfer to a party affiliated with or otherwise related to the transferor 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), minus the following costs with respect to such successor Lessee:

4.8.2.1 The greatest of (a) the Base Value, (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired or (c) the principal amount of any subsequent refinancing by Lessee in connection with which County was paid a Net Proceeds Share;

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, and not subsequently repaid with Net Refinancing Proceeds, provided that such costs have been submitted to and approved by County to the extent provided in subsection 4.8.1.1 with respect to Lessee; 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, except that any rents or other amounts received by Lessee from the Major Sublessee and 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 not described in subsections 4.8.1 through 4.8.3 (i.e., a transfer of an interest in an entity holding a direct or indirect ownership interest in this Lease or in a Major Sublease), subsections 4.8.1 and 4.8.2 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 (which shall in no event be deemed to be less than the fair market value of the interest based on the Base Value) 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 such Net Proceeds Share, as if it had been realized by Lessee upon a transfer of a comparable interest in this Lease or in a Major Sublease, as appropriate.

4.8.5 Net Refinancing Proceeds. "Net Refinancing Proceeds" shall mean the gross principal amount of any Financing Event after the Effective Date, minus (i) the greatest of (a) the Base Value, (b) the principal amount of Lessee's existing financing as of the Effective Date or (c) the principal amount of any subsequent refinancing by Lessee in connection with which County was paid a Net Proceeds Share, together with any portion of the proceeds of the Financing Event which shall be used for Improvement Costs, (ii) other Improvement Costs incurred by Lessee and not paid for or repaid with the proceeds of any Financing Event, and (iii) Documented Transaction Costs with respect to such Financing Event.

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 which County can demonstrate was primarily structured for the purpose of avoiding the obligation to pay the 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 fees 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 and late fee at the Applicable Rate from the date due until paid. 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. Prior to the Effective Date, prior to each subsequent 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 or members of Lessee 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 in either case such interest (or the aggregate of all interests beneficially owned by the same person, directly or indirectly) 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 that meets the five percent (5%) beneficial interest threshold described above, based on the beneficiaries actuarial interest in distributions from, or the corpus of, said trust, as applicable; 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 commercially reasonable 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 its constituent shareholders, partners, members or other interest holders, this Lease or a Major Sublease.

5. REDEVELOPMENT WORK; ALTERATIONS.

5.1 Redevelopment Work. Promptly following the Effective Date, Lessee shall commence the renovation of all existing apartment units, building facades, exterior windows, interior common areas (including, without limitation hallways and lobbies), exterior common areas (including, without limitation, all hardscape, pool deck areas, walkways, parking areas and other exterior common areas), and landscaping on and about the Premises in accordance with the Renovation Plan attached to this Lease as Exhibit B (the "Renovation Plan"). The renovation work described in the immediately preceding sentence is referred to herein as the "Redevelopment Work." There shall be no changes, modifications or exceptions to the Renovation Plan, except as expressly approved in advance in writing by the Director. The design, layout, construction materials, landscaping, hardscaping and other improvement specifications pertaining to the Redevelopment Work shall be subject to County's approval as set forth in this Section 5, and shall be subject to the receipt by Lessee of all required governmental (including, without limitation, County, Coastal Commission and Design Control Board) planning and entitlement approvals. Lessee shall be solely responsible for all costs and expenses incurred in connection with the design, entitlement and construction of the Redevelopment Work. Lessee shall expend not less than $24,600,000 for the cost of the Redevelopment Work (the "Required Investment"), which expenditures shall be subject to the verification and reasonable approval by County. Lessee shall comply with all time deadlines and schedules described in this Section 5 relating to the completion of the design and construction of the Redevelopment Work. Lessee's failure to do so shall, if not cured following written notice from County and the expiration of the applicable cure set forth in subsection 13.1.2, constitute an Event of Default. Lessee shall perform the construction of the Redevelopment Work on a phased basis in accordance with the construction schedule set forth as a part of the Renovation Plan. All of the Redevelopment Work shall be substantially completed in accordance with the Final Redevelopment Work Plans and Specifications on or before that date (the "Required Renovation Completion Date") which is three (3) years following the Effective Date. Lessee acknowledges that the principal inducement to County to enter into this Amended and Restated Lease Agreement and to extend the Term as provided herein is the timely completion of the Redevelopment Work. In the event that Lessee fails to substantially complete the Redevelopment Work on or before the Required Renovation Completion Date, as the Required Renovation Completion Date may be extended pursuant to Section 5.6 of this Lease, then in addition to any other right or remedy which County may have in connection therewith, this Lease shall be automatically amended such that the terms and provisions of this Lease revert back to the terms and provisions of the Existing Lease (including, without limitation, the Existing Expiration Date), as modified by the "Non-Exercise Amendment" described in the Option Agreement (the "Reversion Amendment").

5.2 Application of Article 5 to Redevelopment Work. The remaining sections of this Article 5 pertain to the construction of the Redevelopment Work and to any other Alterations (as defined below) which Lessee may desire to make to the Premises during the Term. 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 shall be considered to be an Alteration. Accordingly, except as expressly provided in this Article 5, all of the terms and provisions of Article 5 of this Lease which are applicable to Alterations shall be applicable to the Redevelopment Work.

5.3 Plans and Specifics for Alterations. Lessee shall make no Alterations without the prior written approval of the Director. 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 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 the 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 schematic plans shall, among other things, clearly delineate the architectural theme or motif of the Alterations and shall identify and illustrate the boundaries of the Premises and all rights-of-way or other areas reserved to County or third parties which are located thereon. Director shall have sixty (60) days within which to approve or disapprove such submission. Any disapproval by Director shall include the disclosure by Director of the Director's objections to the submission. 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 or final plans) 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 having jurisdiction thereover, Lessee shall promptly advise Director in writing of such changes and Director shall not disapprove the changes required by the California Coastal Commission or other governmental agency, as appropriate, unless such changes materially prejudice County's ability to enjoy the rights and benefits granted to County pursuant to this Lease.

5.3.2 Preliminary Plans and Specifications. As soon as practicable, but in no event later than sixty (60) days 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. Director shall have twenty-one (21) days within which to approve or reasonably disapprove such submission, and Director may disapprove said preliminary plans on the grounds that they do not reflect a natural evolution from the approved schematic plans or that they materially differ from the approved schematic plans and narrative. Any disapproval shall be accompanied by a statement from Director disclosing the specific objections to the submission. 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, 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, 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."

5.3.3 Final Plans and Specifications. As soon as practicable, but in no event later than sixty (60) days after approval of the preliminary plans, outline specifications and construction cost estimate (or when and to the extent appropriate, no later than sixty (60) days after final approval is obtained from the California Coastal Commission as to items that require California Coastal Commission approval), Lessee shall submit for approval by Director six (6) complete sets of final plans, detailed specifications and a construction cost statement 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 within which to approve or disapprove such submission, and Director may disapprove such submission on the grounds that they do not reflect a natural evolution from or that they materially differ from the approved preliminary plans, outline specifications and construction cost estimates. Failure of Director to disapprove said 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 construction specifications and construction cost statement contain substantial changes from the preliminary plans, outline specifications and construction cost estimates, 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 construction specifications and construction cost statement, Lessee must deliver to Director a transmittal letter containing the following text prominently displayed in bold faced type:

> "PURSUANT TO SUBSECTION 5.3.3 OF THE AMENDED AND RESTATED LEASE AGREEMENT, IF THESE MATERIALS CONTAIN NO SUBSTANTIAL CHANGES FROM THE MATERIALS PREVIOUSLY SUBMITTED TO YOU, 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."

Director's approval shall not be unreasonably withheld; provided, however, that it shall be deemed reasonable to disapprove any submission not in substantial conformity with the approved preliminary plans and specifications. Any disapproval shall be accompanied by a statement from Director disclosing the specific objections to the submission. No material modification shall be made to the Alterations described in the approved final plans, specifications and costs (the "Final Alteration Plans and Specifications") without the prior written approval of Director, which shall not be unreasonably withheld.

5.4 Conditions Precedent to the Commencement of Construction. No Alterations shall be commenced until each and all of the following conditions have been satisfied:

5.4.1 Permits and Other Approvals. Lessee shall have received and furnished the Department with copies of all permits, licenses and other governmental approvals necessary for commencement of the Alterations.

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

5.4.3 Performance and Payment Bonds. Lessee shall, at its own cost and expense, have furnished County with the following separate corporate surety bonds not less than ten business (10) days prior to the commencement of construction, which bonds 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 work. 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, 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, 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 required by subsection 5.4.3, Lessee may provide any of the following alternative security: (i) a certificate of deposit, cash or United States governmental security, (ii) a letter of credit, or (iii) a Set Aside Letter from Lessee's construction lender. The foregoing security shall be in an amount equal to one hundred percent (100%) of the construction contract price, and shall permit County to draw thereon to complete the construction of the Improvements if the same have not been completed by Lessee after written notice from County and the expiration of the cure period set forth in subsection 13.1.2, or if an Event of Default has otherwise occurred under this Lease. 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 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 satisfactory to County of its having sufficient financial resources, as determined by Director, to complete the Alterations. Lessee shall furnish Director with copies of all final notes, guarantees, partnership, shareholder or limited liability company agreements, construction loan and/or permanent loan commitments, documents evidencing equity contributions, 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, within seven (7) days after such document or instrument becomes effective.

5.5 Manner of Construction.

5.5.1 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. Dust, noise and other effects of such work shall be controlled using accepted measures customarily utilized in order to control deleterious effects associated with construction projects in well populated and developed areas of southern California.

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

5.5.3 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.

5.5.4 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 local, state and federal laws and regulations. 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.

5.5.5 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. Lessee shall add the work necessary to repair such damage to the construction schedule for the Redevelopment Work (or other Alteration work, as applicable), and shall complete such repair work in accordance with such schedule; provided, however, that if such damage to County-owned improvements creates a threat to public health and safety, or materially adversely affects the condition, appearance or operation of any County-owned improvements or other property, then Lessee shall promptly commence the completion of such repair work and complete such repair work as soon as reasonably possible thereafter. In the event that Lessee fails to effectuate such repair in accordance with the foregoing requirements, then upon written notice to Lessee, County may enter upon the Premises to make such repairs, the Actual Cost of which shall be paid by Lessee within five (5) business days after demand by County.

5.5.6 Rights of Access. Representatives of the Department of Beaches and Harbors of the County shall, upon reasonable notice and at reasonable times, 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. Lessee shall have the right to have a representative present to accompany the representatives of the Department of Beaches and Harbors of the County 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.

5.5.7 Notice of Completion. 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.

5.6 Construction Schedule. Once construction of the Redevelopment Work has been substantially commenced, Lessee shall thereafter diligently pursue the completion of such construction by the Required Renovation Completion Date. During this period, delays due to fire, earthquake, flood, tornado, tsunami, civil disturbance, war, organized labor dispute or other unforeseeable event reasonably beyond the control of Lessee, or a hidden condition relating to the foundation, substructure or subsurface of the Premises that was not known to Lessee as of the commencement of such construction activity ("Force Majeure"), shall extend the time in which said construction must be completed by the length of time of such delay, although Lessee shall commence and complete the portions, if any, of the Improvements not impacted by such delay within the time frame set forth in this Lease. No such event or condition of Force Majeure shall be considered to have commenced until Lessee shall first provide County with written notice of the Force Majeure event or condition. Lessee and Director shall discuss and attempt in good faith to agree on the length of time of such delay. If Lessee and Director are unable to agree on the length of time of the delay within thirty (30) days after Lessee's written notice of Force Majeure, then the matter shall be arbitrated as set forth in Article 16.

5.7 Use of Plans. Contracts between Lessee and any architect, design professional or licensed contractor in connection with the construction, alteration or modification of Improvements on the Premises shall provide, in form and content reasonably satisfactory to County, for the assignment thereof to County 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 may, at its election, use any plans and specifications created by such architect, design professional or contractor in connection with the contract, 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.

5.8 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 (other than the Redevelopment Work) where all of the following conditions are satisfied: (i) the total cost of the project is less than Fifty Thousand Dollars ($50,000), 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 Fifty Thousand Dollars ($50,000); (ii) none of the proposed construction activity is structural in nature; and (iii) none of the proposed construction, additions, modifications or changes 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.

5.9 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.

5.9.1 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.

5.9.2 Prompt Payment. Lessee shall make, or cause to be made, prompt payment 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.

5.9.3 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 five (5) business days after demand, furnish the bond described in California Civil Code Section 3143, or successor statute, which results in the removal of such lien from the Premises, 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.

5.10 Capital Improvement Fund. Commencing on and after the Effective Date 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 5.9 for the cost of Permitted Capital Expenditures (as defined below) for the Premises. 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 herein, the Capital Improvement Fund shall not be used to fund any portion of the cost of the Redevelopment Work. In addition, Permitted Capital Expenditures shall not include the cost of periodic, recurring or ordinary expenditures, repairs or replacements that keep the buildings or their major systems in an ordinarily efficient 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. 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. All specific purposes and costs for which Lessee desires to utilize amounts from the Capital Improvement Fund shall be subject to Director's approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Capital Improvement Fund shall be held in an account established with a reputable financial institution (including Lessee's Mortgagee, which is hereby approved for this purpose) reasonably acceptable to Director into which deposits shall be made by Lessee pursuant to this Section 5.10. Lessee shall have the right to partly or fully satisfy the Capital Improvement Fund obligations of this Section 5.10 with capital improvement reserves required by Lessee's Mortgagee, as long as such capital improvement reserves are in all material respects administered in accordance, and otherwise comply, with the terms, provisions and requirements of this Section 5.10.

On the fifteenth (15th) day of each month during the remaining Term, Lessee shall make a monthly deposit to the Capital Improvement Fund in an amount equal to three percent (3%) of total Gross Receipts for the previous month; provided, however, that to the extent that Lessee at any time has paid for Permitted Capital Expenditures reasonably approved by Director in excess of the amounts available in the Capital Improvement Fund to fund such expenditures, such excess amounts shall be deemed to be advance deposits into the Capital Improvement Fund that are applicable as a credit against the future monthly Capital Improvement Fund deposits required under this Section 5.10. All interest and earnings on 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 5.10.

Disbursements shall be made from the Capital Improvement Fund only for costs which have been approved by Director and which satisfy the requirements of this Section 5.10. 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 which 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 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. Thereafter, 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 2.4.2 of this Lease, then Lessee shall have the right to contribute the deposits thereafter required to be made by Lessee under this Section 5.9 towards Lessee's obligations to fund the security requirements in subsection 2.4.2, 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 sole and absolute 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 date the Condemnor has the right to possession of the Premises being condemned.

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 taking 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 (to the extent that funds therefor are available from the anticipated Award), Lessee's business on the Premises could not be operated at an economically feasible level. Lessee must exercise its right to terminate by giving County written notice of its election within ninety (90) days after the nature and extent of the taking and the probable amount of compensation have been determined. 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 taking 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 condition and character immediately prior to such taking, taking into account, however, any necessary reduction in size or other change resulting from the taking; provided, however, that in case of a taking for temporary use, Lessee shall not be required to effect restoration until such taking 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 4.2.3 above, if any, for the purposes of adjusting the Annual Minimum Rent, all Annual Minimum Rent and Percentage Rent paid by Lessee to County prior to the date of the Partial 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 taking bears to the fair market value of the entire Premises immediately prior to the 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. The provisions of this Lease constitute an express agreement between County and Lessee with respect to any condemnation or taking of all or any portion of the Premises, and 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 taking, 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 Taking other than a total Taking 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 progress payments, to pay the cost of restoration of the Premises. 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 6.5 shall be predicated upon the Income Approach.

In case of a taking other than a total taking or a taking for temporary use, 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 Taking and Partial Taking with Termination. Net Awards and Payments received on account of a total taking 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 Minimum Rent, Percentage 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.

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). 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 five (5) 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 five (5) 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 13.1.3, 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.

Lessee shall maintain at all times during the Term of this Lease policies of liability, worker's compensation and property insurance from companies authorized to transact business in the State of

California by the Insurance Commissioner thereof.

9.1 Property Insurance. The policy of property insurance shall provide fire insurance with extended coverage, insuring against loss or damage by fire, lightning and the additional perils included in the standard extended coverage endorsement, as well as those included in the "all risk" policy, and burglary and theft insurance, on the structures, Improvements, inventory, trade fixtures, furnishings and equipment used or to be used by Lessee on the Premises. Such insurance shall be in an amount sufficiently adequate to enable the resumption of the leasehold operations by Lessee following the occurrence of any of the risks covered by said insurance. The policy shall provide standard fire and extended coverage insurance, and shall cover vandalism, malicious mischief, and those risks ordinarily defined in "All-Risk coverage." The policy shall also contain "business interruption", "rental interruption" and/or continuous operation coverage payable to County equal to one (1) year's Annual Minimum Rent. During periods of substantial construction on the Premises, Lessee or Lessee's contractor will provide completed value builder's risk insurance reasonably satisfactory to County, together with (i) broad form liability and breach of warranty coverages by endorsement; and (ii) non owned, non hired automotive liability coverage with a policy limit of Two Million and 00/100 Dollars ($2,000,000). Such insurance shall be in an amount equal to one hundred percent (100%) of the full replacement value of said buildings, structures, equipment, and Improvements, with a deductible not greater than five percent (5%) of such replacement value) (as such replacement value is determined by such insurance company and approved by County's risk manager), and shall be placed and maintained with such insurance company or companies and in such form as shall be reasonably satisfactory to County.

9.2 Form of Policy. All such insurance policies required under Section 9.1, along with their endorsements, shall name the Major Sublessee, if any, County and its respective Board of Supervisors and members thereof, and County's officers, agents, employees and volunteers, as additional insureds and any Encumbrance Holder as loss payee. Upon the occurrence of any loss, the proceeds of such 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. In the event of such loss Lessee shall be obligated 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. Any surplus or proceeds after said rebuilding or replacement shall be distributed to Lessee.

Subject to the immediately following grammatical paragraph, a duplicate policy or policies evidencing such insurance coverage, in such form as shall be reasonably acceptable to County, shall be filed with Director no later than five (5) business days after the Effective Date, and such policy or policies 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 such policy may be issued in the form of a blanket policy insuring other properties, in form, amount and content reasonably satisfactory to County, taking into account any additional protection that County reasonably deems prudent to provide for losses related to such other properties.

9.3 Liability Insurance. Lessee shall maintain in full force and effect during the Term of this Lease, commercial general liability insurance together with premises operations, products, completed operations, advertising, independent contractor and contractual liability coverages, including liquor liability, with a combined single limit of not less than Fifteen Million Dollars ($15,000,000); Lessee agrees 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 such liability insurance policy or policies.

Subject to Lessee's option to provide a certificate of insurance as set forth below, a duplicate policy or policies evidencing such insurance coverage shall be obtained by Lessee and filed with Director no later than five (5) business days after the Effective Date, and said policy shall provide that such insurance coverage shall 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 thirty (30) days prior to the expiration of any such policy, a policy showing that such insurance coverage has been renewed or extended shall be filed with Director.

The amounts of liability insurance required by this Section shall be subject to good faith renegotiation as of each fifth (5th) anniversary of the Effective Date (each, an "Insurance Renegotiation Date"). 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.

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 such policy may be issued in the form of a blanket policy insuring other properties, in form, amount and content reasonably satisfactory to County, taking into account any additional protection that County reasonably deems prudent to provide for losses related to such other properties.

9.4 Worker's Compensation Insurance. Lessee shall maintain in force during the Term of this Lease, in an amount and with coverage in compliance with applicable California law or, if no such law exists, then reasonably satisfactory to Director, Worker's Compensation Insurance.

9.5 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 the full amount of any losses to the extent 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;

(b) 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;

(c) 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;

(d) that the policies shall provide coverage on a "primary basis" with respect to the additional insureds, regardless of any other insurance or self-insurance that such additional insureds may elect to purchase or maintain;

(e) that losses, if any, shall be adjusted with and payable to Lessee, County and Encumbrance Holders, if any, pursuant to a standard mortgagee clause;

(f) 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;

(g) that the 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,

(h) that such 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.

9.6 Failure to Procure Insurance. Failure of Lessee to procure or renew the herein required insurance shall, if not cured within five (5) days after written notice from County, constitute a default hereunder. In the event of such failure, 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 and all monies so paid by County shall be repaid by Lessee, with interest thereon at the Applicable Rate, to County upon demand.

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, in conformance with such reasonable rules and regulations regarding the use and occupancy of residential apartment buildings in Marina del Rey (such as the Premises) as may be promulgated by County from time to time for general applicability on a non-discriminatory basis, as revised from time to time and delivered to Lessee. 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. Lessee shall undertake such repairs, alterations or replacements in compliance with Applicable Laws and the terms and provisions of this Article 10. Lessee's standard of maintenance and repair shall be in compliance with the Minimum Standards regarding the use and occupancy of residential apartments buildings 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 residential apartment buildings in Marina del Rey (the "Maintenance Standard"). Lessee shall maintain all Improvements on the Premises in a safe, clean, 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 or paved areas of the Premises as is reasonably necessary to maintain the appearance of the Premises in a manner consistent with the Maintenance Standard. 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 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. Lessee's obligation to maintain and restore is absolute, and is not in any way dependent upon the existence or availability of insurance proceeds, except as otherwise provided in this Article 10. Restoration shall take place in accordance with the provisions of Article 5.

10.2 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 Section 10.1 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 deficiency notice (which cure period shall comply with the requirements of the immediately preceding sentence of this Section 10.2), 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; provided, however, if the nature of the deficiency is such that it is not reasonably capable of cure within the cure period specified in County's notice (for example, as a result of permitting requirements, construction material procurement delays or other delays or circumstances 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, and the daily penalty set forth above shall not be applicable during such cure period. For purposes of determining the number of items of deficiency set forth in a deficiency notice received from the County, County shall reasonably identify the separate deficiencies so as not to unfairly increase the daily amount payable under this Section 10.2 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 a cited deficiency is not health or safety related and does not otherwise constitute an emergency, and 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 have the right, in the exercise of Director's discretion, to consider such contest. If Lessee's contest is made on a reasonable and good faith basis, then 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 either Director denies Lessee's contest or that Director has determined not to consider such contest, and the daily penalty set forth above in this Section 10.2 shall not be applicable during the period that the cure period is tolled. The One Hundred Dollars ($100) per diem amount set forth in this Section 10.2 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 10.2 within ten (10) days after written notice from County, then County shall have the right to draw on the Security Deposit to cover such unpaid amounts.

10.3 Option to Terminate for Uninsured Casualty. 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 Premises 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:

10.3.1 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 10.3.1. 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.

10.3.2 No more than sixty (60) days following the giving of the notice required by subsection 10.3.1 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.

10.3.3 No more than sixty (60) days following the loss, 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.

10.3.4 Within ten (10) days following the County's receipt of the notice referred to in subsection 10.3.1, County has not received both written notice from the Encumbrance Holder, if any, objecting to such termination and 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.

10.4 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.

10.5 No County Obligation to Make Repairs. County shall have no obligation whatsoever to make any repairs or perform any maintenance on the Premises.

10.6 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.

10.7 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.

10.8 Notice of Damage. Lessee shall give prompt notice to County of any fire or damage affecting the Premises from any cause whatsoever.

10.9 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 similar 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 a right to use the Premises or a portion thereof, which is conveyed or granted by Lessee to a third party, and which constitutes less than the unrestricted conveyance of the entire Lessee's interest under this Lease. "Sublessee" shall be the person or entity to whom such right to use is conveyed by a Sublease. A Sublease which grants or conveys to the Sublessee the right to possess or use all or substantially all of the Premises is sometimes referred to in this Lease as a "Major Sublease" and the Sublessee under such agreement is sometimes referred to in this Lease as a "Major Sublessee".

11.1.2 Approval Required. At least thirty (30) days prior to the proposed effective date of any Sublease that is not a Major Sublease or an Approved Apartment Lease (as defined below), or of any amendment or assignment of such Sublease (other than a Major Sublease or Approved Apartment Lease), Lessee shall submit a copy of such Sublease, amendment or assignment to Director for approval, which approval shall be given or withheld at Director's reasonable discretion. 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.

Notwithstanding any contrary provision of this Article 11, Lessee shall not be required to obtain Director's approval of any Sublease (or amendment, modification or extension) of an individual apartment unit in the ordinary course (but not the master lease of multiple units) to a person or persons who will physically occupy the subleased unit, as long as such Sublease is in the form of the standard residential apartment lease hereafter submitted to and approved by Director and the term of such Sublease does not exceed one (1) year before reverting to a month-to-month tenancy (each, an "Approved Apartment Lease"). The terms and provisions of Sections 11.2 and 11.3 of this Lease shall not be applicable to Approved Apartment Leases. Upon written request by County, Lessee shall furnish County with a current rent roll respecting the Approved Apartment Leases and a copy of all of such Approved Apartment Leases.

11.1.3 <u>Major Sublease</u>. Lessee shall enter into a Major Sublease only with a reputable owner or manager of comparable residential apartment 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 sixty (60) 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 <u>Approval of Assignments and Major Subleases</u>. Except as specifically hereinbefore 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"), either directly or indirectly give, assign, 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. Any encumbrance of Lessee's interest in the Lease shall be subject to the provisions of Article 12 below. Any Change of Ownership (other than an Excluded Transfer) shall constitute an assignment of Lessee's interest under this Lease. In addition, for purposes of this provision, the following 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; (2) the sale, assignment, or transfer of fifty-percent (50%) or more of the stock in a corporation which owns or is a general partner or managing member of a partnership or limited liability entity owning 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 assignment as provided herein. These same limitations and approval requirements shall apply with respect to the Sublessee's interest under a Major Sublease. Any disapproval by County with respect to a proposed assignment of the Lease or with respect to a proposed Major Sublease shall include a statement from County disclosing the specific objections to the proposed transaction.

11.2.1 County's Use of Discretion and Limitation on Permissible Assignees. In exercising its discretion to approve assignments as provided in this Section 11.2, County shall take into account the Assignment Standards and, if County determines that such Assignment Standards are satisfied, County shall not unreasonably withhold or delay its consent to any proposed assignment.

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 Sections 11.1 or 11.2, Lessee (or the entity seeking approval of such assignment) shall notify County and deliver to County all information 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 formally discuss an assignment with any proposed assignee prior to reviewing the proposal with Lessee.

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. However, in the event that County approves the proposed assignment, Lessee shall receive a credit toward those costs to the extent that an Administrative Charge is paid in connection with the assignment.

11.2.3.5 Lessee or the proposed assignee shall provide County with sufficient information for County to determine if the public interest will be served by approving the proposed transaction. The information that must be provided includes, but shall not be limited to, the following:

(a) Nature of the Assignee. Full disclosure is required in accordance with this Lease and County's applicant disclosure policy then in effect. Additionally, a flowchart identifying the chain of ownership of the assignee and its decision-making authority shall be provided to County. County shall be advised if the proposed assignee, or any other person or entity for whom disclosure is required pursuant to County's disclosure policy, has had any leasehold or concessionaire's interest canceled or terminated by the landlord due to the tenant or lessee's breach or default thereunder;

(b) Financial Condition of Assignee. County shall be provided with current, certified financial statements, including balance sheets and profit and loss statements, demonstrating the proposed assignee's financial condition for the preceding five (5) years, or such shorter period that assignee has been in existence. This requirement shall also apply to any related person or entity which will be responsible for or guarantee the obligations of the proposed assignee or provide any funds or credit to such proposed assignee.

(c) Financial Analysis. County shall be provided with the proposed assignee's financing plan for the operation of the Premises 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, if applicable, 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. Subject to the requirements of the Public Records Act, County shall endeavor to keep such business plan and other confidential or proprietary information regarding Lessee or its business confidential.

(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 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 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 approved or supplied by the 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. Other than in connection with an Excluded Transfer, if Lessee proposes to assign its interest in this Lease or the Premises, proposes to enter into any Major Sublease affecting the Premises (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. Within sixty (60) days after receipt of Lessee's notice of a Proposed Transfer, 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 sixty (60) day period, Lessee may continue to market the interest subject to the Proposed Transfer, provided that such interest is offered subject to County's rights as provided herein. In the event that, prior to the expiration of said sixty (60) 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 ("County Option Period"). 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. 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 sixty (60) day period or (b) gives notice that it has elected not to acquire the interest subject to the Proposed Transfer, then during the ensuing nine (9) month period after the date (the "Trigger Date") which is the earlier of such notice or the expiration of such sixty (60) day period, Lessee shall be entitled to enter into an agreement with a third party for the Proposed Transfer (subject to County's approval rights as otherwise set forth in this Lease) so long as (1) the Proposed Transfer price is equal to or greater than the Lessee Sale Price last offered to County and upon no more favorable material other terms than those offered to County, and (2) the closing of the Proposed Transfer is actually consummated within twelve (12) months after the Trigger Date (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 Sublease or other permitted assignment of less than all of the Premises, County's election shall pertain to such portion of the Premises which is the subject of the proposed 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 Financing Events or to any Excluded Transfer.

11.2.5 <u>County Credits Toward Purchase Price</u>. 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 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 lieu of the credit described in (2) above, 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.

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. Lessee may, with the prior written consent of Director, which consent shall not be unreasonably withheld, and subject to any specific reasonable conditions which may be imposed by Director, consummate one or more Financing Event(s) (as defined below). Lessee shall submit to Director a complete set of all proposed transaction documents in connection with each proposed Financing Event. Director shall have sixty (60) days in which to grant or withhold approval of the Financing Event. If not approved in writing within such sixty (60) day period, the proposed Financing Event shall be deemed disapproved by Director. Lessee shall further reimburse County for County's Actual Cost incurred in connection with its review of the proposed Financing Event. For the purposes of this Lease, including without limitation the provisions of Sections 4.6 through 4.8 hereof, a "Financing Event" shall mean any financing or refinancing consummated by Lessee, whether with private or institutional investors or lenders, where such financing or refinancing is secured by an Encumbrance (as defined below).

12.1.1 Encumbrances. As used in this Lease, an "Encumbrance" shall be any direct or indirect grant, assignment, transfer, mortgage, hypothecation, grant of control over, or encumbrance of all or any portion of 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, and a pledge of partnership interests or other beneficial ownership interests in Lessee by the principals of Lessee, to a lender (upon County approval of the Encumbrance and consummation of the lending transaction, the "Encumbrance Holder") on the security of Lessee's interest in the Lease and the Premises, the shares or interests of beneficial ownership in Lessee, or otherwise secured by Lessee's rights in and to the Premises. 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 provided to Director not later than seven (7) days after the effective date thereof. These same limitations and approval requirements shall apply with respect to the financing and the Encumbrance Holder of any Major Sublessee's interest pursuant to a Major Sublease.

12.1.2 Consent Not Required to Transfer Resulting from Foreclosure. The consent of County shall not be required in the case of (nor shall County's recapture rights provided in subsection 11.2.4 be applicable to, and no Net Proceeds Share shall be due or payable on account of):

12.1.2.1 A transfer of this Lease or a Major Sublease at a foreclosure sale or at a judicial foreclosure or voluntary conveyance to the Encumbrance Holder or an affiliate in lieu thereof; or

12.1.2.2 A single subsequent transfer of the Lease or a Major Sublease by an Encumbrance Holder, or its affiliate, who was a purchaser at such foreclosure sale or transfer in lieu thereof, provided the transferee expressly agrees in writing to assume and to perform all of the obligations under this Lease and, if applicable, a Major Sublease.

12.1.3 Effect of Foreclosure. In the event of a transfer under subsection 12.1.2, the Encumbrance Holder shall forthwith give notice to County in writing of any such transfer setting forth the name and address of the transferee and the effective date of such transfer, together with a copy of the document by which such transfer was made.

12.1.3.1 Any transferee under the provisions of subsection 12.1.2.1 which is a commercial bank, savings and loan institution, insurance company, pension fund, investment bank, opportunity fund, mortgage conduit, real estate investment trust or other similar financial institution which ordinarily engages in the business of making loans secured by real estate collateral, or an affiliate thereof or a syndicate of such entities ("Institutional Lender"), shall be liable to perform the full obligations of Lessee under this Lease until a subsequent transfer of the Lease approved by County. Following the transfer, County shall recognize such transferee as the lessee under the Lease and shall not disturb its use and enjoyment of the Premises, provided that such transferee cures any pre-existing default or event of default which may be cured by the payment of money and thereafter performs the full obligations of Lessee under this Lease, other than those, if any, which are personal to a prior lessee. No transferee under this subsection 12.1.3.1 shall be liable for any of Lessee's obligations under this Lease until such transferee has acquired Lessee's interest in this Lease.

12.1.3.2 A transferee under subsection 12.1.2.1 which is not an Institutional Lender and any subsequent transferee under the provisions of subsection 12.1.2.2 shall be liable to perform the full obligations of Lessee under this Lease and as a condition to the completion of such transfer must cure, remedy, or correct any Event of Default existing at the time of such transfer or arising thereafter due to an event or occurrence before date of transfer.

12.1.3.3 Neither an Administrative Charge nor any Net Proceeds Share shall be payable in respect of or charged in connection with any transfer pursuant to subsection 12.1.2.

12.2 Right to Notice and Cure Defaults. All Encumbrance Holders and Major Sublessees shall have the right, at any time during the Term and the term of its Encumbrance or Major Sublease, as applicable, and as further provided in Section 12.4, 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.

12.3 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 Section 12.1, 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.

12.4 Delay in Exercising Termination Remedy. County shall not exercise any remedy available to it upon the occurrence of an Event of Default (other than pursuant to Section 13.5), unless it first shall have given written notice of such default to each and every Major Sublessee and Encumbrance Holder, where the Event of Default is one where notice is required to be given to Lessee pursuant to the terms of this Lease and the Encumbrance Holder and/or Major Sublessee have 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, and as to the Encumbrance Holder and/or Major Sublessee shall not be deemed to have been given to Lessee until County has complied with the first sentence of this Section 12.4. 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 below. If such Event or Events of Default are so cured, this Lease shall remain in full force and effect. Similarly, County shall not agree to a consensual termination, surrender or cancellation of this Lease, unless it first shall have given written notice of such termination, surrender or cancellation to the Encumbrance Holder(s) and/or Major Sublessee(s) who have notified Director in writing of their interest in the Premises or this Lease and the addresses to which such notice should be delivered, and procured the consent of such Encumbrance Holder and/or Major Sublessee.

12.4.1 Manner of Curing Default. Events of Default may be cured by an Encumbrance Holder or Major Sublessee in the following manner:

(1) 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 receipt of the aforesaid notice of default to the Encumbrance Holder or the Major Sublessee. 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.

(2) 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:

(a) If an Encumbrance Holder or Major Sublessee cures, remedies and corrects the default within thirty (30) days after the end of Lessee's cure period as provided in Section 13.1 hereof; provided, however, if curing of such default requires activity over a longer period of time, such default may be cured if within said thirty (30) day period, such Encumbrance Holder or Major Sublessee commences 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 thirty (30) day 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.

(b) With respect to an Encumbrance Holder, but not a Major Sublessee, if before the expiration of said thirty (30) day period, said Encumbrance Holder notifies County of its intent to commence foreclosure of its interest, and within sixty (60) days after the receipt of said notice, said Encumbrance Holder (i) actually commences foreclosure proceedings and prosecutes the same thereafter with due diligence, said sixty (60) day period shall be extended by the time necessary to complete such foreclosure proceedings, or (ii) if said Encumbrance Holder is prevented from commencing foreclosure proceedings by 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 order, judgment or decree, said sixty (60) day period shall be extended by the time necessary to obtain such release or reversal and thereafter to complete such foreclosure proceedings. Within thirty five (35) days after such foreclosure sale and the vesting of title in the purchaser thereat (whether or not such purchaser is the Encumbrance Holder), said purchaser shall, as a condition to the completion of such transfer, cure, remedy or correct the default, or commence and thereafter pursue with due diligence, the performance of the thing or acts required to be done to cure, correct and remedy said default.

(3) In the event that this Lease is terminated by County at any time by reason of a default or Event of Default by Lessee which shall be incurable by Encumbrance Holder, or by a surrender, cancellation or termination by Lessee, or if Lessee shall have rejected or otherwise terminated this Lease pursuant to Applicable Laws, then, at Encumbrance Holder's election, County shall enter into a new lease with Encumbrance Holder or an affiliate thereof on the same terms and conditions as shall then be contained in this Lease and with the same priority as this Lease, to the extent possible. County's obligation to enter into such new lease shall be conditioned upon the cure of all then-existing monetary defaults under the Lease and the agreement by Encumbrance Holder to commence the cure of all then-existing curable non-monetary defaults under the Lease. Encumbrance Holder's election shall be made by giving County written notice of such election within ten (10) days after the event giving rise to Encumbrance Holder's election. Promptly after request therefor, County shall execute and return to Encumbrance Holder any and all documents reasonably necessary to secure or evidence Encumbrance Holder's interest in the new lease or the Premises. From and after the effective date of the new lease, Encumbrance Holder (or its affiliate) shall notwithstanding anything to the contrary contained elsewhere in this Lease, have the one time right to assign or transfer its interest to any person or entity without obtaining County's or Director's

consent thereto (and without the applicability of Section 11.2.4 and without the requirement to pay a Net Proceeds Share), and Encumbrance Holder (or its affiliate) shall be thereupon relieved of all liability under the Lease or the new lease, and such assignee or transferee shall become liable for all of the lessee's obligations thereunder.

12.5 Modification or Termination of Lease. This Lease shall not be modified or amended without the prior written consent of each then existing Encumbrance Holder or Major Sublessee. 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 or Major Sublessee. No such modification, amendment, surrender or termination without the prior written consent of each such then existing Encumbrance Holder and Major Sublessee shall be binding on any such Encumbrance Holder or Major Sublessee.

12.6 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.

12.7 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.

12.8 One Time Extension of Term. Upon the first occasion during the Term that an Encumbrance Holder (which for purposes of this Section 12.8 includes an affiliate of such Encumbrance Holder) either (a) acquires Lessee's interest in this Lease pursuant to foreclosure or transfer in lieu of foreclosure in accordance with subsection 12.1.2.1 above, or (b) enters into a new lease with County pursuant to subsection 12.4.1(3) above, then at the request of such Encumbrance Holder the Term of the Lease (or such new lease, if applicable) shall be extended by five (5) years on the same terms and conditions as set forth in this Lease. In the case of the Encumbrance Holder's acquisition of the leasehold interest by foreclosure or transfer in lieu of foreclosure, then such Encumbrance Holder shall notify County in writing within thirty (30) days after its acquisition of the leasehold interest of its election to have the Term extended as provided above. If County is so notified within such thirty (30) day period, then County and Encumbrance Holder shall with all due diligence enter into an amendment to the Lease to reflect such extension of the Term. If the Encumbrance Holder does not notify County in writing within such thirty (30) day period of its election to have the Term extended for such additional five (5) year period, then such right to have the Term extended as provided in this Section 12.8 shall be deemed to have been waived and shall be considered terminated. If Encumbrance Holder acquires the leasehold pursuant to a new lease in accordance with subsection 12.4.1(3), then Encumbrance Holder must request the five (5) year extension in writing concurrent with its request for such new lease, failing which the right to such five (5) year extension shall be deemed to have been waived and shall be considered terminated. The right to a five (5) year extension of the Lease pursuant to this Section 12.8 shall be a one-time right only, and there shall not be more than one such extension of the Term. Notwithstanding any contrary provision of this Lease, the terms and provisions of this Section 12.8 shall be applicable only to an Encumbrance Holder that is an Institutional Lender and no Encumbrance Holder that is not an Institutional Lender shall have any rights under this Section 12.8.

13. DEFAULT.

13.1 Events of Default. The following are deemed to be "Events of Default" hereunder:

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

13.1.2 Failure to Comply with Construction Obligations. The failure of Lessee to comply with the obligations and timeframes set forth in Article 5 of this Lease if not cured within fifteen (15) days after written notice of such failure, if no other notice of such failure is otherwise required hereunder.

13.1.3 Maintenance of Security Deposit. The failure of Lessee to maintain and/or replenish the Security Deposit required pursuant to Article 8 of this Lease if not cured within five (5) days after written notice of such failure.

13.1.4 Failure to Perform Other Obligations. The failure of Lessee to keep, perform, and observe any and all other promises, covenants, conditions and agreements set forth in this Lease, including without limitation the obligation to maintain adequate accounting and financial records, within thirty five (35) days after written notice of Lessee's failure to perform from Director; provided, however, that where Lessee's performance of such covenant, condition or agreement is not reasonably susceptible of completion within such thirty five (35) day period and Lessee has in good faith commenced and is continuing to perform the acts necessary to perform such covenant, condition or agreement within such thirty five (35) day period, County will not exercise any remedy available to it hereunder for so long as Lessee uses reasonable due diligence in continuing to pursue to completion the performance such covenant, condition or agreement and so completes performance within a reasonable time.

13.1.5 Nonuse 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, except when prevented by Force Majeure or when closed for renovations or repairs required or permitted to be made under this Lease.

Any notice required to be given by County pursuant to subsections 13.1.1 through and including 13.1.4 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. Lessee shall not be considered in default as to any provision of this Lease when such default is the result of or pursuant to, any process, order, or decree of any court or regulatory body of competent jurisdiction, or any other circumstances which are physically 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

12.4 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 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.

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 sublessee's or licensee's, as appropriate) other business operations, if any. With respect to the calculation of Gross Receipts and the preparation of the reports and maintenance of records required herein, Lessee shall utilize either: (i) the accrual method of accounting, or (ii) a modified accrual method of accounting, modified in that (A) delinquent rents due from individual tenants (but not corporate tenants) is not accrued, (B) expenses are accrued on an approximate basis (i.e., materiality) each month during the fiscal year with full accrual treatment for the full fiscal year financial statements, and (C) depreciation is calculated on a tax basis rather than a GAAP basis.

14.2 Cash Registers. To the extent retail sales are conducted on the Premises, or other cash or credit sales of goods or services are conducted, all such sales shall be recorded by means of cash registers or computers which automatically issue a customer's receipt or certify the amount recorded in a sales slip. Said cash registers shall in all cases have locked-in sales totals and transaction counters which are constantly accumulating and which cannot, in either case, be reset, and in addition thereto, a tape (or other equivalent security mechanism) located within the register on which transaction numbers and sales details are imprinted. Beginning and ending cash register readings shall be made a matter of daily record.

Lessee shall cause to be implemented point of sale systems which can accurately verify all retail sales for audit purposes and customer review purposes, which system shall be submitted to the Director in advance of installation for his approval, which approval will not be unreasonably withheld. Requirements of this paragraph may be waived in advance by the Director upon submission of an acceptable plan for recording sales and other income used to calculate Gross Receipts.

Lessee's obligations set forth in this Section 14.2 include Lessee's obligation to insure that Lessee's Sublessees, 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 Annual Minimum Rent, Percentage Rent, Administrative Charge, Net Proceeds Share, Net Refinancing Proceeds and other sums due under this Lease.

14.3 Statement; Payment. No later than the fifteenth (15th) day of each calendar month, Lessee shall render to County a detailed statement showing Gross Receipts during the preceding calendar month, together with its calculation of the amount payable to County under Sections 4.2 through 4.8 inclusive, and shall accompany same with remittance of amount so shown to be due.

14.4 Availability of Records for Inspector's Audit. Books of account and records 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 to examine and audit said books and records, without restriction, for the purpose of determining the accuracy thereof and of the monthly statements of Gross Receipts derived from occupancy of the Premises and the compliance of Lessee with the terms of this Lease and other governmental requirements. This Section 14.4 shall survive the expiration of the Term or other termination of this Lease for thirty six (36) months after such expiration or termination.

14.4.1 Entry by County. Upon at least one (1) business day advance notice, County and its duly authorized representatives or agents may enter upon the Premises at any and all reasonable times during the Term of this Lease for the purpose of determining whether or not Lessee is complying with the terms and conditions hereof, or for any other purpose incidental to the rights of County.

14.5 Cost of Audit. In the event that, for any reason, Lessee does not make available its (or its sublessee's or licensee'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. County may require the installation of any additional accounting methods or machines which are typically used by major residential projects 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 deliver to County a set of audited and certified financial statements prepared by a Certified Public Accountant who is a member of the American Institute of Certified Public Accountants and is satisfactory to County, setting forth Lessee's financial condition and the result of Lessee's operations for such Accounting Year and shall include a certification of and unqualified opinion concerning Lessee's Gross Receipts (including a breakdown by category). All financial statements prepared by or on behalf of Lessee shall be prepared in a manner that permits County to determine the financial results of operations in connection with Lessee's activities at, from or relating to the Premises, notwithstanding that Lessee may have income and expenses from other activities unrelated to its activities on the Premises.

14.9 Accounting Obligations of Sublessees. Lessee shall cause all Sublessees, licensees, concessionaires and others conducting business operations on or from the Premises to comply with all terms of this Article 14 with respect to the maintenance, form, availability and methodology of accounting records and the delivery to County of audited certified financial statements and unqualified opinions as to Gross Receipts.

14.10 Inadequacy of Records. In the event that Lessee or its sublessees, licensees or concessionaires, as appropriate, fails to keep the records required by this Article 14 such that a Certified Public Accountant is unable to issue an unqualified opinion as to Gross Receipts, such failure shall be deemed a breach of this Lease by Lessee. In addition to the other remedies available to County at law or equity as a result of such breach, County may prepare a calculation of the Percentage Rent payable by Lessee during the period in which the accounting records were inadequately maintained. Such calculation may be based on the past Gross Receipts levels on or from the Premises, the past or present level of Gross Receipts experienced by tenants of comparable leaseholds in Marina del Rey with comparable business operations, or any other method as 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. The parties acknowledge that Lessee (including its predecessor-in-interest) has deposited the sum of Two Hundred Thousand Dollars ($200,000.00) toward those costs. County shall deliver to Lessee a report detailing such expenditures within ninety (90) days after the Effective Date.

15.4 County Disclosure and Lessee's Waiver.

15.4.1 Disclosures and Waiver.

15.4.1.1 "AS IS". Lessee acknowledges that it is currently in possession of the Premises and that Lessee or its predecessor-in-interest has continuously occupied and/or managed and operated the Premises since the construction of the original Improvements constructed on the Premises under the Existing Lease. 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.

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 fifty percent (150%) 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.

Nothing contained herein shall be construed as consent by County to any holding over by Lessee, and County expressly reserves the right to require Lessee to surrender possession of the Premises to County as provided in this Lease upon the expiration or other termination of this Lease. The provisions of this Section 15.5 shall not be deemed to limit or constitute a waiver of any other rights or remedies of County provided at law or in equity. If Lessee fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to County accruing therefrom, Lessee shall protect, defend, indemnify and hold County harmless from all losses, costs (including reasonable attorneys' fees), damages, claims and liabilities resulting from such failure, including, without limitation, any claims made by any succeeding tenant arising from such failure to surrender, and any lost profits to County resulting therefrom.

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, 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.

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 and 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 and postage or other delivery charges prepaid, by registered or certified mail posted in the County of Los Angeles, California, or by overnight delivery by an overnight courier service providing for receipted delivery such as 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 expiration of the third (3rd) business day after such notice is sent from within Los Angeles County in the case of such registered or certified mail as authorized in this Section.

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 (but not as to such Encumbrance Holder or Major Sublessee) notwithstanding the failure to send a copy to such Encumbrance Holder, Major Sublessee or encumbrancer.

As of the date of the Effective Date, 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:	Archstone-Smith Operating Trust 9200 East Panorama Circle Englewood, Colorado 80112 Attn: Legal Department Phone: (303) 708-6970 Fax: (303) 858-0394

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 ten (10) 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 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.

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.

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 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 or an Encumbrance Holder, 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); (iii) the amount of the Security Deposit, Annual Minimum Rent, Percentage Rent and other material economic terms and conditions of the Lease; and (iv) the dates, if any, to which the rental due hereunder has been paid, and whether County is then aware of any charges, offsets or defenses against enforcement by county of any agreement, covenant or condition hereof to be performed or observed by Lessee (and, if so, specifying the same). Prospective purchasers and lenders 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" by sending notice to the other party 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 by sending notice to the other party 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 9.3, 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 seven (7) days after the issuance of any award by the arbitrator becomes final, the County will draft a proposed amendment to the Lease setting forth the relevant terms of such award. Within seven (7) days after delivery of a copy of the amendment to Lessee, Lessee will sign the amendment (with any revisions to the proposed amendment necessary to accurately reflect the arbitration award), and return the executed copy to the County, which 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 Section 1298 Notice. NOTICE: BY INITIALLING 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 RIGHT YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALLING 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.

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 is specifically provided otherwise herein, whenever the consent of County or Lessee is required under this Lease, such consent shall not be unreasonably withheld 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 Section 25536 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 Affiliate. For the purposes of this Lease, "affiliate" shall mean, with respect to any person or entity, any other person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person or entity. The term "control" means the possession, directly or indirectly, of the power, whether or not exercised, to direct or cause the direction of the management or policies of a person or an entity, whether through the ownership of stock or other equity ownership interest, by contract or otherwise, and the terms "controlled" and "common control" have correlative meanings.

17.10 No Broker. Lessee and County each represent and warrant that it has not dealt with any broker, agent or finder in connection with this Lease, and each party agrees to indemnify, defend and hold the other party harmless from and against any brokerage or similar fee or compensation that may be asserted by any such broker, agent or finder based on the breach by such party of the foregoing representation and warranty.

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: Gloria Molina
Chair, Board of Supervisors

ARCHSTONE-SMITH OPERATING TRUST,
a Maryland real estate investment trust

By: J. W. [illegible]
John W. Luedtke, Senior Vice President

ATTEST:

VIOLET VARONA-LUKENS,
Executive Officer of the
Board of Supervisors

By: Sylvia J. Villalobos
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By: [illegible]
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: [illegible]

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

13 MAR 03 2004

Violet Varona-Lukens
VIOLET VARONA-LUKENS
EXECUTIVE OFFICER

906568.6

EXHIBIT A

LEGAL DESCRIPTION

Marina del Rey
Lease Parcel No. 102T

All of Parcels 321, 322, 324, 325, 333 to 338 inclusive, 340, 341, 342 and portions of Parcels 308, 309, 319, 320, 323, 332, 339, 343 to 347 inclusive and 349 to 353 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, Pages 53 to 70 inclusive of Assessor's Maps, in the office of the County Recorder of said County, described as a whole as follows:

Commencing at the intersection of the southeasterly line of Parcel 370, as shown on said map, with a line parallel with and 10 feet northeasterly, measured at right angles, from the southwesterly line of said last mentioned parcel; thence South 36° 00' 30" East along said parallel line 441.80 feet to the beginning of a tangent curve concave to the southwest and having a radius of 520 feet; thence southeasterly along said curve through a central angle of 16° 54' 54", a distance of 153.52 feet to the true point of beginning; thence North 53° 59' 07" East 609.84 feet; thence South 36° 00' 53" East 24.33 feet; thence North 53° 59' 07" East 246.04 feet to a curve concentric with and 47 feet southwesterly, measured radially, from a curve concave to the southwest, having a central angle of 23° 06' 08" and having a radius of 810 feet, said last mentioned curve being tangent at the northwesterly terminus thereof to a line parallel with and 35.5 feet southwesterly, measured at right angles, from the straight line in the southwesterly boundary of Parcel 406, as shown on said map, said northwesterly terminus being distant South 36° 00' 53" East along said last mentioned parallel line 156.78 feet from a line parallel with and 40 feet northwesterly, measured at right angles, from the straight line in the northwesterly boundary of said last mentioned parcel; thence southeasterly along said concentric curve 226.71 feet to a radial of said 810 foot radius curve at the southeasterly terminus thereof; thence South 12° 54' 45" East tangent to said concentric curve 64.36 feet to the beginning of a curve concave to the west, having a radius of 1184.31 feet, tangent to said last mentioned course and tangent to the westerly line of the easterly 3.5 feet of said Parcel 308; thence southerly along said last mentioned curve through a central angle of 11° 29' 49", a distance of 237.64 feet; thence South 1° 24' 56" East along a straight line, which passes through the intersection of a line parallel with and 8.41 feet southerly, measured at right angles, from the straight line in the northerly boundary of Parcel 202, as shown on said map, with said westerly line, a distance of 120.90 feet to a line parallel with and 27 feet northerly, measured at right angles, from said straight line in said northerly boundary; thence West along said last mentioned parallel line 195.63 feet to a point, distant West thereon 200.00 feet from the easterly line of said last mentioned parcel, said last mentioned point being the beginning of a tangent curve concave to the south and having a radius of 100 feet; thence westerly along said last mentioned curve through a central angle of 35° 03' 05", a distance of 61.18 feet; thence South 54° 56' 55" West tangent to said last mentioned curve 440.96 feet to the southwesterly line of said Parcel 323; thence northwesterly along the southwesterly lines of said Parcels 323, 324,

325 and 332 to the southerly continuation of above described 520 foot radius curve; thence northerly along said southerly continuation 137.20 feet to said true point of beginning.

Except therefrom that portion of said land conveyed to the County of Los Angeles by Quitclaim Deed recorded July 21, 1998 as instrument no. 98-1242203.

Together with a right-of-way for ingress and egress, to be used in common with others, over those portions of Parcels 300, 315, 316, 317, 323 and 326, as shown on said map, within the following described boundaries:

Beginning at the intersection of the southwesterly boundary of said Parcel 326 with the westerly prolongation of the straight line in the southerly boundary of said Parcel 300; thence East along said westerly prolongation and said last mentioned straight line, 54.85 feet; thence North 35° 03' 05" West to the southeasterly boundary of above described parcel of land; thence South 54° 56' 55" West along said southeasterly boundary to the northeasterly boundary of said Parcel 326; thence northwesterly, westerly and southeasterly along the northeasterly, northerly and southwesterly boundaries of said last mentioned parcel to the point of beginning.

Also together with a right of way for ingress and egress, to be used in common with others, over those portions of Parcels 332, 353, 354 and 369, as shown on said map, within the following described boundaries:

Beginning at the intersection of the westerly boundary of above described parcel of land with a line parallel with and 30 feet northeasterly, measured at right angles, from the southwesterly line of said Parcel 332; thence North 34° 06'16" West along said last mentioned parallel line to a line parallel with and 30 feet northeasterly, measured at right angles, from that certain course of North 36° 00'30" West 380.10 feet in the southwesterly boundary of said Parcel 369; thence North 36° 00'30" West along said last mentioned parallel line 371.20 feet; thence North 14° 23'56" West 54.29 feet to the northwesterly boundary of said last mentioned parcel; thence South 52° 40' 22" West along said northwesterly boundary to the most westerly corner of said last mentioned parcel; thence southeasterly along the southwesterly lines of said Parcels 369, 354, 353 and 332 to said westerly boundary; thence northerly along said westerly boundary to the point of beginning.

Also reserving and excepting unto the County of Los Angeles a right of way for sanitary sewer purposes in and across above described parcel of land, within the following described boundaries:

Beginning at the southeasterly corner of above described parcel of land; thence northerly along the easterly boundary of said parcel of land to a line parallel with and 13 feet northerly, measured at right angles, from above described course of West 195.63 feet in the southerly boundary of said parcel of land; thence West along said last mentioned parallel line 228.04 feet to a line parallel with and 13 feet northwesterly, measured at right angles, from above described course of South 54°56'55" West 440.96 feet in the

southeasterly boundary of said parcel of land; thence South 54°56'55" West along said last mentioned parallel line 447.61 feet to the northeasterly boundary of that certain easement in said Parcel 323 shown and designated on said map as "30' Access, Fire Access and Harbor Utilities Easement to be reserved by the County of Los Angeles"; thence southeasterly along said northeasterly boundary to said southeasterly boundary; thence northeasterly and easterly along said southeasterly and southerly boundaries to the point of beginning.

Also reserving and excepting unto the County of Los Angeles a right of way for ingress and egress over that portion of above described parcel of land, within the following described boundaries:

Beginning at the southeasterly corner of above described parcel of land; thence northerly along the easterly boundary of said parcel of land to a line parallel with and 20 feet northerly, measured at right angles, from above described course of West 195.63 feet in the southerly boundary of said parcel of land; thence West along said last mentioned parallel line to a line parallel with and 26 feet northwesterly, measured at right angles, from above described course of South 54°56'55" West 440.96 feet in the southeasterly boundary of said parcel of land; thence South 54°56'55" West along said last mentioned parallel line to the northeasterly boundary of above mentioned certain 30 foot easement; thence northwesterly along said last mentioned northeasterly boundary to the westerly boundary of said parcel of land; thence southerly along said last mentioned westerly boundary to the southwesterly boundary of said parcel of land; thence southeasterly along said last mentioned southwesterly boundary to the most southerly corner of said parcel of land; thence northeasterly and easterly along the southeasterly and southerly boundaries of said parcel of land to the point of beginning.

Also reserving and excepting unto the County of Los Angeles rights of way for storm drain, access, fire access and harbor utilities purposes in and across those portions thereof designated on said map as easements to be reserved by said County for such purposes.

EXHIBIT A

LICENSED LAND SURVEYOR
STEVEN L. GEHRKE
Exp. 9/30/05
No. 5664
STATE OF CALIFORNIA

APPROVED AS TO DESCRIPTION
3/4, 20 04
COUNTY OF LOS ANGELES
BY ____________
LAND SURVEYOR
Mapping & Property Management Division

EXHIBIT B

RENOVATION PLAN

Term Sheet Template Item	*Lessee Proposal Parcel 102S*
1. SCOPE OF WORK	
A reasonably detailed, written narrative description of the work to be done, including each of the following: □ **All new construction and renovation** □ **Timing for the start of the work** □ **Timing for the completion of the work** **The narrative shall include all applicable components of the project, grouped as set forth below.**	
a) Apartments, Office and Commercial (Note: for renovation-only apartment projects, use "Renovation Comparison Worksheet" instead of this section)	
• **Demolition (of existing improvements prior to commencing work)**	See Exhibit A-12, "Renovation Comparison Worksheet"
• **New building construction**	See Exhibit A-12, "Renovation Comparison Worksheet"
• **Remodeled building exteriors**	See Exhibit A-12, "Renovation Comparison Worksheet"
• **Remodeled building interiors**	See Exhibit A-12, "Renovation Comparison Worksheet"
• **Remodeled interior building common areas**	See Exhibit A-12, "Renovation Comparison Worksheet"
• **Remodeled exterior building common areas**	See Exhibit A-12, "Renovation Comparison Worksheet"
• **Landscaping**	See Exhibit A-12, "Renovation Comparison Worksheet"

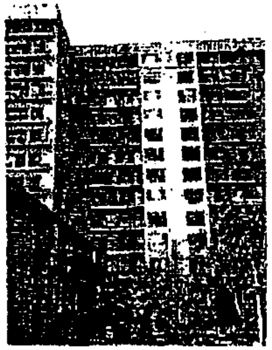
Term Sheet Template Item	*Lessee Proposal Parcel 102S*
b) Marina	
• **Replacement of docks and slips, including design and materials**	This item does not apply because Parcel 102 is not adjacent to the water and there currently are no slips on the property.
• **Retention of existing slip count, including slip count before and after by slip size**	This item does not apply because Parcel 102 is not adjacent to the water and therefore there are currently no slips on the property.
• **Retention of marine commercial facilities, including area count before and after for each category**	This item does not apply because Parcel 102 is not adjacent to the water and there are currently no marine commercial facilities located on the property.
c) Promenade	
• **Walkway design and materials**	This item does not apply because Parcel 102 is not adjacent to the water.
• **Fencing design and materials**	This item does not apply because Parcel 102 is not adjacent to the water.
• **Lighting design and materials**	This item does not apply because there will be no Promenade on Parcel 102.
d) Signage	
• **New signage program**	See Exhibit A-12, "Renovation Comparison Worksheet"

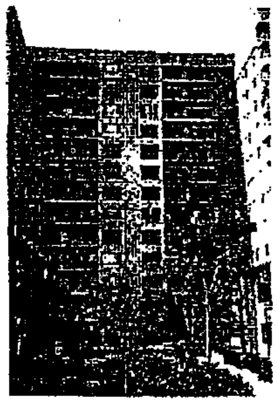
Term Sheet Template Item	*Lessee Proposal Parcel 102S*
2) PLANS & DRAWINGS	
Preliminary plans for all work to be done	
a) Site Plan	
• **Reduced color site plans (8.5x11 or 11x17), showing work described above, including all structures, hardscape, promenade, landscaping and slips**	This item does not apply because Parcel 102 is not making changes to its existing site plan. See Exhibit A-2, "Parcel 102 Site Plan" Also see Exhibit A-10, "Parcel 102 Motor Court – Plan View"
b) Building Elevation	
• **A reduced color elevation (8.5x11 or 11x17) drawing that shows all new and/or renovated building elevations**	See the following exhibits: • Exhibit A-1, "Parcel 102 Existing Photos" • Exhibit A-3, "Parcel 102 Tower – View Looking Southwest" • Exhibit A-4, "Parcel 102 Tower – View Looking Northwest" • Exhibit A-5, "Parcel 102 Tower Fenestration" • Exhibit A-6, "Parcel 102 Entry Scheme" • Exhibit A-7, "Parcel 102 Lease Building" • Exhibit A-8, "Parcel 102 Apartments" • Exhibit A-9, "Parcel 102 Motor Court – Street View" • Exhibit A-11, "Parcel 102 Tower Window Replacement – Estimate"
c) Landscaping Plan	
• **If not already included in the above materials**	See Exhibit A-12, "Renovation Comparison Worksheet"

Term Sheet Template Item	*Lessee Proposal Parcel 102S*
d) Dock Construction Plan	
• **Dock construction plan, including physical layout of docks and slips**	This item does not apply because Parcel 102 is not adjacent to the water. There are no slips.

Term Sheet Template Item	*Lessee Proposal Parcel 102S*
5) BUDGET	
a) Budget worksheet	
• **Estimated cost for all of the work agreed upon**	$24.6 million, as follows: Exterior – Building $7.6 million Exterior – Common Areas $2.5 million Interior $7.9 million Overhead and contingency $2.0 million Additional $2.1 million Tower windows $2.5 million

Exhibit A-1
Parcel 102 Existing Photos





EXISTING PHOTOS

ARCHSTONE MARINA DEL REY
FOR:
ARCHSTONE COMMUNITIES

PREPARED BY:
VAN TILBURG, BANVARD & SODERBERGH, AIA

Exhibit A-2
Parcel 102 Site Plan

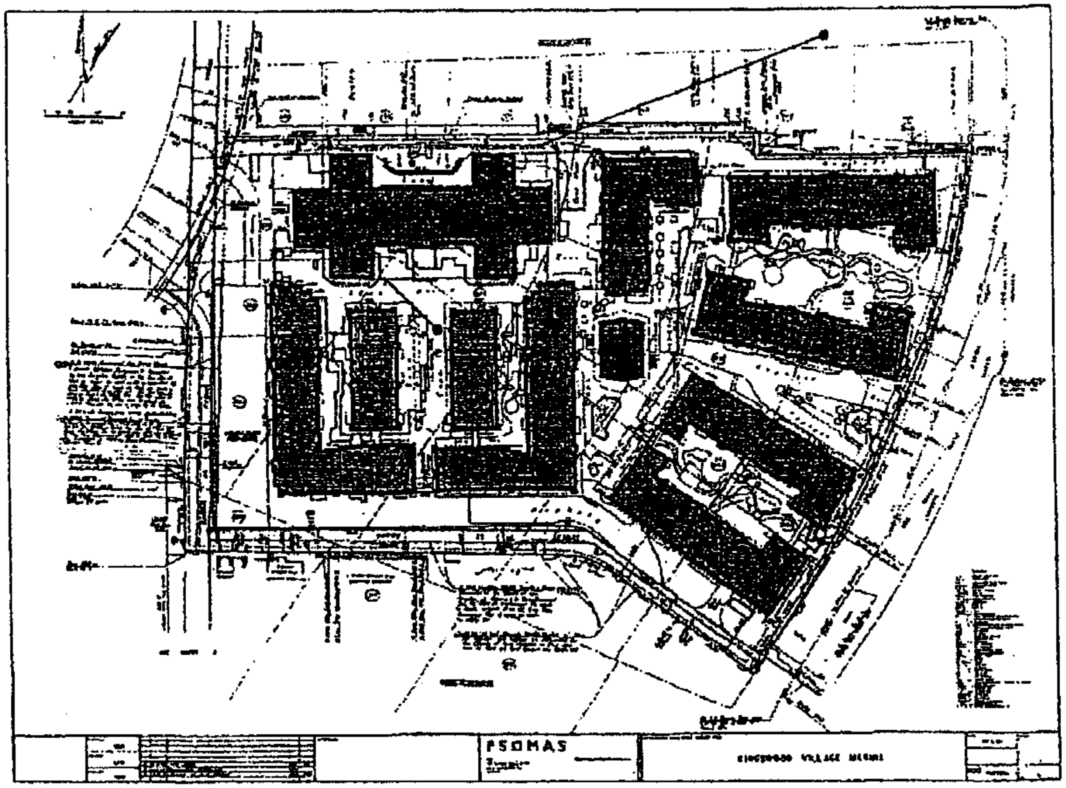
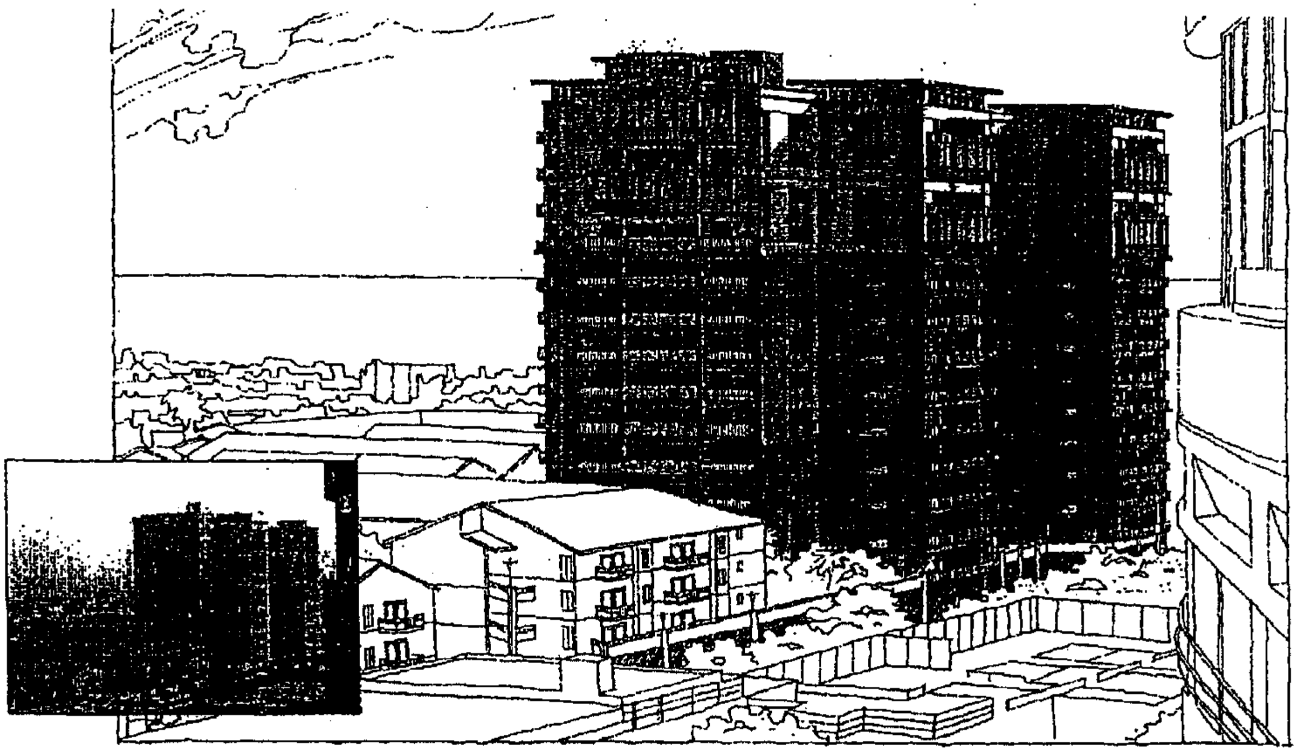


Exhibit A-3
Parcel 102 Tower – View Looking Southwest



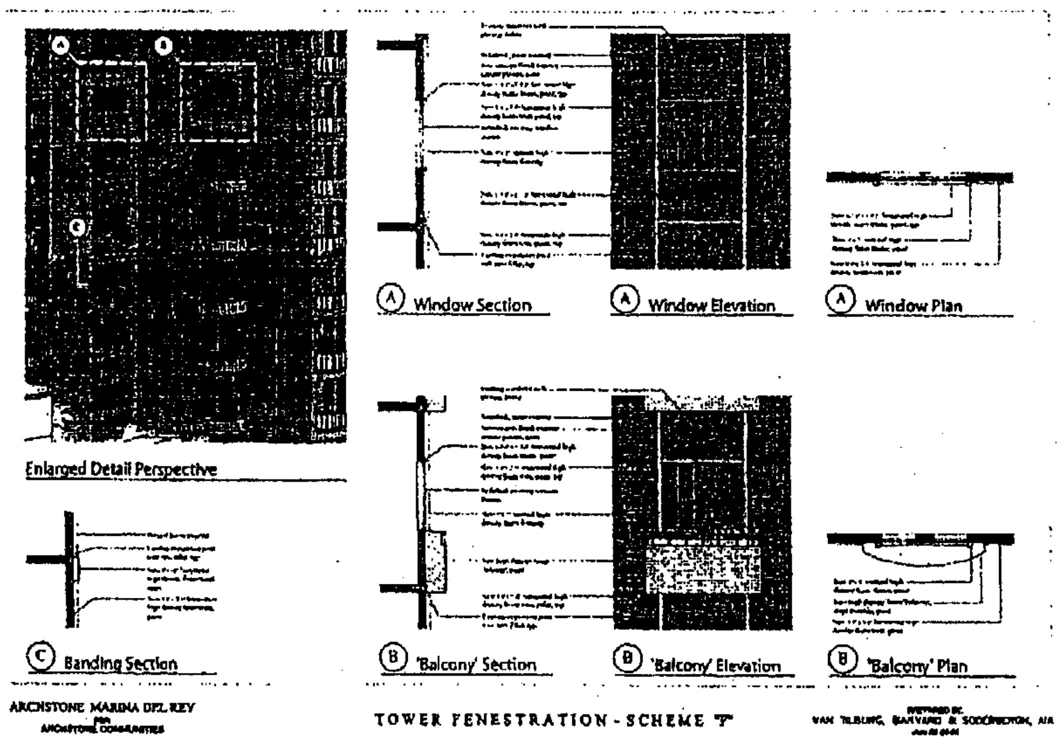
ARCHSTONE MARINA DEL REY
FOR
ARCHSTONE COMMUNITIES

TOWER - SCHEME "F"
VIEW LOOKING SOUTHWEST

PREPARED BY
VAN TILBURG, BANVARD & SODERBERGH, AIA

Exhibit A-4
Parcel 102 Tower – View Looking Northwest

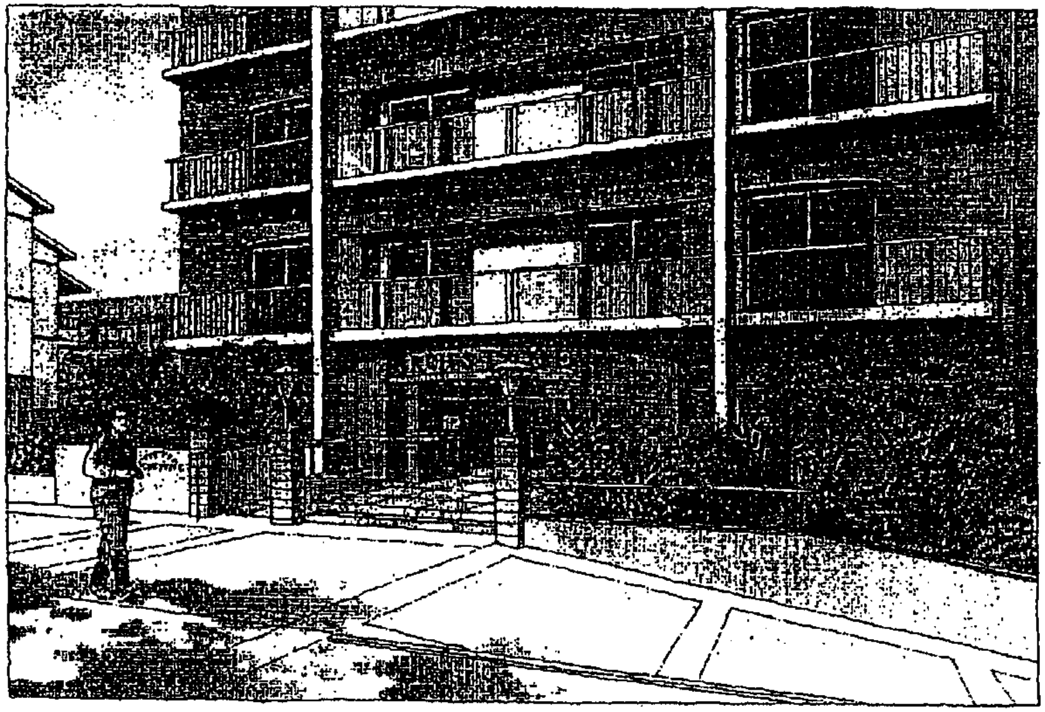
Exhibit A-5
Parcel 102 Tower Fenestration



Actual fenestration plan will include new tower windows, in contrast to previous version of tower fenestration shown here for illustrative purposes.

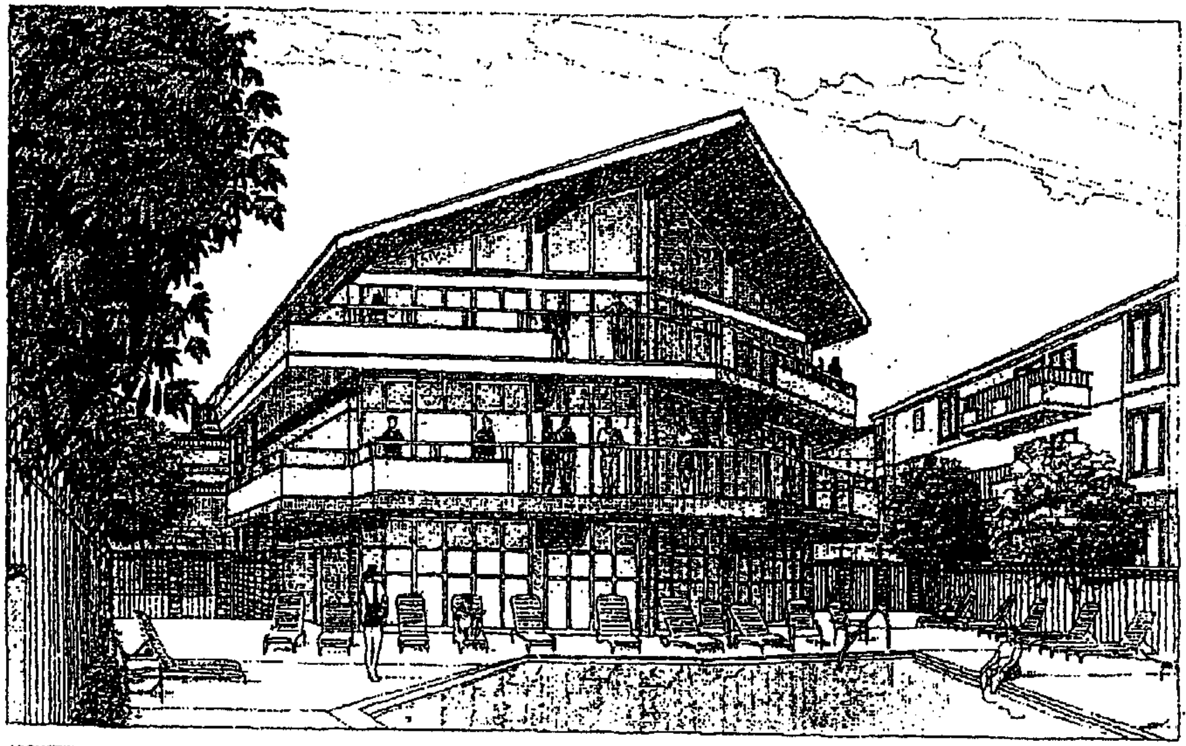
Fenestration plan will be updated by lessee upon submittal to Design Control Board.

Exhibit A-6
Parcel 102 Entry Scheme



ENTRY - SCHEME "F"
VIEW LOOKING SOUTHWEST

Exhibit A-7
Parcel 102 Lease Building



ARCHSTONE MARINA DEL REY
FOR
ARCHSTONE COMMUNITIES

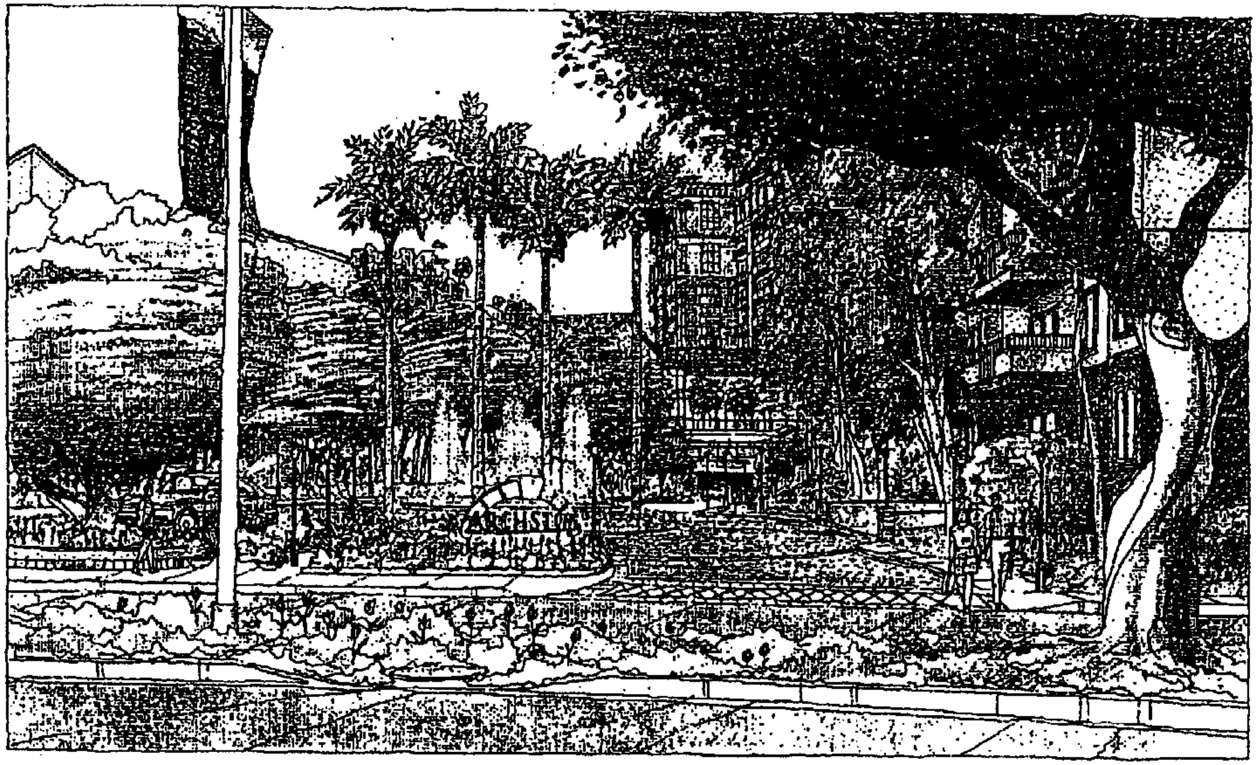
LEASE BUILDING - SCHEME "F"

PREPARED BY
[illegible]

Exhibit A-8
Parcel 102 Apartments

APARTMENTS - SCHEME "F"

Exhibit A-9
Parcel 102 Motor Court – Street View



ARCHSTONE MARINA DEL REY
FOR
ARCHSTONE COMMUNITIES

MOTOR COURT - STREET VIEW

PREPARED BY
VAN TILBURG, BANVARD & SODERBERGH, AIA

Exhibit A-10
Parcel 102 Motor Court – Plan View

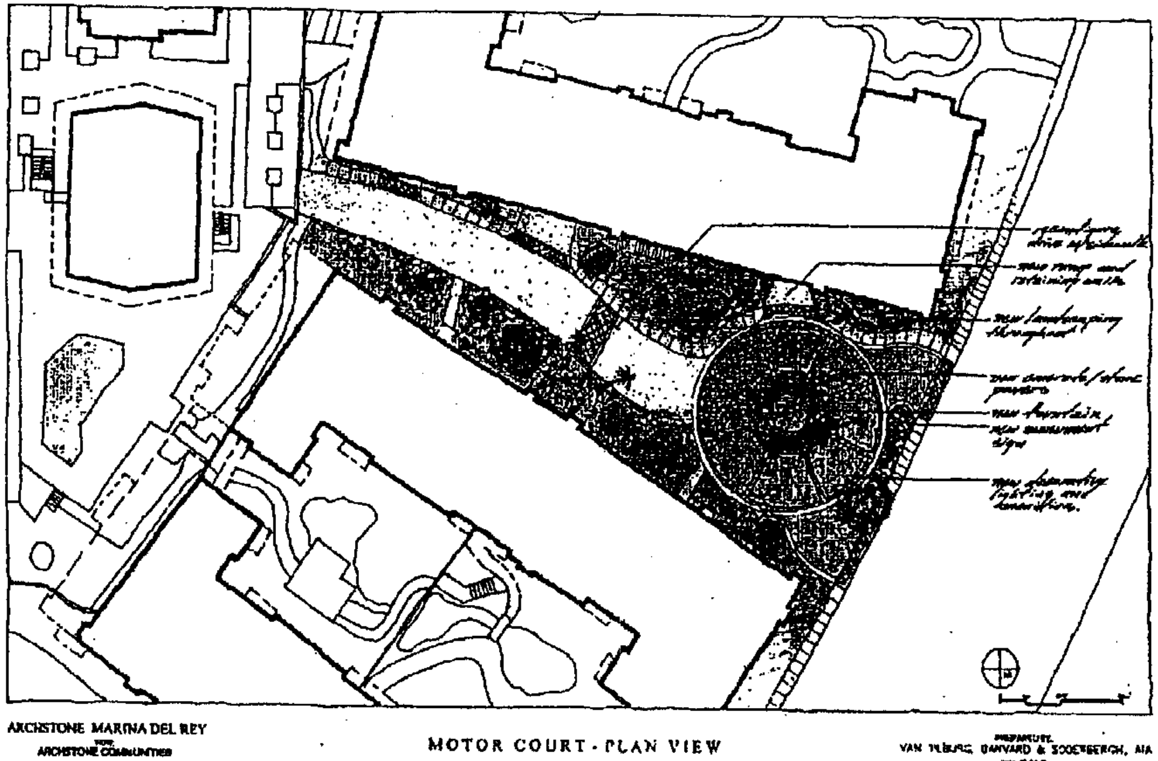


Exhibit A-11
Parcel 102 Tower Window Replacement – Estimate

KINGSWOOD VILLAGE MARINA APARTMENTS

13 Story Residential Tower Window Replacement

Window Replacement Includes white vinyl retrofit frames, 1" Solex dual pane insulating glass engineered for local windload calculations. All removal of existing to Contractor's dumpster, full installation, caulking, interior trim to match window, screens.			$1,755,600
Move, cover furniture	260 Units @ $ 15/Unit		$3,100
Interior Unit Cleaning	260 Units @ $ 75/unit		$19,500
Swing Stage Rental	2 mos. @ $ 1,000/mo		$2,000
	16 moves @ $ 260/move		$4,160
Dumpster Rental	8 weeks @ $ 700/wk		$5,600
Sub-total			$1,795,960
Contractor's General Conditions		7%	$125,717
Contractor's Contingency		5%	$89,798
Contractor's Liability Insurance		1.20%	$21,552
Contractor's Fee		5%	$89,798
			$326,865
Hard Cost Total			$2,449,689
Exterior Skin Consultant : Simpson, Gumpertz & Heger			
Consultant review and design to ensure code compliance, design criteria, weather resistance.			$1,800
Consultant site visits during installation.			$3,300
Tenant relocation budget			$10,000
Archstone overhead and general conditions for increased duration of 2 months			$4,000
Grand Total			$2,467,869

Exhibit A-12
Renovation Comparison Worksheet – Parcel 102S

(attached)

RENOVATION COMPARISON WORKSHEET – PARCEL 102
July 23, 2003

Apartment Renovation Template Item	*102 Lessee Proposal*
1) EXTERIOR	
a) Building Exterior - All building exteriors should receive a facelift that give the building a more contemporary look and should include the following:	The exterior of the tower will be completely redesigned to include new vertical and horizontal elements. New balcony enclosures, vertical framed elements and columns, horizontal foam bands and surrounds at windows and balconies will be permanently attached to the existing structure. The roofline will be extended with parapets and cantilevered screens. Additional back lighting will be added to the tower building. The exteriors of the garden buildings will compliment the tower in both texture and color. All wood siding under the windows and around the stairway locations in the garden buildings will be removed. These areas will be lathed and plastered to match the rest of the exterior of the building.
□ **Exterior surface – Revitalization of the surface (stucco, plaster, wood)**	All buildings will be completely repainted. The existing stucco will be carefully prepped and sanded in order to created a permanent bedding for the new design elements and paint.
□ **Patio/Balcony – Replace wooden railing and surfaces with metal (show finish)**	All balcony rails, both metal and wood, on both the tower and the garden buildings will be removed and the balconies water flashed. New metal railings with to-rail will be installed on the garden balconies. New metal and glass railings will be installed on the tower balconies depending upon location. *Resurface Balcony* Existing balconies will be resurfaced and all surface cracks will be repaired. We will install a two-part epoxy no-skid water proofing system. This system will be of a color to match the exteriors of the buildings.

Apartment Renovation Template Item	*102 Lessee Proposal*
▫ **Parapet Walls - All exterior walls should be modified insure a more modern look**	N/A We do not have parapet walls
b) Common Areas	
▫ **Hardscape - All hardscape should be reviewed and upgrade/replaced where reasonable possible so as to give the impression of a totally new project**	The current main entry will be redesigned, including upgraded landscaping and hardscape. Plumbing and electrical systems will be upgraded, where needed. A reconfigured motor court entrance will be installed, including newly paved hardscape leading to the guest parking area for the recreation center. A new water feature will be added to accentuate landscaping and remodeled leasing center. New ground lighting and irrigation will be installed. Common area interior walkways will be treated with a process to restore the surface to like new condition; except where cracked or crumbling, where they will be replaced with new.
▫ **Landscaping- All existing landscaping, with particular attention given to those areas that are affected by the remodeling of the building exterior, should be reviewed and upgraded where reasonably possible.**	Each of the courtyards and perimeter areas will have its own landscape upgrade, which will include ground lighting and irrigation. Upgraded water features will enhance the redesigned natural environment, including cascading waterfalls, ponds pools, and spas. Many areas of the hardscape will be enhanced as well. *Rework Existing Planters* All property planters will be repaired and resurfaced. In some cases new configurations of existing planters will be needed. Each area of the property will be addressed with regard to how the planter configuration best enhances the property.

Apartment Renovation Template Item	*102 Lessee Proposal*
c) Signage - Replace all existing building monument, building ID, and amenity signage.	The property currently has extremely poor identification. We will install new custom designed Property identification signage on the side of the roof of the tower as well as in strategic locations along the perimeter of the property. Additionally, we will be designing a way finder graphics package to be installed throughout the property for better identification and access for residents, emergency crews, and on-site guests.
d) Lighting - Replace all existing exterior lighting lens/fixtures	Landscape and area lighting on the property will be replaced to better enhance the building profiles, as well as, create better-lit paths for ingress and egress.

Apartment Renovation Template Item	*102 Lessee Proposal*
2) INTERIOR	
a) Common Areas	
▫ **Entry Door – replace with raised panel doors with new hardware (show finish and brand)**	New raised panel entry doors will be installed with floor flush mount bolts, where necessary. All doors will be painted.
▫ **Hallways-should include new paint/wall coving, door moldings, chair rail molding, carpet and padding, light fixtures and door tags.**	Interior hallways will be completely reworked. New carpet/padding, baseboard molding, chair railing, light fixtures and door tags will be installed. All wall surfaces will be reconditioned using a "texture" process and repainted.
▫ **Trash Room - Should include new paint, flooring and lighting**	All trash rooms will be repainted. New light fixtures and vinyl flooring will be installed.
▫ **Elevators - Should include new panels flooring and lighting**	Each of the thirteen elevator cabs will have the existing finishes removed and replaced with new updated surfaces that are attractive and impervious to the normal wear and tear.

Apartment Renovation Template Item	*102 Lessee Proposal*
b) Apartment Interiors: Kitchens	
□ Cabinets: **(i) Replace or refinish existing cabinets and** **(ii) Install new routed panel cabinet doors and drawer fronts**	Each cabinet will have new doors and side panels installed. New hardware (brushed chrome finish) will be mounted on each door and drawer. The interior of the cabinets will be painted.
□ Counters - Replace Formica counter tops.	Each counter top in every kitchen will be removed and replaced with a new high finish virtual stone finish counter.
□ Faucets-Install new faucets (name brand)	New faucets will be installed. (Delta/Polished Chrome Finish or Equal)
□ Sinks/ Replace resurface existing sinks	Kitchen sinks will either be resurfaced or replaced, depending on condition.
□ Appliances- New stoves, dishwashers, microwaves and refrigerators where appropriate name brand and model	A new dishwasher, four-burner electrical stove/oven combination, top mounted microwave oven and eighteen cubic foot refrigerator/freezer will be installed in each unit, as needed. *Appliances* We currently replace appliances as needed: - Refrigerators – Maytag (MFR 4530) or Equal - Stove/Oven –Magic Chef (CDB 3100) or Equal - Dishwasher – Hotpoint (CTX 16HA) or Equal - Mircrowave – Amana (MVH 140W) or Equal

Apartment Renovation Template Item	*102 Lessee Proposal*
c) Apartment Interiors: Bathrooms	
□ Cabinets: **(i) Replace or refinish existing cabinets** **(ii) Install new routed panel cabinets doors and drawer fronts** **(iii) Replace Formica counters**	Each cabinet will have new doors and side panels installed. New hardware (brushed chrome finish) will be mounted on each door and drawer. The interiors will be painted Existing counters will be removed and replaced with with new high finish virtual marble counters.
□ Vanity mirrors - Install new mirrors as needed (show finish)	New mirrors will be installed as needed (no finish).
□ Faucets-Install new faucets (name brand)	New faucets will be installed (Delta – polished chrome finish or equal)
□ Sinks/ Replace resurface existing sinks	Sinks will either be replaced or resurfaced, depending on condition.
□ Fixtures -Replace towel bars, toilet paper holder, medicine cabinets	All towel bars, toilet paper holders and medicine cabinets will be replaced.

Apartment Renovation Template Item	*102 Lessee Proposal*
▫ **Shower/Bathtub:**	Evaluate each shower/tub to determine whether to resurface or replace.
(i) Replace/ resurface existing tubs and enclosure	Tubs and enclosures will either be replaced or resurfaced, depending on condition.
(ii) Replace shower doors (show finish)	Shower doors will be replaced. (polished chrome finish)
(iii) Replace tub faucet, showerhead, drain hardware	Tub faucets, showerheads and drain hardware will be replaced (Delta – polished chrome finish or equal)

Apartment Renovation Template Item	*102 Lessee Proposal*
3) GENERAL	
a) Walls - Prepped and painted	Each unit will be completely repainted, including complete removal of all face and switch plates plugs, a two-coat roll on paint job and installation of new plates switches/plugs.
b) Windows	
▫ **Remove existing metal framed windows and doors and replace with double paned vinyl windows**	All tower and low-rise windows will be replaced with double paned vinyl windows. Tower windows will be tinted to match colors used in new design.
▫ **Replace all window coverings**	All windows and sliding glass doors will receive new window coverings in the form of mini (windows) or vertical blinds (sliding glass doors).
c) Doors	
▫ **Replace all interior wood doors with raised panel doors with new hardware (show finish and brand)**	Will replace all interior doors. All interior doors will receive new and contemporary hardware. (Quickset – polished chrome finish or equal)
▫ **Install mirrored closet doors as required (show finish)**	Each closet will be retrofitted with sliding mirrored doors. (white finish)
d) Ceilings - Remove or cover existing "cottage cheese" , prepare and paint to have a smooth, painted ceiling	Due to environmental exposure caused by the disturbance of asbestos materials, we will not remove or cover existing ceilings.

Apartment Renovation Template Item	*102 Lessee Proposal*
e) Moldings	
▫ **Install new decorative crown moldings in the living rooms and bedrooms**	No
▫ **Install chair rail molding in dining area**	No
▫ **Replace existing moldings as required**	Yes
f) Flooring	
▫ **Replace vinyl and linoleum flooring**	Existing vinyl floorings will be removed and replaced with new virtual stone finish floors in the kitchen and virtual ceramic finish floors in the bathrooms.
▫ **Replace carpeting and padding**	Yes

Apartment Renovation Template Item	*102 Lessee Proposal*
25) LIGHTING	
a) Lighting fixtures - Replace all lighting fixtures lens covers	Yes
b) Covers – Replace all switch, phone jack and electrical outlet covers	Yes

Apartment Renovation Template Item	*102 Lessee Proposal*
5) SUPPLEMENTAL	
	<u>Major Systems Replaced By Current Owner</u> New Roof – garden apartments (7 buildings) Date of job: September 1993/ July 1996 (25 Year Warranty) Work done by: Culver City Roofing New Air Coolers - 4139-43 tower building Date of job: February 1999/April 1999 Work done by: Monarch Mechanical Elevators (4) - 4139-43 tower building – completely new Date of job: November 1996/December 1996 Work done by: Amtech Re-Piping (buildings 1, 2, 3, & 6) Date of job Year 2000 Work done by: Monarch Re-Piping (Tower) Date of job: 1994 –1996 Work done by: Monarch

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 of the parcel by an Encumbrance Holder approved by County, (b) the transfer of the leasehold in connection with a foreclosure or transfer in lieu of foreclosure of an approved Encumbrance, 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). A letter of credit, cash deposit, guarantee from a parent entity or participating individual(s) having sufficient net worth or similar security satisfactory to the County may be substituted for the net worth requirement.

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 the County. If County's approval of the transaction is based on the identity of third party service providers, then subsequent changes in such service providers or changes to the contractual arrangements on which such services are provided must be approved by the County. All such approvals of the County will not be unreasonably withheld 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 the County.

4. The price to be paid for the acquired interest shall not, in County's reasonable judgment, result in a financing obligation of the proposed transferee which jeopardizes the Lessee's ability to meet its rental obligations to the 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 assignee must agree that) the County will have reasonable approval rights regarding any future direct or indirect transfers of interests in the entity or the applicable lease, to the extent required under Article 11 of the Lease; provided however, that a transfer of ownership of a

publicly held parent corporation or other entity 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, except to the extent the transfer is expressly permitted by the terms of the Lease.