

26695 SUPPLEMENT 2

AMENDMENT NO. 2 TO LEASE NO. 26695

PARCEL 141V MARINA DEL REY

THIS AMENDMENT TO LEASE made this 15~~th~~ day of

March, 1983,

BY AND BETWEEN

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

AND

MARINA HOTELS, INC., a California corporation, hereinafter referred to as "Lessee".

W I T N E S S E T H:

WHEREAS, the parties hereto or their predecessors in interest have, on the twenty-sixth day of August 1975, entered into a lease under which Lessee leased from County that certain real property located in the Marina del Rey and commonly known as Parcel No. 141V; and

WHEREAS, the parties hereto desire to extend the term of said lease as set forth in lease Section 2 to permit the prompt improvement of the premises by Lessee; and

WHEREAS, the parties hereto desire to modify lease Section 7 to relate the security deposit to a minimum rent as hereinafter provided; and

WHEREAS, the parties hereto desire to modify lease Section 12 to provide for a construction minimum rent and for an increased annual minimum rent once occupancy of the hotel has commenced; and

WHEREAS, the parties hereto desire to modify lease Sections 12 and 13 to provide for deferrals of portions of County rent during

construction and the first five years of operation under specified conditions; to provide for a monetary penalty for late and/or under-reported rent; and

WHEREAS, the parties hereto desire to modify lease Section 15 to provide for a revised schedule of general rent renegotiation; to provide in lease Section 22C for a County transfer fee; and

WHEREAS, the parties hereto desire to further amend said lease by the addition of a new Section 51 setting forth a special condition incident to the December 9, 1981 issuance of a Coastal Development Permit by the California Coastal Commission; and

WHEREAS, the parties desire to add a proviso that this amendment shall be declared null and void upon written notice to the Clerk of the Board of Supervisors by Director that Lessee has been unable to commence construction of a hotel prior to the expiration of said Coastal Development Permit, which deadline may be extended for one year by the mutual agreement of the parties hereto;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and subject to the Lessee commencing with construction of a hotel pursuant to the Coastal Development Permit or as such date may be extended with the consent of County, the parties and each of them agree as follows:

1. Section 1 (DEFINITION OF TERMS) is hereby amended to include the following definitions:

"HOTEL RACK OCCUPANCY RATE" is defined as actual gross room

revenue divided by the gross possible room revenue for any twelve month period. Gross possible room revenue will be computed using the midpoint of the published rack rate for single and double occupancy. The following sample computations are presented for purposes of illustration and are not intended to be any basis, limitation, or representation of the actual possible room revenue of the improvements to be constructed.

SAMPLE COMPUTATION-GROSS POSSIBLE ROOM REVENUE

Rooms		Published Rack Rate <u>1/</u>			Gross Possible Rm. Rev.
Type	#	Single	Double	Midpoint	# Rooms x Midpoint Rates x 365 Days
Regular	131	\$125	\$135	\$130	\$ 6,215,950
Junior Suite	131	150	160	155	7,411,325
Suite	<u>38</u>	400	420	410	<u>5,686,700</u>
	300				<u>\$19,313,975</u>

1/ Published Rack Rate on first day of calendar month for each of twelve (12) months divided by twelve (12).

Sixty percent (60%) of Published Rack Rate

Gross Possible Room Revenue	\$19,313,975
	<u>x 60%</u>
	<u>\$11,588,385</u>

Example 1. For example, actual gross room revenue of \$10,000,000 would be divided by gross possible room revenue of \$19,313,975 and would yield a hotel rack occupancy rate of 52%.

Example 2. For example, actual gross room revenue of \$12,000,000 would be divided by gross possible room revenue of \$19,313,975 and would yield a hotel rack occupancy rate of 62%.

Example 3.

Gross Room Revenue Collected Per Year	\$10,000,000	
Percentage of Rooms Occupied	80%	*

- * There will be a deferment of all amounts due in excess of \$100,000 (minimum rental) since \$10,000,000 is less than \$11,588,385.

Example 4.

Gross Room Revenue Collected Per Year	\$12,000,000	
Percentage of Rooms Occupied	75%	**

- ** There will be no deferment since \$12,000,000 is greater than \$11,588,385.

"PUBLISHED RACK RATE" is defined as the posted and advertised daily rental rate for each type of hotel room, excluding commercial and/or group discounts.

"PERMANENT FINANCING" is defined as the initial money borrowed by Lessee secured by a first deed of trust (exclusive of construction loans) on the hotel and appurtenant facilities.

"INTEREST RATE OF PERMANENT FINANCING" is defined as the face rate of the promissory note secured by the first deed of trust (exclusive of construction loans) on the hotel and appurtenant facilities in the event the initial money borrowed by Lessee is secured by a first deed of trust; or in the event of non-conventional financing where funding is by other than a promissory note secured by a first deed of trust on the leasehold, the "Interest Rate Of Permanent Financing" will be the higher of a) 10 percent per annum; or b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on ad-

vances to member banks under Section 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate of advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature).

"TERM OF PERMANENT FINANCING" is defined as 1) the length of loan until the call date, assuming a non-amortized loan; 2) the length of the loan amortization, assuming a fully amortized loan; or 3) the length of the loan until the date of refinancing, assuming refinancing of the initial permanent financing.

The following examples are presented for purposes of illustration and are not intended to be any basis, limitation, or representation of all possible loan term arrangements.

EXAMPLES

- 1) a loan with a 15 year call and 30 year amortization would have a term of 15 years;
- 2) a fully amortized 30 year loan would have a term of 30 years;
- 3) a loan with a 15 year call and 30 year amortization which is refinanced at the end of year 8, would result in a term of 8 years.

"RECORDATION OF PERMANENT FINANCING" shall be the actual date that the initial permanent financing is recorded.

"DEFERRED INTEREST" is defined as interest which accrues on a rental amount from the month and day that the rental amount originally becomes accrued payable but which is deferred until some later permitted date. Commencing with the first day of the sixty (60) years term of this lease and until five (5) years after the first of the month succeeding issuance of the permanent Certificate of Occupancy (or one year after the first of the month succeeding issuance of the temporary Certificate of Occupancy, whichever occurs first), any sums of rent up to \$600,000 annually, deferred as provided by this lease, shall bear simple interest during said period at the interest rate of the permanent financing. Commencing with the first of the month succeeding five (5) years of the issuance of the permanent Certificate of Occupancy (or one (1) year after the first of the month succeeding issuance of the temporary Certificate of Occupancy, whichever occurs first), the deferred rent up to \$600,000 annually and deferred interest thereon accrued payable on the first day of this period, shall bear interest at the interest rate of the permanent financing, but compounded annually until the date paid as provided in this lease. Any sums of rent over \$600,000 annually, deferred as provided by this lease, shall bear interest at twenty percent (20%) per annum, compounded annually until the date paid as provided in this lease.

2. Section 2 (TERM) is deleted in its entirety and the following substituted therefor:

"The term of this lease shall be sixty (60) years, commencing with the effective date of this amendment."

3. The first paragraph of Section 7 (RENTAL SECURITY DEPOSIT)

is hereby deleted and the following substituted therefor:

"County hereby acknowledges receipt from Lessee of the sum of THREE THOUSAND SEVEN HUNDRED EIGHTY AND 3/100 DOLLARS (\$3,780.03). The amount of the security deposit shall at all times be maintained by Lessee at a sum equal to three (3) times the current monthly minimum rent (including both the amount payable and the amount being deferred pursuant to the terms of this lease in Section 12). The deposit shall be increased by Lessee upon any increase in the monthly minimum rent and without notice from County. The total deposit shall be retained by County as a security deposit to cover delinquent rent and any other financial obligations of the Lessee under this lease, and shall be so applied at the discretion of County. Lessee may substitute for said cash security deposit a time Certificate of Deposit issued by a financial institution licensed to transact business in the State of California evidencing that the deposit is payable to County; the interest earned by the Certificate of Deposit may, at Lessee's option, be payable to Lessee."

4. Section 12 (SQUARE FOOT RENTAL) is deleted in its entirety and the following is substituted therefor:

Preconstruction Minimum Rental

Lessee shall pay to County monthly rent of ONE THOUSAND TWO HUNDRED SIXTY AND 1/100 DOLLARS (\$1,260.01) due and payable in advance on the first day of each calendar month for the period

commencing with the effective date of this amendment, through the last day of the month in which the piling permit is issued by the Engineer, but no later than four calendar months commencing the first of the month of the issuance of the excavation permit by the Engineer.

Construction Minimum Rental

Commencing with the first day of the month succeeding the month of issuance of a piling permit by the Engineer, but no longer than four calendar months commencing the first of the month of the issuance of the excavation permit by the Engineer, Lessee shall pay to County monthly rent of ELEVEN THOUSAND ONE HUNDRED ELEVEN AND 11/100 DOLLARS (\$11,111.11) for the period through the last day of the month in which the Engineer issues a permanent or temporary Certificate of Occupancy, whichever occurs first, for the hotel to be built in accordance with preliminary plans approved by County's Design Control Board on July 15, 1982 or as said plans may be modified thereafter. The monthly rent of ELEVEN THOUSAND ONE HUNDRED ELEVEN AND 11/100 DOLLARS (\$11,111.11) shall be due and payable in the amounts and times hereafter provided:

(a) ONE THOUSAND TWO HUNDRED SIXTY AND 1/100 DOLLARS (\$1,260.01) shall be due and payable in advance on the first day of each calendar month; and

(b) given the term of permanent financing is less than or equal to fifteen (15) years, NINE THOUSAND EIGHT HUNDRED

FIFTY-ONE AND 10/100 DOLLARS (\$9,851.10) per month will be deferred with interest at the interest rate of the permanent financing from the month and day initially accrued payable (hereinafter referred to as "deferred interest"). Payment for the amount of deferred rent and the deferred interest thereon shall be due and payable lump sum on the first day of the calendar month succeeding the date the Lessee receives the funds from refinancing, but in no event later than the expiration of the fifteen (15) year term as hereinabove defined.

(c) given the term of permanent financing is greater than a fifteen (15) year term, NINE THOUSAND EIGHT HUNDRED FIFTY-ONE AND 10/100 DOLLARS (\$9,851.10) per month will be deferred with interest at the interest rate of permanent financing from the month and day initially accrued payable. Payment of the deferred rent and deferred interest thereon shall be due and payable in annual installments within fifteen (15) days after each of the sixteenth (16) through twenty-fifth (25) years calculated from the first day of the month succeeding recording of permanent financing. Each installment shall be at least equal to ten percent (10%) of the total percentage rent for the preceding one year period; and within fifteen (15) days after the expiration of said twenty-fifth (25) year, the entire remaining outstanding balance of deferred rental payments and deferred interest thereon shall be due and payable. Further, at such time as the permanent financing is refinanced,

Lessee shall pay County the outstanding balance of deferred rental payments and deferred interest thereon on the first day of the calendar month succeeding the date said permanent financing is refinanced.

Post Construction Minimum Rental

Commencing with the first day of the calendar month succeeding the Engineer's issuance of a permanent or temporary Certificate of Occupancy, whichever occurs first, for said hotel and appurtenant facilities, Lessee shall pay to County minimum monthly rent of THIRTY-THREE THOUSAND THREE HUNDRED THIRTY-THREE AND 33/100 DOLLARS (\$33,333.33). This monthly rent shall be adjusted every four (4) year period by the amount of any increase in the "Consumer Price Index ('CPI') for All Urban Consumers, Los Angeles, Long Beach, Anaheim Metropolitan Area" (hereinafer "index") during said four (4) year periods, as published by the Bureau of Labor Statistics of the United States Department of Labor, by multiplying the base monthly rent of THIRTY-THREE THOUSAND THREE HUNDRED THIRTY-THREE AND 33/100 DOLLARS (\$33,333.33) by a fraction; the numerator of said fraction shall be the index published for the month which is two months preceding the month in which the CPI rental increase is to be effective ("adjustment index") and the denominator of which shall be the index published for the month preceding the month of issuance of the temporary or permanent Certificate of Occupancy, whichever occurs first ("beginning index"). If publication of

Increased
minimum rental
effective April 1, 1986
1 Df

See MDV
dated 4/1/88

Long certificate
of occupancy
issued on 3/31/86
Df

the index shall be discontinued, the parties shall accept comparable statistics on the cost of living in the metropolitan Los Angeles area as shall be computed and published by an agency of the United States government. In no event shall the rent as adjusted ever be less than the rent payable during the previous four years.

The minimum monthly rent of THIRTY-THREE THOUSAND THREE HUNDRED THIRTY-THREE AND 33/100 DOLLARS (\$33,333.33), as increased by the CPI procedure hereinabove defined, shall be payable in the amounts and on the dates hereinafter provided:

Years One Through Five (beginning on the first day of the month succeeding the issuance of the permanent or temporary Certificate of Occupancy, whichever occurs first).

- a. EIGHT THOUSAND THREE HUNDRED THIRTY-THREE AND 33/100 DOLLARS (\$8,333.33) shall be payable on the first of each calendar month; and
- b. TWENTY-FIVE THOUSAND DOLLARS AND 00/100 (\$25,000.00) (plus the CPI increase for the fifth year) will be deferred and shall bear interest at the interest rate of the permanent financing from the month and day initially accrued payable. For each year in which the hotel rack occupancy rate equals or exceeds sixty percent (60%), the payment of that portion of the monthly rent in excess of EIGHT THOUSAND THREE HUNDRED THIRTY-THREE AND 33/100 DOLLARS (\$8,333.33) shall be deferred with interest at the rate of the permanent

financing from the month and day initially accrued payable, until fifteen (15) days after the expiration of that one year, at which time the lump sum payment of deferred rent plus deferred interest shall be due and payable.

However, in the event the hotel rack occupancy rate is less than sixty percent (60%) in any one of the first five (5) one year periods, then payment of the deferred rent and deferred interest thereon for that one year (i.e., the amount over the EIGHT THOUSAND THREE HUNDRED THIRTY-THREE AND 33/100 DOLLARS ((\$8,333.33)) per month paid) shall be deferred and payable in the amounts and on the dates hereinafter provided:

(1) given the term of permanent financing is less than or equal to fifteen (15) years, said rent will be deferred with interest at the interest rate of permanent financing from the month and day initially accrued payable. Payment of the entire amount due to County (deferred rent and deferred interest thereon) will be lump sum on the first day of the calendar month succeeding the date the Lessee receives the funds from refinancing but in no event later than the expiration of the fifteen (15) year term as hereinabove defined; or

(2) given the term of permanent financing is greater than fifteen (15) years, said minimum rent will be

deferred with interest at the interest rate of the permanent financing, from the month and day initially accrued payable. Payment of the deferred rent and the deferred interest thereon will be in annual installments within fifteen (15) days after each of the sixteenth (16th) through twenty-fifth (25th) years calculated from the first day of the month succeeding recordation of said permanent financing. Each installment shall be at least equal to ten percent (10%) of the total percentage rent for twelve (12) calendar months preceding the payment; and within fifteen (15) days after the expiration of said twenty-fifth (25th) year, the entire remaining outstanding balance of deferred rent and deferred interest thereon shall be payable. Further, at such time as the permanent financing is refinanced, Lessee shall pay County the outstanding balance of deferred rental payments and deferred interest thereon, on the first (1st) day of the calendar month succeeding the date said permanent financing is refinanced.

Year Six Until Renegotiation Commencing with the first day of the month succeeding five (5) years from the Engineer's issuance of a permanent or temporary Certificate of Occupancy, whichever occurs first, Lessee shall pay the County in advance monthly minimum rent of THIRTY-THREE THOUSAND THREE HUNDRED THIRTY-THREE AND 33/100 DOLLARS (\$33,333.33) as increased by the CPI procedure hereinabove defined. CPI

increases shall be reflected in the first month the increase is effective. In addition to the minimum monthly rent, Lessee shall also continue to pay the percentage rents in the amounts and as otherwise provided in Section 13.

Further, at such time as the permanent financing is refinanced, Lessee shall pay County the outstanding balance of deferred rental payments and deferred interest thereon on the first day of the calendar month succeeding the date said permanent financing is refinanced.

Renegotiated Rental Period, Beginning in the Year Thirty-One (31)

Commencing with the first day of the month succeeding thirty (30) years from the effective date of the lease term, as amended, Lessee shall pay to County minimum and percentage rents established pursuant to lease Section 15 (GENERAL RENT RENEGOTIATION AND ARBITRATION).

Non-Conventional Financing Contingency

In the event that the construction loans are retired through any funding source other than a promissory note secured by a first deed of trust on the leasehold, then the interest rate payable to County shall be the higher of (a) 10 percent per annum or (b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance es-

established by the Federal Reserve Bank of San Francisco on advances to member banks under Section 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate of advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature) and the deferred rent and the deferred interest thereon shall be payable within fifteen (15) days after each of the sixteenth (16th) through twenty-fifth (25th) years calculated from the first day of the month succeeding the issuance of the permanent Certificate of Occupancy (or one year after the issuance of the temporary Certificate of Occupancy, whichever occurs first). In the event Lessee secures funding after such retirement through a promissory note secured by a first deed of trust within fifteen (15) years following issuance of the permanent Certificate of Occupancy, said deferred rents and interest thereon shall be due and payable on the first day of the calendar month succeeding the date Lessee receives the funds from said refinancing. All other terms and conditions for the deferral of portions of the rent (amounts, timing, accrual of interest, etc.) not inconsistent herewith shall be as set forth above for the deferral and payment of rent and interest for the retirement of

the construction loans through a promissory note secured by a first deed of trust on the leasehold.

5. Section 13 (PERCENTAGE RENTALS) is hereby amended by the addition of the following paragraphs thereto:

Conditional Provisions for Deferment (First Five Years of Occupancy)

Percentage rents as hereinabove provided may be deferred under certain specific conditions during the first five (5) years of occupancy only as hereinafter provided. The first five (5) years of occupancy shall commence on the date the Engineer issues a permanent or temporary Certificate of Occupancy, whichever occurs first, and shall end five (5) years from the

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first day of the calendar month succeeding Engineer's issuance of a permanent Certificate of Occupancy (or one year after the issuance of the temporary Certificate of Occupancy, whichever occurs first). The first one year period begins on the day of the Engineer's issuance of a temporary Certificate of Occupancy and shall terminate on the last day of the calendar month which completes the twelve (12) full calendar months following the issuance of said permanent Certificate of Occupancy (or one year after the first day of the month following issuance of temporary Certificate of Occupancy, whichever occurs first); however, the calculation of the percentage rents and the calculation of the hotel rack occupancy as hereinabove defined shall recognize that this first year may contain more than twelve (12) calendar months. The second, third, fourth and fifth one (1) year periods shall consist of consecutive twelve (12) month periods succeeding said initial one (1) year period as hereinabove described. The percentage rents so accruing during these five one year periods, shall be due and payable within fifteen (15) days after the close of each of the five (5) one (1) year periods unless further deferred as hereinafter provided; said payments will include deferred interest at the interest rate of the permanent financing, from the month and day said percentage rentals initially accrued payable. Nothing herein shall relieve Lessee of the obligation to file monthly reports of gross receipts as

provided in this lease.

Annual Percentage Rents Through SIX HUNDRED THOUSAND
DOLLARS (\$600,000.00)

In the event the hotel rack occupancy rate is less than sixty percent (60%) for any one of the aforementioned first five (5) one (1) year periods, then payment of the deferred rent and deferred interest thereon for that one (1) year period less the appropriate minimum rentals shall be deferred and payable in the amounts and times hereinafter provided:

(1) given the term of permanent financing is less than or equal to fifteen (15) years, said rent will be deferred with interest at the interest rate of permanent financing, from the month and day initially accrued payable. Payment of the entire amount due to County (deferred rent and deferred interest thereon) will be a lump sum on the first day of the calendar month succeeding the date the Lessee receives the funds from refinancing but in no event later than the expiration of the fifteen (15) year term as hereinabove defined; or

(2) given the term of permanent financing is greater than fifteen (15) years said percentage rent will be deferred with interest at the interest rate of the permanent financing from the month and day initially accrued payable. Payment of the deferred rent and the deferred interest thereon will be in annual installments within fifteen (15)

days after each of the sixteenth (16th) through twenty-fifth (25th) years calculated from the first day of the month succeeding recordation of said permanent financing. Each installment shall be at least equal to ten percent (10%) of the total percentage rent for the twelve (12) calendar months preceding the payment; and within fifteen (15) days after the expiration of said twenty-fifth (25th) year, the entire remaining outstanding balance of deferred rent and deferred interest thereon shall be payable. Further, at the time the permanent financing is refinanced, Lessee shall pay County the outstanding balance of deferred rental payments and deferred interest thereon, on the first day of the calendar month succeeding the date said permanent financing is refinanced.

Notwithstanding any other provision of this lease to the contrary, in making the two required payments of deferred minimum and deferred percentage rents and deferred interest on each, within fifteen (15) days after the sixteenth (16th) through twenty-fifth (25th) years as provided hereinabove in this section and in Section 12, the Lessee's installment payments of both obligations, when combined, shall be at least equal to ten percent (10%) of the total percentage rent for the preceding one (1) year period; and within fifteen (15) days after the expiration of said twenty-fifth (25th) year, any remaining outstanding balance of said de-

ferred rents and deferred interest thereon shall be payable. At such time as the permanent financing is refinanced, Lessee shall pay County the outstanding balance of deferred rental payments and deferred interest thereon, on the first day of the calendar month succeeding the date said permanent financing is refinanced.

Annual Percentage Rents in Excess of \$600,000.00 - First Five Years of Occupancy

Annual percentage rents in excess of SIX HUNDRED THOUSAND AND 00/100 DOLLARS (\$600,000.00) during the first five (5) years of occupancy as hereinabove described in Section 13, as amended, less the applicable annual minimum rent shall be due and payable in annual installments within fifteen (15) days after each of the twenty-first (21st) through thirtieth (30th) years calculated from the effective date of this lease amendment. Each installment shall be at least equal to ten percent (10%) of the total percentage rent for the twelve (12) calendar months preceding the payment; said deferred rents shall bear interest at the interest rate of twenty percent (20%) per annum, compounded annually from the month and day percentage rent initially accrued payable. Within fifteen (15) days after the expiration of said thirtieth (30th) year, the entire remaining outstanding balance of deferred rent and deferred interest thereon

shall be payable. Further, at such time as the financing then in existence is refinanced during the twenty-first (21st) through thirtieth (30th) year, Lessee shall pay County the outstanding balance of deferred rental payments and deferred interest thereon on the first day of the calendar month succeeding the date said permanent financing is refinanced. This obligation for repayments on the twenty-first (21st) through thirtieth (30th) years shall be in addition to the ten percent (10%) installment payments of any deferred rents and deferred interest payable in years sixteen (16) through twenty-five (25) as hereinabove provided in Sections 12 and 13, as amended.

Monthly Percentage Rents Commencing With the Sixth Year

On the first of each calendar month after the first full sixty (60) calendar months commencing on the first day of the calendar month succeeding Engineer's issuance of a permanent Certificate of Occupancy (or one year after the issuance of the temporary Certificate of Occupancy, whichever occurs first), the Lessee shall pay monthly the percentage rent at the time the monthly report of gross receipts is filed with County as provided hereinabove.

Non-Conventional Financing Contingency

In the event that the construction loans are retired through any funding source other than a promissory note secured by a first deed of trust on the leasehold, then the interest

rate payable to County shall be the higher of (a) 10 percent per annum or (b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks under Section 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate of advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature) and the deferred rent and the deferred interest thereon shall be payable within fifteen (15) days after each of the sixteenth (16th) through twenty-fifth (25th) years calculated from the first day of the month succeeding the issuance of the permanent Certificate of Occupancy (or one year after the issuance of the temporary Certificate of Occupancy, whichever occurs first). In the event Lessee secures funding after such retirement through a promissory note secured by a first deed of trust within fifteen (15) years following issuance of the permanent Certificate of Occupancy, said deferred rents and interest thereon shall be due and payable on the first day of the calendar month succeeding the date Lessee receives the funds from said refinancing. All other terms and conditions for the deferral

of portions of the rent (amounts, timing, accrual of interest, etc.) not inconsistent herewith shall be as set forth above for the deferral and payment of rent and interest for the retirement of the construction loans through a promissory note secured by a first deed of trust on the leasehold; except that (a) the deferral of annual percentage rents in excess of SIX HUNDRED THOUSAND AND 00/100 DOLLARS (\$600,000.00) during the first five (5) years of occupancy shall in any event be payable in annual installments within fifteen (15) days after each of the twenty-first (21st) through thirtieth (30th) years as set forth above for such deferrals, and (b) said deferred rents shall bear interest at the interest rate of twenty percent (20%) per annum, compounded annually from the month and day percentage rent initially accrued payable.

6. Section 12 (SQUARE FOOT RENTAL) which has been deleted and other language substituted therefor and Section 13 (PERCENTAGE RENTALS) are hereby further amended by the addition of the following paragraph at the end of each:

"Rent not paid when due shall bear interest at the rate of eighteen percent (18%) per annum compounded annually from the date due until paid. Said penalty shall apply to under-reported rents disclosed by audit pursuant to lease Section 30 and late payments of minimum and/or percentage rents. This payment may be waived, in whole or in part, whenever the Director finds late payment excusable by reason of extenuating circumstances. Any such payment shall be payable as additional rent, shall not be considered as a deduction from minimum and/or percentage

rentals, and shall be payable immediately upon demand. Excluded from the monetary penalty shall be (a) that portion of the late fee attributable to late or under-reported rents of any commercial sublessee(s) and (b) that portion of any late fee which would accrue during the first five (5) calendar days after the date the payment was due."

7. Section 22 (SUBLEASES, ASSIGNMENTS, TRUST DEED BENEFICIARIES MORTGAGES, AND SUCCESSORS) of said lease is amended by adding the following paragraph at the end of Subsection C (Assignments) of said section:

"In the event Lessee shall request the prior written consent of the County to give, assign, transfer or grant control of this lease, and County gives its written consent to the leasehold assignment, a transfer fee equal to one percent (1%) of the gross sales price shall be paid to County. Said sum shall be payable to County in full either within thirty (30) days after said consent is given or prior to the close of any escrow, whichever occurs first. "Gross Sales Price" shall mean the total consideration resulting from the transfer of the leasehold (or portion thereof) determined by the total of cash payments and the market value of all non-cash consideration, including, but not limited to, stock, bonds, deferred payments, secured and unsecured notes, and forbearances regarding claims and judgments. Prior to County's consent to any assignment of the leasehold estate, the assignor (1) shall deliver to assignee a written schedule of all sums due and owing to County from the assignor (including all deferred rents and deferred interest thereon) with such schedule in a form subject to the approval

of the Director in all respects and (2) shall deliver to County, as part of the acceptance of the assignment, a written acknowledgment by the assignee that the assignee (a) affirms the sums due and owing to County and (b) accepts responsibility for payment of such sums directly to County.

Exempted from said transfer fee shall be the following:

(a) A transfer of an undivided interest in the leasehold between or among co-owners or affiliated entities which results in a change in the method of holding title but does not result in a change to the proportional interests held by the co-owners or affiliated entities prior to the transfer;

(b) The creation of a joint tenancy where the assignor becomes one of the joint tenants, there are only two (2) joint tenants, and the joint tenants hold the entire ownership after the assignment;

(c) An assignment which creates a spouse's interest or transfers a co-owner's interest between spouses;

(d) An assignment which terminates a joint tenancy, tenancy in common or a community property interest, but which is to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation;

(e) An assignment which serves as security for the repayment of a loan from any lender but which does not entitle the assignee to any immediate right to use, occupy, possess or receive the rents or profits from the leasehold for so long as the

assignor makes the required periodic payments and complies with other provisions of the loan;

(f) An assignment between or among corporations and/or partnerships and/or syndications provided that the assignment does not result in a cumulative total of fifty percent (50%) or more of the equity in, beneficial use of, or legal title to the leasehold as an asset, or the income produced thereby, being transfereed from Lessee;

(g) An assignment to create a trust, or to add to a trust established by Lessee, for the benefit of the spouse or descendants (i) of Lessee (if an individual) or (ii) of Lessee's principal owner or chief executive officer (if Lessee is other than an individual); provided that the assignment does not result in a cumulative total of fifty percent (50%) or more of the equity in, beneficial use of, or legal title to the leasehold as an asset or the income produced thereby, being transferred from Lessee;

(h) An assignment wherein Lessee shall have the right to repurchase the interest assigned within ten (10) years from the effective date of the assignment; provided, that as conditions precedent to such an assignment being exempted, Lessee (1) shall deposit with County a separate Certificate of Deposit equal to fifty percent (50%) of the transfer fee and payable to County; (2) sign an irrevocable assignment of the interest on said Certificate of Deposit to County; and (3) execute an agreement

with County (i) that Lessee shall be entitled to the Certificate of Deposit and the accumulated interest thereon only if Lessee exercises the option to repurchase within the ten (10) year period; (ii) that Lessee's rights to the Certificate of Deposit and accumulated interest thereon shall be forfeited if Lessee does not exercise the option to repurchase within the ten (10) year period; and (iii) that Lessee shall pay to County an additional amount equal to the principal amount of the Certificate of Deposit and the accumulated interest thereon at the end of the ten (10) year period as the remaining balance of the transfer fee if Lessee does not exercise the right to repurchase;

(i) An assignment which results in the transfer of less than fifty percent (50%) of the corporate stock of a corporate Lessee;

(j) Except for loans exempted by (e) above, an assignment of an interest in the leasehold which assignment, individually or cumulatively, directly results in the acquisition of funds by the assignor, which funds are used by the assignor within thirty (30) days of assignor's receipt of funds or within thirty (30) days of County's consent to an assignment of an interest in the leasehold whichever is later only for the purposes of retiring the outstanding balances of (i) the initial permanent financing, (ii) deferred rents, payable to County and (iii) deferred interest on the deferred rents payable to the County; in the event the assignor acquires funds as a result of the assignment of an interest in the leasehold in excess of the total of

the outstanding balances for items (i), (ii), and (iii) above, the transfer fee shall be applicable to the sum in excess of the total of such outstanding balances;

(k) An assignment or transfer of a beneficial interest in the leasehold resulting from devise, bequest, intestate succession or by operation of law for the benefit of the spouse or descendants (i) of Lessee (if an individual) or (ii) of Lessee's principal owner or chief executive officer (if Lessee is other than an individual);

(l) Such other assignment for which the Director determines that the ownership interests in the leasehold have remained unchanged, such as a change in the legal or fictitious name of the Lessee without any other change in the equity in beneficial use of, or legal title to the leasehold as an asset, or the income produced thereby. The Director's decision in such cases shall be appealable to the Board of Supervisors within ten (10) days after receipt of written notice of the Director's decision. Any such appeal request shall be accompanied by a Certificate of Deposit filed with County in the full amount of the transfer fee; the Certificate of Deposit shall be payable to County and the interest thereon shall accumulate, but the principal sum and interest shall remain the property of the Lessee in the event the Director's decision is reversed;

(m) In the event Lessee undertakes any of the above actions described above in Subsections (b), (f), (h), (i), (j) and (l) (but excluding (j) to the extent that it results in a loan secured by a first trust deed) and as a result of an individual action

or a combination thereof, Lessee transfers a cumulative total of fifty percent (50%) or more of the equity in, beneficial use of, or legal title to the leasehold as an asset, or the income produced thereby, then the effective date of the transfer for purposes of calculating the transfer fee shall be the date the cumulative total of fifty percent (50%) is achieved; the transfer fee shall be applied to each transaction which, when combined, results in the cumulative total of fifty percent (50%) or more, and shall be payable within thirty (30) days of receipt of funds or in the event no funds are received within thirty (30) days of the effective date of the transfer as specified above. Thereafter each transfer by the same assignor (or by any prior assignee deemed to be an entity affiliated with assignor as set forth in Subsection (f) above) shall likewise be subject to the transfer fee. Further in the event of multiple assignments, each with the option to repurchase as provided in Subsection (h) above, in lieu of making an immediate payment of the transfer fee Lessee (1) shall deposit with County a separate Certificate of Deposit equal to fifty percent (50%) of the transfer fee on the cumulative total of the assignments/and payable to County; (2) sign an irrevocable assignment of the interest on said Certificate of Deposit to County; and (3) execute an agreement with County (i) that Lessee shall be entitled to the Certificate of Deposit and the accumulated interest thereon only if Lessee

exercises the option to repurchase within the ten (10) year period; (ii) that Lessee's rights to the Certificate of Deposit and accumulated interest thereon shall be forfeited if Lessee does not exercise the option to repurchase within the ten (10) year period; and (iii) that Lessee shall pay to County an additional amount equal to the principal amount of the Certificate of Deposit and the accumulated interest thereon at the end of the ten (10) year period as the remaining balance of the transfer fee if Lessee does not exercise the right to repurchase. Credit will be given for any transfer fee paid (including any Certificate of Deposit and/or agreement to pay pursuant to Subsection (h) above).

8. The first paragraph of Section 15 (GENERAL RENT RENEGOTIATION AND ARBITRATION) is hereby deleted and the following substituted therefor:

"Except as provided in Section 14, the square foot rentals (sometimes elsewhere in this lease referred to as "minimum rents" or "minimum monthly rents") and percentage rentals in Section 13 of the lease hereinbefore provided shall apply and shall remain in full force and effect for the first thirty (30) years of the term hereof. At the end of said period, and at the end of every five (5) year period thereafter, the said rentals shall be readjusted as provided hereinafter."

9. A new section is hereby added as follows:

"51. SPECIAL PROVISIONS RELATING TO COASTAL DEVELOPMENT PERMIT. County and Lessee do hereby agree, notwithstanding the provisions of Section 22 hereinbefore set forth, that any assignment of this lease to a subsequent Lessee shall bind any such future Lessee to the transit conditions set forth in Coastal Development Permit No. A-49-79, dated December 9, 1981, as presently set forth in Section A2 (a & b) or as hereinafter amended. Any encumbrance submitted by Lessee to County for its written consent, as prescribed in lease Section 22B, shall duly set forth that this condition shall be incorporated in any transfer of this lease resulting from a foreclosure sale or judicial foreclosure."

10. The parties hereto do mutually agree that this Amendment No. 2 shall be null and void in its entirety if Lessee is unable to commence development of a hotel prior to the expiration of said Coastal Development Permit on December 8, 1983 which hotel shall be in accordance with preliminary plans approved by County's Design Control Board on July 15, 1982 or as said plans may be modified thereafter. Said December 8, 1983 date may be extended by mutual agreement of County and Lessee for one year without further consideration. Written notice of any failure of Lessee to commence construction shall be given by Director to the Executive Officer-Clerk of the Board of Supervisors. In the event of the nullification of this Amendment No. 2, any rents collected from Lessee in excess of that which would have been collected from Lessee under the terms of the lease as amended by Amendment No. 1,

shall be refunded by County but only if Lessee does not exercise its rights under the piling permit, or progress beyond excavation.

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

3-1-83

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

13. With respect to all amounts of deferred rent and interest thereon under this lease, Lessee shall have the right to prepay all amounts deferred or any portion thereof without penalty.

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Corporation Acknowledgment

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } SS.

On February 22, 1983

before me, the undersigned, a Notary Public in and for said State, personally appeared _____

A. M. LURIE, personally known to me (or proved to me on the basis of satisfactory evidence)
to be the ~~President and~~ Chairman of the Board and

LINDA BRAKE, personally known
to me (or proved to me on the basis of satisfactory evidence) to

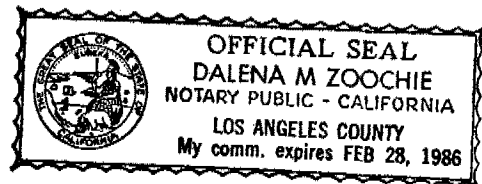
be _____ Secretary of the Corporation
that executed the within Instrument, known to me to be the
persons who executed the within Instrument on behalf of the
Corporation therein named, and acknowledged to me that
such Corporation executed the within Instrument pursuant to
its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature

Dalena M. Zoochie
DALENA M. ZOOCHIE

Notary's Name (Typed or Printed)



LEGAL DESCRIPTION

Marina Del Rey
Lease Parcel No. 141V

Parcels 416 to 420 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 Registrar-Recorder of said County.

Excepting therefrom that portion thereof within the following described boundaries:

Beginning at the westerly terminus of a curve concave to the north, having a radius of 24 feet, tangent to the southwesterly boundary of said Parcel 416 and tangent to a line parallel with and 3 feet northwesterly, measured at right angles, from the straight line in the southeasterly boundary of said last mentioned parcel; thence easterly along said curve 38.25 feet to said parallel line; thence northeasterly along said parallel line 14.46 feet to a curve concentric with and 3 feet northwesterly, measured radially, from that certain 960 foot radius curve in said southeasterly boundary; thence northeasterly along said concentric curve and its northeasterly continuation 303.91 feet to a curve concentric with and 3 feet northwesterly, measured radially, from that certain 1040 foot radius curve in the southeasterly boundary of said Parcel 419; thence northeasterly along said last mentioned concentric curve and its northeasterly continuation 151.61 feet to the northeasterly line of said Parcel 420; thence southeasterly along said northeasterly line 3.05 feet to the easterly corner of said last mentioned parcel; thence southwesterly along the southeasterly boundaries of said Parcels 420, 419, 418 and 417 to the easterly corner of said Parcel 416; thence southwesterly, westerly and northwesterly along the southeasterly, southerly and southwesterly boundaries of said last mentioned parcel to the point of beginning.

Reserving and excepting unto the County of Los Angeles a right of way for access and harbor utility purposes in and across that portion of above described parcel of land which lies within the northwesterly 20 feet thereof.

Also reserving and excepting unto the County of Los Angeles a right of way for storm drain and harbor utility purposes in and across that portion of above described parcel of land which lies within the southeasterly 10 feet of the northwesterly 30 feet thereof.

Also subject to any and all easements of record as the same now exists.

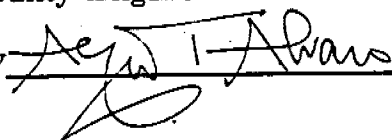
DESCRIPTION APPROVED

January 19, 1979

STEPHEN J. KOONCE

County Engineer

By



Deputy

83- 448220

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

MARINA HOTELS, INC.,
a California corporation

By A.M. Lurie
A.M. Lurie, Chairman of the Board

And

By Linda Brakes
Secretary

ATTEST:

JAMES S. MIZE, Executive
Officer-Clerk of the
Board of Supervisors

By June D. Savala Deputy Michael A. Antonovich
THE COUNTY OF LOS ANGELES
APPROVED AS TO FORM:
JOHN H. LARSON
County Counsel



By Steve W. Bellman
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

10

MAR - 1 1983

James S. Mize
JAMES S. MIZE
EXECUTIVE OFFICER

STATE OF CALIFORNIA

County of Los Angeles

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On this 1st day of March, A.D., 19 83, before me JAMES S. MIZE, Executive Officer — Clerk of the Board of Supervisors of the County of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared

MICHAEL D. ANTONOVICH

_____, known to me to be the Chairman of the Board of Supervisors of the County of Los Angeles and the person who executed the within instrument on behalf of the County therein named, and acknowledged to me that such County executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year of this certificate first above written.

JAMES S. MIZE, Executive Officer — Clerk of the Board of Supervisors

By

June D. Saez

Deputy



BSD 22